

CALIFORNIA LAW REVISION COMMISSION

TENTATIVE RECOMMENDATION

California Public Records Act Clean-Up: Conforming Revisions

July 2019

The purpose of this tentative recommendation is to solicit public comment on the Commission's tentative conclusions. A comment submitted to the Commission will be part of the public record. The Commission will consider the comment at a public meeting when the Commission determines what, if any, recommendation it will make 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 to it.

COMMENTS ON THIS TENTATIVE RECOMMENDATION SHOULD BE RECEIVED BY THE COMMISSION NOT LATER THAN **October 31, 2019.**

The Commission will often substantially revise a proposal in response to comment it receives. Thus, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

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SUMMARY OF TENTATIVE RECOMMENDATION

At the request of the Legislature, the Law Revision Commission prepared a tentative recommendation that proposes to recodify the California Public Records Act (“CPRA”) in a more user-friendly manner without changing its substantive effect. The Commission released that tentative recommendation in June and it is now circulating for public comment.

To facilitate logical reorganization of the CPRA, the proposed recodification would relocate the CPRA in a new division (Division 10) of Title 1 of the Government Code. That would entail renumbering the entire CPRA.

Hundreds of provisions throughout the codes cross-refer to the CPRA, in whole or in part. If the recodification is enacted, those provisions will need to be revised to conform to the new numbering scheme.

This tentative recommendation proposes the necessary conforming revisions. The Commission seeks comments on these revisions. Comments from knowledgeable persons (whether positive, negative, or more nuanced) are crucial in the Commission’s study process.

This tentative recommendation was prepared pursuant to Resolution Chapter 158 of the Statutes of 2018.

CALIFORNIA PUBLIC RECORDS ACT CLEAN-UP: CONFORMING REVISIONS

1 In 2016, the Legislature directed the Law Revision Commission to conduct a
2 strictly nonsubstantive clean-up of the California Public Records Act (“CPRA”)¹
3 and related provisions.² The goal is to make the CPRA easier for the public to use
4 and understand.³

5 As requested, the Commission prepared a proposed recodification of the CPRA.
6 A tentative recommendation presenting the proposed recodification is currently
7 being circulated for public comment.⁴ Comments on that tentative
8 recommendation are due by August 26, 2019, and the Commission plans to
9 consider those comments at a public meeting in Sacramento on September 26,
10 2019.

11 To facilitate sound reorganization of the CPRA, the proposed recodification
12 would relocate the CPRA to a new division (Division 10) of Title 1 of the
13 Government Code. Every existing code section would be renumbered,⁵ some of
14 those sections (particularly the long ones) would be split into two or more new
15 sections, and substantively similar provisions would be placed together in a logical
16 order.

17 Literally hundreds of provisions throughout the codes cross-refer to the CPRA,
18 in whole or in part. If the recodification is enacted, those provisions will need to
19 be revised to conform to the new numbering scheme.

20 This tentative recommendation proposes the necessary conforming revisions. In
21 general, they are quite straightforward. A few key points are explained below.

22 **Nonsubstantive Reform**

23 In directing the Commission to study the CPRA, the Legislature said that the
24 Commission’s recommended legislation should “[c]learly express legislative
25 intent *without any change* in the substantive provisions” and “[n]either *expand*
26 *nor contract* the scope of existing exemptions to the general rule that records are
27 open to the public pursuant to the current provisions of the Public Records Act.”⁶

1. Gov’t Code §§ 6250-6276.48.

2. 2016 Cal. Stat. res. ch. 150 (ACR 148 (Chau)); see also 2018 Cal. Stat. res. ch. 158 (SCR 91 (Roth)) (reaffirming Commission’s authority to study CPRA).

3. See, e.g., Assembly Committee on Judiciary Analysis of ACR 148 (April 19, 2016), p. 3; Senate Committee on Judiciary Analysis of ACR 138 (June 14, 2016), p. 4.

4. Tentative Recommendation on *California Public Records Act Clean-Up* (May 2019), available at <http://www.clrc.ca.gov/pub/Misc-Report/TR-G400.pdf> (hereafter, “*CPRA Recodification TR*”).

5. The CPRA would be recodified as Government Code Sections 7920.000-7930.215.

6. 2016 Cal. Stat. res. ch. 150 (emphasis added).

1 The Commission was very careful to adhere to that limitation in preparing its
2 proposed recodification of the CPRA.⁷

3 The Commission took similar care in preparing the conforming revisions
4 presented in this tentative recommendation. In particular, the proposed legislation
5 would only update the cross-references to the CPRA and make other minor
6 technical revisions, such as:

- 7 • Correction of spelling⁸ and typographical errors.⁹
- 8 • Correction of grammatical errors, especially improper usage of “which”
9 instead of “that.”¹⁰
- 10 • Elimination of gendered pronouns.¹¹
- 11 • Insertion of subdivision or paragraph labels (where this would not create any
12 ambiguity or necessitate additional conforming revisions).¹²
- 13 • Other revisions to conform to legislative drafting conventions.¹³
- 14 • Correction of erroneous cross-references. Each such correction is explained
15 in the accompanying comment.¹⁴
- 16 • A few miscellaneous technical revisions.¹⁵

7. For a description of specific measures the Commission took to prevent any substantive change, see *CPRA Recodification TR*, *supra* note 4, at 5-10.

8. See proposed amendment of Educ. Code § 44438 *infra* (“subdivison” instead of “subdivision”); proposed amendment of Health & Safety Code § 25214.8.5 *infra* (“fourth” instead of “forth”).

9. See proposed amendment of Gov’t Code § 6204.1 *infra*; proposed amendment of Health & Safety Code § 110845 *infra*; proposed amendment of Labor Code § 6390 *infra*.

10. See, e.g., proposed amendment of Gov’t Code § 62001 *infra*; proposed amendment of Health & Safety Code § 25186.5 *infra*; proposed amendment of Pub. Res. Code § 5096.513 *infra*.

11. See, e.g., proposed amendment of Food & Agric. Code § 40629 *infra*; proposed amendment of Gov’t Code § 1368 *infra*; proposed amendment of Pub. Cont. Code § 6703 *infra*.

12. See, e.g., proposed amendment of Penal Code § 5058 *infra*; proposed amendment of Pub. Res. Code § 21160 *infra*; proposed amendment of Pub. Util. Code § 92946 *infra*. For an example of a situation where the Commission deliberately refrained from inserting labels, see proposed amendment of Penal Code § 13300 *infra* (especially Penal Code § 13300(c)(11), which consists of four unlabeled paragraphs, some of which refer to “this paragraph”).

13. See, e.g., proposed amendment of Gov’t Code § 12894.5 *infra* (deleting phrase “of the Government Code,” which is not necessary when cross-referring to provision in same code); proposed amendment of Pub. Res. Code § 41821.6 *infra* (replacing word “such,” which is disfavored in legislative drafting except in phrase “such as”).

14. See proposed amendment of Fish & Game Code § 2584 & Comment *infra*; proposed amendments of Gov’t Code §§ 8201.5, 11126, 12525, 15570.42, 15650, 15652, 60201, 66024 & Comments *infra*; proposed amendments of Health & Safety Code §§ 1439, 25152.5, 101848.2, 101848.9, 101850, 115000.1 & Comments *infra*; proposed amendment of Ins. Code § 12921.2 & Comment *infra*; proposed amendments of Penal Code §§ 7443, 13519.4 & Comments *infra*; proposed amendments of Rev. & Tax. Code §§ 408.3, 409 & Comments *infra*; proposed amendments of Welf. & Inst. Code §§ 13302, 14087.58, 14129.2, 15805, 16809.4 & Comments *infra*.

1 Consistent with the limited scope of its legislative mandate, the Commission did
2 not consider, and is not proposing, any other kinds of changes to the provisions
3 affected by this tentative recommendation.¹⁶

4 Due to their bulk, the conforming revisions in this tentative recommendation
5 might be introduced as a separate bill, instead of being included in the same bill as
6 the CPRA recodification itself. Regardless of whether they are in a separate bill,
7 the Commission will make sure that they are statutorily defined to be part of the
8 “CPRA Recodification Act of 2020.”¹⁷

9 That is important, because the proposed recodification includes the following
10 provision:

11 7920.100. Nothing in the CPRA Recodification Act of 2020 is intended to
12 substantively change the law relating to inspection of public records. The act is
13 intended to be entirely nonsubstantive in effect. Every provision of this division
14 and every other provision of this act, *including, without limitation, every cross-*
15 *reference in every provision of the act*, shall be interpreted consistent with the
16 nonsubstantive intent of the act.¹⁸

17 This provision underscores the nonsubstantive nature of the recodification as a
18 whole and the updated cross-references in particular. It will help to ensure that the
19 courts and others interpret the recodification accordingly.

20 **Contingent Operation**

21 On the assumption that the conforming revisions will be introduced as a separate
22 bill, this tentative recommendation includes an uncodified provision that would
23 make the conforming revisions operative only if the recodification bill is enacted
24 and becomes operative.¹⁹ The Commission will insert the appropriate bill number
25 in that uncodified provision after the recodification bill is introduced.

26 **Subordination Clause**

27 This tentative recommendation also includes a subordination clause, in case one
28 or more of the code provisions with a conforming revision is also amended in a

15. See proposed amendment of Food & Agric. § 14407 & Comment *infra*; proposed amendment of Gov’t Code § 11126 & Comment *infra*; proposed amendment of Health & Safety Code § 131052 & Comment *infra*.

16. Accordingly, readers of this tentative recommendation should not infer that the Commission has evaluated and approved language that would not be changed by this tentative recommendation.

17. If the conforming revisions are introduced in a separate bill (as seems likely), it will be necessary to revise proposed Government Code Section 7920.005 in the CPRA Recodification TR, *supra* note 4, which defines “CPRA Recodification Act of 2020.” The Commission will address that point when it considers the comments on the CPRA Recodification TR.

18. CPRA Recodification TR, *supra* note 4, at 28 (emphasis added).

19. See proposed uncodified provision on contingent operation (at end of proposed legislation) *infra*.

1 substantive manner by another bill.²⁰ The subordination clause would ensure that
2 the substantive reform overrides the conforming revision, regardless of which bill
3 is chaptered first. Although the conforming revision would be nullified by the
4 substantive reform, it could be reintroduced the following year and a stopgap
5 provision in the proposed recodification would make the outdated cross-reference
6 workable in the interim.²¹

7 **Request for Public Comment**

8 The Commission seeks public comment on its tentative recommendation. It is
9 just as important to submit comments in support of the tentative recommendation
10 as it is to submit comments that raise concerns. Comments from knowledgeable
11 persons (whether positive, negative, or more nuanced) are invaluable in the
12 Commission’s study process.

13 A few of the conforming revisions are accompanied by a boxed “Note,” which
14 provides background information or draws attention to an issue. The Commission
15 would especially appreciate comments on the issues raised in the Notes.

16 The Commission often substantially revises its recommendations as a result of
17 public comment. Comments can be in any format. To receive timely consideration,
18 **comments should be submitted to bgaal@clrc.ca.gov by October 31, 2019.**

20. See proposed uncodified subordination clause (at end of proposed legislation) *infra*.

21. See proposed 7920.105(b) in the CPRA Recodification TR, *supra* note 4, at 29 (“A reference in a statute to a previously existing provision that is restated and continued in this division, or in any other provision of the CPRA Recodification Act of 2020, shall, unless a contrary intent appears, be deemed a reference to the restatement and continuation.”).

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CONFORMING REVISIONS AND REPEALS

1

BUSINESS AND PROFESSIONS CODE

2 **§ 27 (amended). Information to be provided on Internet**

3 SEC. ____ . Section 27 of the Business and Professions Code is amended to read:

4 27. (a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the
5 Internet information regarding the status of every license issued by that entity in
6 accordance with the California Public Records Act (~~Chapter 3.5 (commencing with~~
7 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
8 Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter
9 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil
10 Code). The public information to be provided on the Internet shall include
11 information on suspensions and revocations of licenses issued by the entity and
12 other related enforcement action, including accusations filed pursuant to the
13 Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of
14 Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative
15 to persons, businesses, or facilities subject to licensure or regulation by the entity.
16 The information may not include personal information, including home telephone
17 number, date of birth, or social security number. Each entity shall disclose a
18 licensee's address of record. However, each entity shall allow a licensee to provide
19 a post office box number or other alternate address, instead of ~~his or her~~ the
20 licensee's home address, as the address of record. This section shall not preclude an
21 entity from also requiring a licensee, who has provided a post office box number or
22 other alternative mailing address as ~~his or her~~ the licensee's address of record, to
23 provide a physical business address or residence address only for the entity's
24 internal administrative use and not for disclosure as the licensee's address of record
25 or disclosure on the Internet.

26 (b) In providing information on the Internet, each entity specified in subdivisions
27 (c) and (d) shall comply with the Department of Consumer Affairs' guidelines for
28 access to public records.

29 (c) Each of the following entities within the Department of Consumer Affairs
30 shall comply with the requirements of this section:

31 (1) The Board for Professional Engineers, Land Surveyors, and Geologists shall
32 disclose information on its registrants and licensees.

33 (2) The Bureau of Automotive Repair shall disclose information on its licensees,
34 including auto repair dealers, smog stations, lamp and brake stations, smog check
35 technicians, and smog inspection certification stations.

36 (3) The Bureau of Household Goods and Services shall disclose information on
37 its licensees and registrants, including major appliance repair dealers, combination

1 dealers (electronic and appliance), electronic repair dealers, service contract sellers,
2 and service contract administrators.

3 (4) The Cemetery and Funeral Bureau shall disclose information on its licensees,
4 including cemetery brokers, cemetery salespersons, cemetery managers, crematory
5 managers, cemetery authorities, crematories, cremated remains disposers,
6 embalmers, funeral establishments, and funeral directors.

7 (5) The Professional Fiduciaries Bureau shall disclose information on its
8 licensees.

9 (6) The Contractors' State License Board shall disclose information on its
10 licensees and registrants in accordance with Chapter 9 (commencing with Section
11 7000) of Division 3. In addition to information related to licenses as specified in
12 subdivision (a), the board shall also disclose information provided to the board by
13 the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

14 (7) The Bureau for Private Postsecondary Education shall disclose information on
15 private postsecondary institutions under its jurisdiction, including disclosure of
16 notices to comply issued pursuant to Section 94935 of the Education Code.

17 (8) The California Board of Accountancy shall disclose information on its
18 licensees and registrants.

19 (9) The California Architects Board shall disclose information on its licensees,
20 including architects and landscape architects.

21 (10) The State Athletic Commission shall disclose information on its licensees
22 and registrants.

23 (11) The State Board of Barbering and Cosmetology shall disclose information
24 on its licensees.

25 (12) The State Board of Guide Dogs for the Blind shall disclose information on
26 its licensees and registrants.

27 (13) The Acupuncture Board shall disclose information on its licensees.

28 (14) The Board of Behavioral Sciences shall disclose information on its licensees
29 and registrants.

30 (15) The Dental Board of California shall disclose information on its licensees.

31 (16) The State Board of Optometry shall disclose information on its licensees and
32 registrants.

33 (17) The Board of Psychology shall disclose information on its licensees,
34 including psychologists, psychological assistants, and registered psychologists.

35 (18) The Veterinary Medical Board shall disclose information on its licensees,
36 registrants, and permitholders.

37 (d) The State Board of Chiropractic Examiners shall disclose information on its
38 licensees.

39 (e) The Structural Pest Control Board shall disclose information on its licensees,
40 including applicators, field representatives, and operators in the areas of fumigation,
41 general pest and wood destroying pests and organisms, and wood roof cleaning and
42 treatment.

43 (f) The Bureau of Cannabis Control shall disclose information on its licensees.

1 (g) “Internet” for the purposes of this section has the meaning set forth in
2 paragraph (6) of subdivision (f) of Section 17538.

3 **Comment.** Section 27 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
5 Reports __ (2019).

6 The section is also amended to eliminate gendered pronouns.

7 **§ 30 (amended). Licensee information**

8 SEC. ____. Section 30 of the Business and Professions Code is amended to read:

9 30. (a)(1) Notwithstanding any other law, any board, as defined in Section 22, the
10 State Bar of California, and the Department of Real Estate shall, at the time of
11 issuance of the license, require that the applicant provide its federal employer
12 identification number, if the applicant is a partnership, or the applicant’s social
13 security number for all other applicants.

14 (2)(A) In accordance with Section 135.5, a board, as defined in Section 22, the
15 State Bar of California, and the Department of Real Estate shall require either the
16 individual taxpayer identification number or social security number if the applicant
17 is an individual for a license or certificate, as defined in subparagraph (2) of
18 subdivision (e), and for purposes of this subdivision.

19 (B) In implementing the requirements of subparagraph (A), a licensing board shall
20 not require an individual to disclose either citizenship status or immigration status
21 for purposes of licensure.

22 (C) A licensing board shall not deny licensure to an otherwise qualified and
23 eligible individual based solely on ~~his or her~~ the individual’s citizenship status or
24 immigration status.

25 (D) The Legislature finds and declares that the requirements of this subdivision
26 are consistent with subsection (d) of Section 1621 of Title 8 of the United States
27 Code.

28 (b) A licensee failing to provide the federal employer identification number, or
29 the individual taxpayer identification number or social security number shall be
30 reported by the licensing board to the Franchise Tax Board. If the licensee fails to
31 provide that information after notification pursuant to paragraph (1) of subdivision
32 (b) of Section 19528 of the Revenue and Taxation Code, the licensee shall be subject
33 to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the
34 Revenue and Taxation Code.

35 (c) In addition to the penalty specified in subdivision (b), a licensing board shall
36 not process an application for an initial license unless the applicant provides its
37 federal employer identification number, or individual taxpayer identification
38 number or social security number where requested on the application.

39 (d) A licensing board shall, upon request of the Franchise Tax Board or the
40 Employment Development Department, furnish to the board or the department, as
41 applicable, the following information with respect to every licensee:

42 (1) Name.

1 (2) Address or addresses of record.

2 (3) Federal employer identification number if the licensee is a partnership, or the
3 licensee's individual taxpayer identification number or social security number for
4 all other licensees.

5 (4) Type of license.

6 (5) Effective date of license or a renewal.

7 (6) Expiration date of license.

8 (7) Whether license is active or inactive, if known.

9 (8) Whether license is new or a renewal.

10 (e) For the purposes of this section:

11 (1) "Licensee" means a person or entity, other than a corporation, authorized by a
12 license, certificate, registration, or other means to engage in a business or profession
13 regulated by this code or referred to in Section 1000 or 3600.

14 (2) "License" includes a certificate, registration, or any other authorization needed
15 to engage in a business or profession regulated by this code or referred to in Section
16 1000 or 3600.

17 (3) "Licensing board" means any board, as defined in Section 22, the State Bar of
18 California, and the Department of Real Estate.

19 (f) The reports required under this section shall be filed on magnetic media or in
20 other machine-readable form, according to standards furnished by the Franchise Tax
21 Board or the Employment Development Department, as applicable.

22 (g) Licensing boards shall provide to the Franchise Tax Board or the Employment
23 Development Department the information required by this section at a time that the
24 board or the department, as applicable, may require.

25 (h) Notwithstanding ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
26 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
27 Code, a federal employer identification number, individual taxpayer identification
28 number, or social security number furnished pursuant to this section shall not be
29 deemed to be a public record and shall not be open to the public for inspection.

30 (i) A deputy, agent, clerk, officer, or employee of a licensing board described in
31 subdivision (a), or any former officer or employee or other individual who, in the
32 course of ~~his or her~~ the individual's employment or duty, has or has had access to
33 the information required to be furnished under this section, shall not disclose or
34 make known in any manner that information, except as provided pursuant to this
35 section, to the Franchise Tax Board, the Employment Development Department, the
36 Office of the Chancellor of the California Community Colleges, a collections
37 agency contracted to collect funds owed to the State Bar by licensees pursuant to
38 Sections 6086.10 and 6140.5, or as provided in subdivisions (j) and (k).

39 (j) It is the intent of the Legislature in enacting this section to utilize the federal
40 employer identification number, individual taxpayer identification number, or social
41 security number for the purpose of establishing the identification of persons affected
42 by state tax laws, for purposes of compliance with Section 17520 of the Family
43 Code, for purposes of measuring employment outcomes of students who participate

1 in career technical education programs offered by the California Community
2 Colleges, and for purposes of collecting funds owed to the State Bar by licensees
3 pursuant to Section 6086.10 and Section 6140.5 and, to that end, the information
4 furnished pursuant to this section shall be used exclusively for those purposes.

5 (k) If the board utilizes a national examination to issue a license, and if a
6 reciprocity agreement or comity exists between the State of California and the state
7 requesting release of the individual taxpayer identification number or social security
8 number, any deputy, agent, clerk, officer, or employee of any licensing board
9 described in subdivision (a) may release an individual taxpayer identification
10 number or social security number to an examination or licensing entity, only for the
11 purpose of verification of licensure or examination status.

12 (l) For the purposes of enforcement of Section 17520 of the Family Code, and
13 notwithstanding any other law, a board, as defined in Section 22, the State Bar of
14 California, and the Department of Real Estate shall at the time of issuance of the
15 license require that each licensee provide the individual taxpayer identification
16 number or social security number of each individual listed on the license and any
17 person who qualifies for the license. For the purposes of this subdivision, “licensee”
18 means an entity that is issued a license by any board, as defined in Section 22, the
19 State Bar of California, the Department of Real Estate, and the Department of Motor
20 Vehicles.

21 (m) The department shall, upon request by the Office of the Chancellor of the
22 California Community Colleges, furnish to the chancellor’s office, as applicable,
23 the following information with respect to every licensee:

24 (1) Name.

25 (2) Federal employer identification number if the licensee is a partnership, or the
26 licensee’s individual taxpayer identification number or social security number for
27 all other licensees.

28 (3) Date of birth.

29 (4) Type of license.

30 (5) Effective date of license or a renewal.

31 (6) Expiration date of license.

32 (n) The department shall make available information pursuant to subdivision (m)
33 only to allow the chancellor’s office to measure employment outcomes of students
34 who participate in career technical education programs offered by the California
35 Community Colleges and recommend how these programs may be improved.
36 Licensure information made available by the department pursuant to this section
37 shall not be used for any other purpose.

38 (o) The department may make available information pursuant to subdivision (m)
39 only to the extent that making the information available complies with state and
40 federal privacy laws.

41 (p) The department may, by agreement, condition or limit the availability of
42 licensure information pursuant to subdivision (m) in order to ensure the security of

1 the information and to protect the privacy rights of the individuals to whom the
2 information pertains.

3 (q) All of the following apply to the licensure information made available
4 pursuant to subdivision (m):

5 (1) It shall be limited to only the information necessary to accomplish the purpose
6 authorized in subdivision (n).

7 (2) It shall not be used in a manner that permits third parties to personally identify
8 the individual or individuals to whom the information pertains.

9 (3) Except as provided in subdivision (n), it shall not be shared with or transmitted
10 to any other party or entity without the consent of the individual or individuals to
11 whom the information pertains.

12 (4) It shall be protected by reasonable security procedures and practices
13 appropriate to the nature of the information to protect that information from
14 unauthorized access, destruction, use, modification, or disclosure.

15 (5) It shall be immediately and securely destroyed when no longer needed for the
16 purpose authorized in subdivision (n).

17 (r) The department or the chancellor's office may share licensure information with
18 a third party who contracts to perform the function described in subdivision (n), if
19 the third party is required by contract to follow the requirements of this section.

20 **Comment.** Section 30 is amended to reflect nonsubstantive recodification of the California
21 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
22 Reports __ (2019).

23 The section is also amended to eliminate gendered pronouns.

24 **§ 211 (amended). Report of third-party consultant hired to assess department's operations**

25 SEC. ____. Section 211 of the Business and Professions Code is amended to read:

26 211. If the department hires a third-party consultant to assess the department's
27 operations, the department shall, promptly upon receipt of the consultant's final
28 report on that assessment, submit that report to the appropriate policy committees
29 of the Legislature after omitting any information that is not subject to disclosure
30 under the California Public Records Act (~~Chapter 3.5 commencing with~~
31 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
32 Title 1 of the Government Code.

33 **Comment.** Section 211 is amended to reflect nonsubstantive recodification of the California
34 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
35 Reports __ (2019).

36 **§ 655 (amended). Optometrist with ownership or other interest in registered dispensing**
37 **optician or optical company**

38 SEC. ____. Section 655 of the Business and Professions Code is amended to read:

39 655. (a) For the purposes of this section, the following terms have the following
40 meanings:

1 (1) “Health plan” means a health care service plan licensed pursuant to the Knox-
2 Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with
3 Section 1340) of Division 2 of the Health and Safety Code).

4 (2) “Optical company” means a person or entity that is engaged in the
5 manufacture, sale, or distribution to physicians and surgeons, optometrists, health
6 plans, or dispensing opticians of lenses, frames, optical supplies, or optometric
7 appliances or devices or kindred products.

8 (3) “Optometrist” means a person licensed pursuant to Chapter 7 (commencing
9 with Section 3000) or an optometric corporation, as described in Section 3160.

10 (4) “Registered dispensing optician” means a person licensed pursuant to Chapter
11 5.5 (commencing with Section 2550).

12 (5) “Therapeutic ophthalmic product” means lenses or other products that provide
13 direct treatment of eye disease or visual rehabilitation for diseased eyes.

14 (b) No optometrist may have any membership, proprietary interest, coownership,
15 or any profit-sharing arrangement, either by stock ownership, interlocking directors,
16 trusteeship, mortgage, or trust deed, with any registered dispensing optician or any
17 optical company, except as otherwise permitted under this section.

18 (c)(1) A registered dispensing optician or an optical company may operate, own,
19 or have an ownership interest in a health plan so long as the health plan does not
20 directly employ optometrists to provide optometric services directly to enrollees of
21 the health plan, and may directly or indirectly provide products and services to the
22 health plan or its contracted providers or enrollees or to other optometrists. For
23 purposes of this section, an optometrist may be employed by a health plan as a
24 clinical director for the health plan pursuant to Section 1367.01 of the Health and
25 Safety Code or to perform services related to utilization management or quality
26 assurance or other similar related services that do not require the optometrist to
27 directly provide health care services to enrollees. In addition, an optometrist serving
28 as a clinical director may not employ optometrists to provide health care services to
29 enrollees of the health plan for which the optometrist is serving as clinical director.
30 For the purposes of this section, the health plan’s utilization management and
31 quality assurance programs that are consistent with the Knox-Keene Health Care
32 Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division
33 2 of the Health and Safety Code) do not constitute providing health care services to
34 enrollees.

35 (2) The registered dispensing optician or optical company shall not interfere with
36 the professional judgment of the optometrist.

37 (3) The Department of Managed Health Care shall forward to the State Board of
38 Optometry any complaints received from consumers that allege that an optometrist
39 violated the Optometry Practice Act (Chapter 7 (commencing with Section 3000)).
40 The Department of Managed Health Care and the State Board of Optometry shall
41 enter into an Inter-Agency Agreement regarding the sharing of information related
42 to the services provided by an optometrist that may be in violation of the Optometry
43 Practice Act that the Department of Managed Health Care encounters in the course

1 of the administration of the Knox-Keene Health Care Service Plan Act of 1975
2 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and
3 Safety Code).

4 (d) An optometrist, a registered dispensing optician, an optical company, or a
5 health plan may execute a lease or other written agreement giving rise to a direct or
6 indirect landlord-tenant relationship with an optometrist, if all of the following
7 conditions are contained in a written agreement establishing the landlord-tenant
8 relationship:

9 (1)(A) The practice shall be owned by the optometrist and in every phase be under
10 the optometrist's exclusive control, including the selection and supervision of
11 optometric staff, the scheduling of patients, the amount of time the optometrist
12 spends with patients, fees charged for optometric products and services, the
13 examination procedures and treatment provided to patients and the optometrist's
14 contracting with managed care organizations.

15 (B) Subparagraph (A) shall not preclude a lease from including commercially
16 reasonable terms that: (i) require the provision of optometric services at the leased
17 space during certain days and hours, (ii) restrict the leased space from being used
18 for the sale or offer for sale of spectacles, frames, lenses, contact lenses, or other
19 ophthalmic products, except that the optometrist shall be permitted to sell
20 therapeutic ophthalmic products if the registered dispensing optician, health plan,
21 or optical company located on or adjacent to the optometrist's leased space does not
22 offer any substantially similar therapeutic ophthalmic products for sale, (iii) require
23 the optometrist to contract with a health plan network, health plan, or health insurer,
24 or (iv) permit the landlord to directly or indirectly provide furnishings and
25 equipment in the leased space.

26 (2) The optometrist's records shall be the sole property of the optometrist. Only
27 the optometrist and those persons with written authorization from the optometrist
28 shall have access to the patient records and the examination room, except as
29 otherwise provided by law.

30 (3) The optometrist's leased space shall be definite and distinct from space
31 occupied by other occupants of the premises, have a sign designating that the leased
32 space is occupied by an independent optometrist or optometrists and be accessible
33 to the optometrist after hours or in the case of an emergency, subject to the facility's
34 general accessibility. This paragraph shall not require a separate entrance to the
35 optometrist's leased space.

36 (4) All signs and displays shall be separate and distinct from that of the other
37 occupants and shall have the optometrist's name and the word "optometrist"
38 prominently displayed in connection therewith. This paragraph shall not prohibit the
39 optometrist from advertising the optometrist's practice location with reference to
40 other occupants or prohibit the optometrist or registered dispensing optician from
41 advertising their participation in any health plan's network or the health plan's
42 products in which the optometrist or registered dispensing optician participates.

1 (5) There shall be no signs displayed on any part of the premises or in any
2 advertising indicating that the optometrist is employed or controlled by the
3 registered dispensing optician, health plan or optical company.

4 (6) Except for a statement that an independent doctor of optometry is located in
5 the leased space, in-store pricing signs and as otherwise permitted by this
6 subdivision, the registered dispensing optician or optical company shall not link its
7 advertising with the optometrist's name, practice, or fees.

8 (7) Notwithstanding paragraphs (4) and (6), this subdivision shall not preclude a
9 health plan from advertising its health plan products and associated premium costs
10 and any copayments, coinsurance, deductibles, or other forms of cost sharing, or the
11 names and locations of the health plan's providers, including any optometrists or
12 registered dispensing opticians that provide professional services, in compliance
13 with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2
14 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

15 (8) A health plan that advertises its products and services in accordance with
16 paragraph (7) shall not advertise the optometrist's fees for products and services that
17 are not included in the health plan's contract with the optometrist.

18 (9) The optometrist shall not be precluded from collecting fees for services that
19 are not included in a health plan's products and services, subject to any patient
20 disclosure requirements contained in the health plan's provider agreement with the
21 optometrist or that are not otherwise prohibited by the Knox-Keene Health Care
22 Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division
23 2 of the Health and Safety Code).

24 (10) The term of the lease shall be no less than one year and shall not require the
25 optometrist to contract exclusively with a health plan. The optometrist may
26 terminate the lease according to the terms of the lease. The landlord may terminate
27 the lease for the following reasons:

28 (A) The optometrist's failure to maintain a license to practice optometry or the
29 imposition of restrictions, suspension or revocation of the optometrist's license or
30 if the optometrist or the optometrist's employee is or becomes ineligible to
31 participate in state or federal government-funded programs.

32 (B) Termination of any underlying lease where the optometrist has subleased
33 space, or the optometrist's failure to comply with the underlying lease provisions
34 that are made applicable to the optometrist.

35 (C) If the health plan is the landlord, the termination of the provider agreement
36 between the health plan and the optometrist, in accordance with the Knox-Keene
37 Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340)
38 of Division 2 of the Health and Safety Code).

39 (D) Other reasons pursuant to the terms of the lease or permitted under the Civil
40 Code.

41 (11) The landlord shall act in good faith in terminating the lease and in no case
42 shall the landlord terminate the lease for reasons that constitute interference with
43 the practice of optometry.

1 (12) Lease or rent terms and payments shall not be based on number of eye exams
2 performed, prescriptions written, patient referrals or the sale or promotion of the
3 products of a registered dispensing optician or an optical company.

4 (13) The landlord shall not terminate the lease solely because of a report,
5 complaint, or allegation filed by the optometrist against the landlord, a registered
6 dispensing optician or a health plan, to the State Board of Optometry or the
7 Department of Managed Health Care or any law enforcement or regulatory agency.

8 (14) The landlord shall provide the optometrist with written notice of the
9 scheduled expiration date of a lease at least 60 days prior to the scheduled expiration
10 date. This notice obligation shall not affect the ability of either party to terminate
11 the lease pursuant to this section. The landlord may not interfere with an outgoing
12 optometrist's efforts to inform the optometrist's patients, in accordance with
13 customary practice and professional obligations, of the relocation of the
14 optometrist's practice.

15 (15) The State Board of Optometry may inspect, upon request, an individual lease
16 agreement pursuant to its investigational authority, and if ~~such a~~ that type of request
17 is made, the landlord or tenant, as applicable, shall promptly comply with the
18 request. Failure or refusal to comply with the request for lease agreements within
19 30 days of receiving the request constitutes unprofessional conduct and is grounds
20 for disciplinary action by the appropriate regulatory agency. This section shall not
21 affect the Department of Managed Health Care's authority to inspect all books and
22 records of a health plan pursuant to Section 1381 of the Health and Safety Code.

23 Any financial information contained in the lease submitted to a regulatory entity,
24 pursuant to this paragraph, shall be considered confidential trade secret information
25 that is exempt from disclosure under the California Public Records Act (~~Chapter 3.5~~
26 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
27 Section 7920.000) of Title 1 of the Government Code).

28 (16) This subdivision shall not be applicable to the relationship between any
29 optometrist employee and the employer medical group, or the relationship between
30 a medical group exclusively contracted with a health plan regulated by the
31 Department of Managed Health Care and that health plan.

32 (e) No registered dispensing optician may have any membership, proprietary
33 interest, coownership, or profit-sharing arrangement either by stock ownership,
34 interlocking directors, trusteeship, mortgage, or trust deed, with an optometrist,
35 except as permitted under this section.

36 (f) Nothing in this section shall prohibit a person licensed under Chapter 5
37 (commencing with Section 2000) or its professional corporation from contracting
38 with or employing optometrists, ophthalmologists, or optometric assistants and
39 entering into a contract or landlord tenant relationship with a health plan, an optical
40 company, or a registered dispensing optician, in accordance with Sections 650 and
41 654 of this code.

42 (g) Any violation of this section constitutes a misdemeanor as to ~~such~~ any person
43 licensed under Chapter 7 (commencing with Section 3000) of this division and as

1 to any and all persons, whether or not so licensed under this division, who participate
2 with ~~such~~ a licensed person in a violation of any provision of this section.

3 (h)(1) Notwithstanding any other law and in addition to any action available to
4 the State Board of Optometry, the State Board of Optometry may issue a citation
5 containing an order of abatement, an order to pay an administrative fine, or both, to
6 an optical company, an optometrist, or a registered dispensing optician for a
7 violation of this section. The administrative fine shall not exceed fifty thousand
8 dollars (\$50,000) per investigation. In assessing the amount of the fine, the board
9 shall give due consideration to all of the following:

10 (A) The gravity of the violation.

11 (B) The good faith of the cited person or entity.

12 (C) The history of previous violations of the same or similar nature.

13 (D) Evidence that the violation was or was not willful.

14 (E) The extent to which the cited person or entity has cooperated with the board's
15 investigation.

16 (F) The extent to which the cited person or entity has mitigated or attempted to
17 mitigate any damage or injury caused by the violation.

18 (G) Any other factors as justice may require.

19 (2) A citation or fine assessment issued pursuant to a citation shall inform the cited
20 person or entity that if a hearing is desired to contest the finding of a violation, that
21 hearing shall be requested by written notice to the board within 30 days of the date
22 of issuance of the citation or assessment. If a hearing is not requested pursuant to
23 this section, payment of any fine shall not constitute an admission of the violation
24 charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section
25 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

26 (3) The board shall adopt regulations to implement a system for the issuance of
27 citations, administrative fines, and orders of abatement authorized by this section.
28 The regulations shall include provisions for both of the following:

29 (A) The issuance of a citation without an administrative fine.

30 (B) The opportunity for a cited person or entity to have an informal conference
31 with the executive officer of the board in addition to the hearing described in
32 paragraph (2).

33 (4) The failure of a licensee to pay a fine within 30 days of the date of assessment,
34 unless the citation is being appealed, may result in disciplinary action being taken
35 by the board. Where a citation is not contested and a fine is not paid, the full amount
36 of the assessed fine shall be added to the fee for renewal of the license. A license
37 shall not be renewed without payment of the renewal fee and fine.

38 (5) Notwithstanding any other law, if a fine is paid to satisfy an assessment based
39 on the finding of a violation, payment of the fine shall be represented as satisfactory
40 resolution of the matter for purposes of public disclosure.

41 (i) Administrative fines collected pursuant to this section shall be deposited in the
42 Dispensing Opticians Fund. It is the intent of the Legislature that moneys collected

1 as fines and deposited in the fund be used by the board primarily for enforcement
2 purposes.

3 **Comment.** Section 655 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
5 Reports __ (2019).

6 The section is also amended to make technical changes.

7 **§ 4083 (amended). Order of correction**

8 SEC. ____. Section 4083 of the Business and Professions Code is amended to read:

9 4083. (a) An inspector may issue an order of correction to a licensee directing the
10 licensee to comply with this chapter or regulations adopted pursuant to this chapter.

11 (b) The order of correction shall be in writing and shall describe in detail the
12 nature and facts of the violation, including a reference to the statute or regulations
13 violated.

14 (c) The order of correction shall inform the licensee that within 30 days of service
15 of the order of correction, the licensee may do either of the following:

16 (1) Submit a written request for an office conference with the board's executive
17 officer to contest the order of correction.

18 (A) Upon a timely request, the executive officer, or ~~his or her~~ designee of the
19 executive officer, shall hold an office conference with the licensee or the licensee's
20 legal counsel or authorized representative. Unless so authorized by the executive
21 officer, or ~~his or her~~ designee of the executive officer, no individual other than the
22 licensee's legal counsel or authorized representative may accompany the licensee to
23 the office conference.

24 (B) Prior to or at the office conference, the licensee may submit to the executive
25 officer declarations and documents pertinent to the subject matter of the order of
26 correction.

27 (C) The office conference is intended to be an informal proceeding and shall not
28 be subject to the provisions of the Administrative Procedure Act (Chapter 3.5
29 (commencing with Section 11340), Chapter 4 (commencing with Section 11370),
30 Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with
31 Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

32 (D) The executive officer, or ~~his or her~~ designee of the executive officer, may
33 affirm, modify, or withdraw the order of correction. Within 14 calendar days from
34 the date of the office conference, the executive officer, or ~~his or her~~ designee of the
35 executive officer, shall personally serve or send by certified mail to the licensee's
36 address of record with the board a written decision. This decision shall be deemed
37 the final administrative decision concerning the order of correction.

38 (E) Judicial review of the decision may be had by filing a petition for a writ of
39 mandate in accordance with the provisions of Section 1094.5 of the Code of Civil
40 Procedure within 30 days of the date the decision was personally served or sent by
41 certified mail. The judicial review shall extend to the question of whether or not
42 there was a prejudicial abuse of discretion in the issuance of the order of correction.

1 (2) Comply with the order of correction and submit a written corrective action
2 plan to the inspector documenting compliance. If an office conference is not
3 requested pursuant to this section, compliance with the order of correction shall not
4 constitute an admission of the violation noted in the order of correction.

5 (d) The order of correction shall be served upon the licensee personally or by
6 certified mail at the licensee's address of record with the board. If the licensee is
7 served by certified mail, service shall be effective upon deposit in the United States
8 mail.

9 (e) The licensee shall maintain and have readily available on the pharmacy
10 premises a copy of the order of correction and corrective action plan for at least
11 three years from the date of issuance of the order of correction.

12 (f) Nothing in this section shall in any way limit the board's authority or ability to
13 do any of the following:

14 (1) Issue a citation pursuant to Section 125.9, 148, or 4067 or pursuant to Section
15 1775, 1775.15, 1777, or 1778 of Title 16 of the California Code of Regulations.

16 (2) Issue a letter of admonishment pursuant to Section 4315.

17 (3) Institute disciplinary proceedings pursuant to Article 19 (commencing with
18 Section 4300).

19 (g) Unless a writ of mandate is filed, a citation issued, a letter of admonishment
20 issued, or a disciplinary proceeding instituted, an order of correction shall not be
21 considered a public record and shall not be disclosed pursuant to a request under the
22 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of
23 Division 7 Division 10 (commencing with Section 7920.000) of Title 1 of the
24 Government Code).

25 **Comment.** Section 4083 is amended to reflect nonsubstantive recodification of the California
26 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
27 Reports __ (2019).

28 The section is also amended to eliminate gendered pronouns.

29 **§ 4372 (amended). Board records and records of pharmacists recovery program**

30 SEC. ____ . Section 4372 of the Business and Professions Code is amended to read:

31 4372. All board records and records of the pharmacists recovery program
32 pertaining to the treatment of a pharmacist or intern pharmacist in the program shall
33 be kept confidential and are not subject to discovery, subpoena, or disclosure
34 pursuant to ~~Chapter 3.5 (commencing with Section 6250)~~ of Division 7 Division 10
35 (commencing with Section 7920.000) of Title 1 of the Government Code. However,
36 board records and records of the pharmacists recovery program may be disclosed
37 and testimony provided in connection with participation in the pharmacists recovery
38 program, but only to the extent those records or testimony are relevant to the conduct
39 for which the pharmacist or intern pharmacist was terminated from the pharmacists
40 recovery program.

41 **Comment.** Section 4372 is amended to reflect nonsubstantive recodification of the California
42 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
43 Reports __ (2019).

1 **§ 4857 (amended). Information relating to veterinary services**

2 SEC. ____ . Section 4857 of the Business and Professions Code is amended to read:

3 4857. (a) A veterinarian licensed under the provisions of this chapter shall not
4 disclose any information concerning an animal receiving veterinary services, the
5 client responsible for the animal receiving veterinary services, or the veterinary care
6 provided to an animal, except under any one of the following circumstances:

7 (1) Upon written or witnessed oral authorization by knowing and informed
8 consent of the client responsible for the animal receiving services or an authorized
9 agent of the client.

10 (2) Upon authorization received by electronic transmission when originated by
11 the client responsible for the animal receiving services or an authorized agent of the
12 client.

13 (3) In response to a valid court order or subpoena.

14 (4) As may be required to ensure compliance with any federal, state, county, or
15 city law or regulation, including, but not limited to, the California Public Records
16 Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
17 (commencing with Section 7920.000) of Title 1 of the Government Code).

18 (5) Nothing in this section is intended to prevent the sharing of veterinary medical
19 information between veterinarians or facilities for the purpose of diagnosis or
20 treatment of the animal who is the subject of the medical records.

21 (6) As otherwise provided in this section.

22 (b) This section shall not apply to the extent that the client responsible for an
23 animal or an authorized agent of the client responsible for the animal has filed or
24 caused to be filed a civil or criminal complaint that places the veterinarian's care
25 and treatment of the animal or the nature and extent of the injuries to the animal at
26 issue, or when the veterinarian is acting to comply with federal, state, county, or city
27 laws or regulations.

28 (c) A veterinarian shall be subject to the criminal penalties set forth in Section
29 4831 or any other provision of this code for a violation of this section. In addition,
30 any veterinarian who negligently releases confidential information shall be liable in
31 a civil action for any damages caused by the release of that information.

32 (d) Nothing in this section is intended to prevent the sharing of veterinary medical
33 information between veterinarians and peace officers, humane society officers, or
34 animal control officers who are acting to protect the welfare of animals.

35 **Comment.** Section 4857 is amended to reflect nonsubstantive recodification of the California
36 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
37 Reports __ (2019).

38 **§ 5070 (amended). Permit to practice public accountancy**

39 SEC. ____ . Section 5070 of the Business and Professions Code is amended to read:

40 5070. (a) Permits to engage in the practice of public accountancy in this state shall
41 be issued by the board only to holders of the certificate of certified public accountant
42 issued under this chapter and to those partnerships, corporations, and other persons

1 who, upon application approved by the board, are registered with the board under
2 this chapter. Notwithstanding any other law, the board may register an entity
3 organized and authorized to practice public accountancy under the laws of another
4 state for the purpose of allowing that entity to satisfy the registration requirement
5 set forth in Section 5096.12, if (1) the certified public accountants providing
6 services in California qualify for the practice privilege, and (2) the entity satisfies
7 all other requirements to register in this state, other than its form of legal
8 organization.

9 (b) All applicants for registration shall furnish satisfactory evidence that the
10 applicant is entitled to registration and shall pay the fee as provided in Article 8
11 (commencing with Section 5130). Every partnership, corporation, and other person
12 to whom a permit is issued shall, in addition to any other fee that may be payable,
13 pay the initial permit fee provided in Article 8 (commencing with Section 5130).

14 (c) The board may collect, but shall not require, a valid electronic mail address at
15 the time of application for a certified public accountant license. In the interest of
16 protecting an applicant's privacy, the electronic mail address shall not be considered
17 a public record and shall not be disclosed pursuant to Section 27 or pursuant to a
18 request under the California Public Records Act (~~Chapter 3.5 (commencing with~~
19 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
20 Title 1 of the Government Code), unless required pursuant to a court order by a
21 court of competent jurisdiction.

22 (d) Each partnership, corporation, and other person issued a permit by the board
23 to practice as a certified public accountant or as a public accountant shall be
24 furnished with a suitable certificate evidencing that registration.

25 **Comment.** Section 5070 is amended to reflect nonsubstantive recodification of the California
26 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
27 Reports __ (2019).

28 **§ 5070.5 (amended). Renewal of permit issued to certified public accountant or public**
29 **accountant**

30 SEC. _____. Section 5070.5 of the Business and Professions Code is amended to
31 read:

32 5070.5. (a)(1) A permit issued under this chapter to a certified public accountant
33 or a public accountant expires at 12 midnight on the last day of the month of the
34 legal birthday of the licensee during the second year of a two-year term if not
35 renewed.

36 (2) To renew an unexpired permit, a permitholder shall, before the time at which
37 the permit would otherwise expire, apply for renewal on a form prescribed by the
38 board, pay the renewal fee prescribed by this chapter, and give evidence satisfactory
39 to the board that ~~he or she~~ the permitholder has complied with the continuing
40 education provisions of this chapter.

41 (3) The board may collect, but shall not require, a valid electronic mail address on
42 the renewal form described in paragraph (1). In the interest of protecting an

1 applicant's privacy, the electronic mail address shall not be considered a public
2 record and shall not be disclosed pursuant to Section 27 or pursuant to a request
3 under the California Public Records Act (~~Chapter 3.5 (commencing with Section~~
4 ~~6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of
5 the Government Code), unless required pursuant to a court order by a court of
6 competent jurisdiction.

7 (b) A permit to practice as an accountancy partnership or an accountancy
8 corporation expires at 12 midnight on the last day of the month in which the permit
9 was initially issued during the second year of a two-year term if not renewed. To
10 renew an unexpired permit, the permit holder shall, before the time at which the
11 permit would otherwise expire, apply for renewal on a form prescribed by the board,
12 pay the renewal fee prescribed by this chapter, and provide evidence satisfactory to
13 the board that the accountancy partnership or accountancy corporation is in
14 compliance with this chapter.

15 **Comment.** Section 5070.5 is amended to reflect nonsubstantive recodification of the California
16 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
17 Reports __ (2019).

18 The section is also amended to eliminate gendered pronouns.

19 **§ 5079 (amended). Nonlicensee owners of public accountancy firm**

20 SEC. ____. Section 5079 of the Business and Professions Code is amended to read:

21 5079. (a) Notwithstanding any other provision of this chapter, any firm lawfully
22 engaged in the practice of public accountancy in this state may have owners who
23 are not licensed as certified public accountants or public accountants if the following
24 conditions are met:

25 (1) Nonlicensee owners shall be natural persons or entities, such as partnerships,
26 professional corporations, or others, provided that each ultimate beneficial owner of
27 an equity interest in that entity shall be a natural person materially participating in
28 the business conducted by the firm or an entity controlled by the firm.

29 (2) Nonlicensee owners shall materially participate in the business of the firm, or
30 an entity controlled by the firm, and their ownership interest shall revert to the firm
31 upon the cessation of any material participation.

32 (3) Licensees shall in the aggregate, directly or beneficially, comprise a majority
33 of owners, except that firms with two owners may have one owner who is a
34 nonlicensee.

35 (4) Licensees shall in the aggregate, directly or beneficially, hold more than half
36 of the equity capital and possess majority voting rights.

37 (5) Nonlicensee owners shall not hold themselves out as certified public
38 accountants or public accountants and each licensed firm shall disclose actual or
39 potential involvement of nonlicensee owners in the services provided.

40 (6) There shall be a certified public accountant or public accountant who has
41 ultimate responsibility for each financial statement attest and compilation service
42 engagement.

1 (7) Except as permitted by the board in the exercise of its discretion, a person may
2 not become a nonlicensee owner or remain a nonlicensee owner if the person has
3 done either of the following:

4 (A) Been convicted of any crime, an element of which is dishonesty or fraud,
5 under the laws of any state, of the United States, or of any other jurisdiction.

6 (B) Had a professional license or the right to practice revoked or suspended for
7 reasons other than nonpayment of dues or fees, or has voluntarily surrendered a
8 license or right to practice with disciplinary charges or a disciplinary investigation
9 pending, and not reinstated by a licensing or regulatory agency of any state, or of
10 the United States, including, but not limited to, the Securities and Exchange
11 Commission or Public Company Accounting Oversight Board, or of any other
12 jurisdiction.

13 (b)(1) A nonlicensee owner of a licensed firm shall report to the board in writing
14 of the occurrence of any of the events set forth in paragraph (7) of subdivision (a)
15 within 30 days of the date the nonlicensee owner has knowledge of the event. A
16 conviction includes the initial plea, verdict, or finding of guilt, pleas of no contest,
17 or pronouncement of sentence by a trial court even though that conviction may not
18 be final or sentence actually imposed until appeals are exhausted.

19 (2) A California nonlicensee owner of a licensed firm shall report to the board in
20 writing the occurrence of any of the following events occurring on or after January
21 1, 2006, within 30 days of the date the California nonlicensee owner has knowledge
22 of the events:

23 (A) Any notice of the opening or initiation of a formal investigation of the
24 nonlicensee owner by the Securities and Exchange Commission or its designee, or
25 any notice from the Securities and Exchange Commission to a nonlicensee owner
26 requesting a Wells submission.

27 (B) Any notice of the opening or initiation of an investigation of the nonlicensee
28 owner by the Public Company Accounting Oversight Board or its designee.

29 (C) Any notice of the opening or initiation of an investigation of the nonlicensee
30 owner by another professional licensing agency.

31 (3) The report required by paragraphs (1) and (2) shall be signed by the
32 nonlicensee owner and set forth the facts that constitute the reportable event. If the
33 reportable event involves the action of an administrative agency or court, the report
34 shall identify the name of the agency or court, the title of the matter, and the date of
35 occurrence of the event.

36 (4) Notwithstanding any other provision of law, reports received by the board
37 pursuant to paragraph (2) shall not be disclosed to the public pursuant to the
38 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of
39 Division 7 Division 10 (commencing with Section 7920.000) of Title 1 of the
40 Government Code) other than (A) in the course of any disciplinary proceeding by
41 the board after the filing of a formal accusation, (B) in the course of any legal action
42 to which the board is a party, (C) in response to an official inquiry from a state or

1 federal agency, (D) in response to a subpoena or summons enforceable by order of
2 a court, or (E) when otherwise specifically required by law.

3 (5) Nothing in this subdivision shall impose a duty upon any licensee or
4 nonlicensee owner to report to the board the occurrence of any events set forth in
5 paragraph (7) of subdivision (a) or paragraph (2) of this subdivision either by or
6 against any other nonlicensee owner.

7 (c) For purposes of this section, the following definitions apply:

8 (1) “Licensee” means a certified public accountant or public accountant in this
9 state or a certified public accountant in good standing in another state.

10 (2) “Material participation” means an activity that is regular, continuous, and
11 substantial.

12 (d) All firms with nonlicensee owners shall certify at the time of registration and
13 renewal that the firm is in compliance with this section.

14 (e) The board shall adopt regulations to implement, interpret, or make specific this
15 section.

16 **Comment.** Section 5079 is amended to reflect nonsubstantive recodification of the California
17 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
18 Reports __ (2019).

19 **§ 6001 (amended). State Bar of California**

20 SEC. ____. Section 6001 of the Business and Professions Code is amended to read:
21 6001. The State Bar of California is a public corporation. It is hereinafter
22 designated as the State Bar.

23 The State Bar has perpetual succession and a seal and it may sue and be sued. It
24 may, for the purpose of carrying into effect and promoting its objectives:

25 (a) Make contracts.

26 (b) Borrow money, contract debts, issue bonds, notes and debentures and secure
27 the payment or performance of its obligations.

28 (c) Own, hold, use, manage and deal in and with real and personal property.

29 (d) Construct, alter, maintain and repair buildings and other improvements to real
30 property.

31 (e) Purchase, lease, obtain options upon, acquire by gift, bequest, devise or
32 otherwise, any real or personal property or any interest therein.

33 (f) Sell, lease, exchange, convey, transfer, assign, encumber, pledge, dispose of
34 any of its real or personal property or any interest therein, including without
35 limitation all or any portion of its income or revenues from license fees paid or
36 payable by licensees.

37 (g) Do all other acts incidental to the foregoing or necessary or expedient for the
38 administration of its affairs and the attainment of its purposes.

39 Pursuant to those powers enumerated in subdivisions (a) to (g), inclusive, it is
40 recognized that the State Bar has authority to raise revenue in addition to that
41 provided for in Section 6140 and other statutory provisions. The State Bar is
42 empowered to raise that additional revenue by any lawful means. However, as of

1 March 31, 2018, the State Bar shall not create any foundations or nonprofit
2 corporations.

3 The State Bar shall conspicuously publicize to its licensees in the annual fees
4 statement and other appropriate communications, including its Internet Web site and
5 electronic communications, that its licensees have the right to limit the sale or
6 disclosure of licensee information not reasonably related to regulatory purposes. In
7 those communications the State Bar shall note the location of the State Bar’s privacy
8 policy, and shall also note the simple procedure by which a licensee may exercise
9 ~~his or her~~ the licensee’s right to prohibit or restrict, at the licensee’s option, the sale
10 or disclosure of licensee information not reasonably related to regulatory purposes.
11 On or before May 1, 2005, the State Bar shall report to the Assembly and Senate
12 Committees on Judiciary regarding the procedures that it has in place to ensure that
13 licensees can appropriately limit the use of their licensee information not reasonably
14 related to regulatory purposes, and the number of licensees choosing to utilize these
15 procedures.

16 No law of this state restricting, or prescribing a mode of procedure for the exercise
17 of powers of state public bodies or state agencies, or classes thereof, including, but
18 not by way of limitation, the provisions contained in Division 3 (commencing with
19 Section 11000), Division 4 (commencing with Section 16100), and Part 1
20 (commencing with Section 18000) and Part 2 (commencing with Section 18500) of
21 Division 5, of Title 2 of the Government Code, shall be applicable to the State Bar,
22 unless the Legislature expressly so declares. Notwithstanding the foregoing or any
23 other law, pursuant to Sections 6026.7 and 6026.11, the State Bar is subject to the
24 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of~~
25 Division 7 Division 10 (commencing with Section 7920.000) of Title 1 of the
26 Government Code) and, commencing April 1, 2016, the Bagley-Keene Open
27 Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of
28 Division 3 of Title 2 of the Government Code).

29 **Comment.** Section 6001 is amended to reflect nonsubstantive recodification of the California
30 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
31 Reports __ (2019).

32 The section is also amended to eliminate gendered pronouns.

33 **§ 6026.11 (amended). Application of CPRA to State Bar and its records and writings**

34 SEC. ____ . Section 6026.11 of the Business and Professions Code is amended to
35 read:

36 6026.11. The State Bar is subject to the California Public Records Act (~~Chapter~~
37 3.5 (commencing with Section 6250) of Division 7 Division 10 (commencing with
38 Section 7920.000) of Title 1 of the Government Code) and all public records and
39 writings of the State Bar are subject to the California Public Records Act.

40 **Comment.** Section 6026.11 is amended to reflect nonsubstantive recodification of the California
41 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
42 Reports __ (2019).

1 **§ 6056 (amended). California Lawyers Association**

2 SEC. _____. Section 6056 of the Business and Professions Code is amended to read:

3 6056. (a) The State Bar, acting pursuant to Section 6001, shall assist the Sections
4 of the State Bar to incorporate as a private, nonprofit corporation organized under
5 Section 501(c)(6) of the Internal Revenue Code and shall transfer the functions and
6 activities of the 16 State Bar Sections and the California Young Lawyers
7 Association to the new private, nonprofit corporation, to be called the California
8 Lawyers Association. The California Lawyers Association shall be a voluntary
9 association, shall not be a part of the State Bar, and shall not be funded in any way
10 through mandatory fees collected by the State Bar. The California Lawyers
11 Association shall have independent contracting authority and full control of its
12 resources. The California Lawyers Association shall not be considered a state, local,
13 or other public body for any purpose, including, but not limited to, the Bagley-
14 Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter
15 1 of Part 1 of Division 3 of Title 2 of the Government Code) and the California
16 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
17 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
18 Code).

19 (b) The California Lawyers Association shall be governed in accordance with the
20 bylaws of the California Lawyers Association, which shall ensure that all of the
21 State Bar Sections and the California Young Lawyers Association are adequately
22 represented and are able to make decisions in a fair and representative manner that
23 complies with all provisions of state and federal law governing private nonprofit
24 corporations organized under Section 501(c)(6) of the Internal Revenue Code. The
25 bylaws of the California Lawyers Association shall ensure that the governing board
26 of the California Lawyers Association includes one representative of each of the 16
27 sections of the State Bar Sections and one representative from the California Young
28 Lawyers Association. The bylaws shall ensure that each of these 17 governing board
29 members have equal voting power on the governing board. The bylaws shall ensure
30 that the governing board may terminate individual sections or add individual
31 sections by a two-thirds vote of the governing board.

32 (c) The California Lawyers Association shall establish the criteria for membership
33 in the California Young Lawyers Association. The California Lawyers Association
34 may change the name of the California Young Lawyers Association to another name
35 consistent with the criteria for membership and its mission.

36 (d) The State Bar may assist the California Lawyers Association in gaining
37 appointment to the American Bar Association (ABA) House of Delegates,
38 consistent with the California Lawyers Association's mission and subject to the
39 consent of the ABA.

40 (e) The State Bar shall support the California Lawyers Association's efforts to
41 partner with the Continuing Education of the Bar (CEB), subject to agreement by
42 the University of California.

1 (f) The State Bar of California shall ensure that State Bar staff who support the
2 sections, as of September 15, 2017, are reassigned to other comparable positions
3 within the State Bar.

4 (g) The Sections of the State Bar or the California Lawyers Association and the
5 State Bar shall enter into a memorandum of understanding regarding the terms of
6 separation of the Sections of the State Bar from the State Bar and mandatory duties
7 of the California Lawyers Association, including a requirement to provide all of the
8 following:

9 (1) Low- and no-cost mandatory continuing legal education (MCLE).

10 (2) Expertise and information to the State Bar, as requested.

11 (3) Educational programs and materials to the licensees of the State Bar and the
12 public.

13 (h) The State Bar of California shall assist the California Lawyers Association in
14 meeting the association's requirement to provide low- and no-cost MCLE by the
15 inclusion on the State Bar's Internet Web site of easily accessible links to the low-
16 and no-cost MCLE provided by the California Lawyers Association.

17 **Comment.** Section 6056 is amended to reflect nonsubstantive recodification of the California
18 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
19 Reports __ (2019).

20 **§ 6060.2 (amended). Confidentiality of State Bar investigation or proceeding concerning**
21 **moral character of applicant**

22 SEC. ____. Section 6060.2 of the Business and Professions Code is amended to
23 read:

24 6060.2. (a) All investigations or proceedings conducted by the State Bar
25 concerning the moral character of an applicant shall be confidential and shall not be
26 disclosed pursuant to any state law, including, but not limited to, the California
27 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
28 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
29 Code) unless the applicant, in writing, waives the confidentiality.

30 (b) Notwithstanding subdivision (a), the records of the proceeding may be
31 disclosed in response to either of the following:

32 (1) A lawfully issued subpoena.

33 (2) A written request from a government agency responsible for either the
34 enforcement of civil or criminal laws or the professional licensing of individuals
35 that is conducting an investigation about the applicant.

36 **Comment.** Section 6060.2 is amended to reflect nonsubstantive recodification of the California
37 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
38 Reports __ (2019).

39 **§ 6060.25 (amended). Identifying information of State Bar applicant**

40 SEC. ____. Section 6060.25 of the Business and Professions Code is amended to
41 read:

1 6060.25. (a) Notwithstanding any other law, any identifying information
2 submitted by an applicant to the State Bar for admission and a license to practice
3 law and all State Bar admission records, including, but not limited to, bar
4 examination scores, law school grade point average (GPA), undergraduate GPA,
5 Law School Admission Test scores, race or ethnicity, and any information contained
6 within the State Bar Admissions database or any file or other data created by the
7 State Bar with information submitted by the applicant that may identify an
8 individual applicant, other than information described in subdivision (b), shall be
9 confidential and shall not be disclosed pursuant to any state law, including, but not
10 limited to, the California Public Records Act (~~Chapter 3.5 (commencing with~~
11 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
12 Title 1 of the Government Code).

13 (b) Subject to existing state and federal laws protecting education records,
14 subdivision (a) does not prohibit the disclosure of any of the following:

15 (1) The names of applicants who have passed any examination administered,
16 given, or prescribed by the Committee of Bar Examiners.

17 (2) Information that is provided at the request of an applicant to another
18 jurisdiction where the applicant is seeking admission to the practice of law.

19 (3) Information provided to a law school that is necessary for the purpose of the
20 law school's compliance with accreditation or regulatory requirements. Beginning
21 with the release of results from the July 2018 bar examination, the information
22 provided to a law school shall also include the bar examination results of the law
23 school's graduates allocated to the law school and the scores of any graduate
24 allocated to the law school who did not pass the bar examination and who consents
25 to the release of ~~his or her~~ the graduate's scores to the law school. Consent of a law
26 school graduate to the release of ~~his or her~~ the graduate's scores may be obtained
27 by a check-off on the graduate's application to take the bar examination. For
28 purposes of this paragraph, "scores" means the same scores reported to a graduate
29 who did not successfully pass the bar examination.

30 (4) Information provided to the National Conference of Bar Examiners or a
31 successor nonprofit organization in connection to the State Bar's administration of
32 any examination.

33 (5) This subdivision shall apply retroactively to January 1, 2016.

34 (c) Disclosure of any of the information in paragraphs (2) to (4), inclusive, of
35 subdivision (b) shall not constitute a waiver under ~~Section 6254.5~~ 7921.505 of the
36 Government Code of the exemption from disclosure provided for in subdivision (a)
37 of this section.

38 (d)(1) Notwithstanding any other law except existing state and federal laws
39 protecting education records, any information received from an educational or
40 testing entity that is collected by the State Bar for the purpose of conducting a Law
41 School Bar Exam Performance Study as the State Bar has been directed to do by the
42 California Supreme Court by letter dated February 28, 2017, other than aggregate,
43 summary, or statistical data that does not identify any person and does not provide

1 substantial risk of identification of any person, shall be confidential and shall not be
2 disclosed pursuant to any state law, including, but not limited to, the California
3 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
4 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
5 Code).

6 (2) Nothing in this subdivision is intended to impact any litigation pending on the
7 effective date of the measure that added this subdivision.

8 **Comment.** Section 6060.25 is amended to reflect nonsubstantive recodification of the California
9 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
10 Reports __ (2019).

11 The section is also amended to eliminate gendered pronouns.

12 **§ 6086.1 (amended). Confidentiality and public disclosure**

13 SEC. ____. Section 6086.1 of the Business and Professions Code is amended to
14 read:

15 6086.1. (a)(1) Subject to subdivision (b), and except as otherwise provided by
16 law, hearings and records of original disciplinary proceedings in the State Bar Court
17 shall be public, following a notice to show cause.

18 (2) Subject to subdivision (b), and except as otherwise provided by law, hearings
19 and records of the following matters shall be public:

20 (A) Filings for involuntary inactive enrollment or restriction under subdivision
21 (a), (c), (d), or (e) of Section 6007.

22 (B) Petitions for reinstatement under Section 6078.

23 (C) Proceedings for suspension or disbarment under Section 6101 or 6102.

24 (D) Payment information from the Client Security Fund pursuant to Section
25 6140.5.

26 (E) Actions to cease a law practice or assume a law practice under Section 6180
27 or 6190.

28 (b) All disciplinary investigations are confidential until the time that formal
29 charges are filed and all investigations of matters identified in paragraph (2) of
30 subdivision (a) are confidential until the formal proceeding identified in paragraph
31 (2) of subdivision (a) is instituted. These investigations shall not be disclosed
32 pursuant to any state law, including, but not limited to, the California Public Records
33 Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
34 (commencing with Section 7920.000) of Title 1 of the Government Code). This
35 confidentiality requirement may be waived under any of the following exceptions:

36 (1) The licensee whose conduct is being investigated may waive confidentiality.

37 (2) The Chief Trial Counsel or Chair of the State Bar may waive confidentiality,
38 but only when warranted for protection of the public. Under those circumstances,
39 after private notice to the licensee, the Chief Trial Counsel or Chair of the State Bar
40 may issue, if appropriate, one or more public announcements or make information
41 public confirming the fact of an investigation or proceeding, clarifying the
42 procedural aspects and current status, and defending the right of the licensee to a

1 fair hearing. If the Chief Trial Counsel or Chair of the State Bar for any reason
2 declines to exercise the authority provided by this paragraph, or ~~disqualifies himself~~
3 ~~or herself~~ self-disqualifies from acting under this paragraph, ~~he or she~~ the Chief
4 Trial Counsel or Chair of the State Bar shall designate someone to act in ~~his or her~~
5 that person's behalf. Conduct of a licensee that is being inquired into by the State
6 Bar but that is not the subject of a formal investigation shall not be disclosed to the
7 public.

8 (3) The Chief Trial Counsel or ~~his or her~~ Chief Trial Counsel's designee may
9 waive confidentiality pursuant to Section 6044.5.

10 (c) Notwithstanding the confidentiality of investigations, the State Bar shall
11 disclose to any member of the public so inquiring, any information reasonably
12 available to it pursuant to subdivision (o) of Section 6068, and to Sections 6086.7,
13 6086.8, and 6101, concerning a licensee of the State Bar ~~which~~ that is otherwise a
14 matter of public record, including civil or criminal filings and dispositions.

15 **Comment.** Section 6086.1 is amended to reflect nonsubstantive recodification of the California
16 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
17 Reports __ (2019).

18 The section is also amended to eliminate gendered pronouns and make a grammatical correction.

19 **§ 6086.5 (amended). State Bar Court**

20 SEC. ____ . Section 6086.5 of the Business and Professions Code is amended to
21 read:

22 6086.5. (a) The board of trustees shall establish a State Bar Court, to act in its
23 place and stead in the determination of disciplinary and reinstatement proceedings
24 and proceedings pursuant to subdivisions (b) and (c) of Section 6007 to the extent
25 provided by rules adopted by the board of trustees pursuant to this chapter. In these
26 proceedings the State Bar Court may exercise the powers and authority vested in the
27 board of trustees by this chapter, including those powers and that authority vested
28 in committees of, or established by, the board, except as limited by rules of the board
29 of trustees within the scope of this chapter.

30 (b) Access to records of the State Bar Court shall be governed by court rules and
31 laws applicable to records of the judiciary and not the California Public Records Act
32 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
33 (commencing with Section 7920.000) of Title 1 of the Government Code).

34 (c) For the purposes of Sections 6007, 6043, 6049, 6049.2, 6050, 6051, 6052,
35 6077 (excluding the first sentence), 6078, 6080, 6081, and 6082, "board" includes
36 the State Bar Court.

37 (d)(1) Nothing in this section shall authorize the State Bar Court to adopt rules of
38 professional conduct or rules of procedure.

39 (2) The Executive Committee of the State Bar Court may adopt rules of practice
40 for the conduct of all proceedings within its jurisdiction. These rules may not
41 conflict with the rules of procedure adopted by the board, unless approved by the
42 Supreme Court.

1 **Comment.** Section 6086.5 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 The section is also amended to insert subdivision and paragraph labels.

5 **§ 6090.6 (amended). State Bar access to nonpublic court records in disciplinary proceeding**

6 SEC. ____. Section 6090.6 of the Business and Professions Code is amended to
7 read:

8 6090.6. In a disciplinary proceeding, the State Bar shall have access, on an ex
9 parte basis, to all nonpublic court records relevant to the competence or performance
10 of its licensees, provided that these records shall remain confidential and shall not
11 be disclosed pursuant to any state law, including, but not limited to, the California
12 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
13 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
14 Code). This access, for investigation and enforcement purposes, shall not be limited
15 by any court order sealing those records, except a court order authorized by Section
16 851.6, 851.7, 851.8, or 851.85 of the Penal Code. The State Bar may disclose
17 publicly the nature and content of those records, including sealed records other than
18 those specified immediately above in this section, after notice of intention to
19 disclose all or a part of the records has been given to the parties in the underlying
20 action. A party to the underlying action who would be adversely affected by the
21 disclosure may serve notice on the State Bar within 10 days of receipt of the notice
22 of intention to disclose the records that it opposes the disclosure and will seek a
23 hearing in the court of competent jurisdiction on an expedited basis.

24 **Comment.** Section 6090.6 is amended to reflect nonsubstantive recodification of the California
25 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
26 Reports __ (2019).

27 **§ 6168 (amended). State Bar investigation of law corporation**

28 SEC. ____. Section 6168 of the Business and Professions Code is amended to read:

29 6168. (a) The State Bar may conduct an investigation of the conduct of the
30 business of a law corporation.

31 (b) Upon ~~such that~~ investigation, the Board of Trustees, or a committee authorized
32 by it, shall have power to issue subpoenas, administer oaths, examine witnesses, and
33 compel the production of records, in the same manner as upon an investigation or
34 formal hearing in a disciplinary matter under the State Bar Act. ~~Such~~ The
35 investigation shall be private and confidential and shall not be disclosed pursuant to
36 any state law, including, but not limited to, the California Public Records Act
37 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
38 (commencing with Section 7920.000) of Title 1 of the Government Code), except
39 to the extent that disclosure of facts and information may be required if a cease and
40 desist order is thereafter issued and subsequent proceedings are had.

1 **Comment.** Section 6168 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 The section is also amended to insert subdivision labels and make other technical changes.

5 **§ 6200 (amended). Arbitration or mediation of dispute over costs or fees**

6 SEC. ____. Section 6200 of the Business and Professions Code is amended to read:

7 6200. (a) The board of trustees shall, by rule, establish, maintain, and administer
8 a system and procedure for the arbitration, and may establish, maintain, and
9 administer a system and procedure for mediation of disputes concerning fees, costs,
10 or both, charged for professional services by licensees of the State Bar or by
11 members of the bar of other jurisdictions. The rules may include provision for a
12 filing fee in the amount as the board may, from time to time, determine.

13 (b) This article shall not apply to any of the following:

14 (1) Disputes where a licensee of the State Bar of California is also admitted to
15 practice in another jurisdiction or where an attorney is only admitted to practice in
16 another jurisdiction, and ~~he or she~~ the attorney maintains no office in the State of
17 California, and no material portion of the services were rendered in the State of
18 California.

19 (2) Claims for affirmative relief against the attorney for damages or otherwise
20 based upon alleged malpractice or professional misconduct, except as provided in
21 subdivision (a) of Section 6203.

22 (3) Disputes where the fee or cost to be paid by the client or on ~~his or her~~ the
23 client's behalf has been determined pursuant to statute or court order.

24 (c) Unless the client has agreed in writing to arbitration under this article of all
25 disputes concerning fees, costs, or both, arbitration under this article shall be
26 voluntary for a client and shall be mandatory for an attorney if commenced by a
27 client. Mediation under this article shall be voluntary for an attorney and a client.

28 (d) The board of trustees shall adopt rules to allow arbitration and mediation of
29 attorney fee and cost disputes under this article to proceed under arbitration and
30 mediation systems sponsored by local bar associations in this state. Rules of
31 procedure promulgated by local bar associations are subject to review by the board
32 or a committee designated by the board to ensure that they provide for a fair,
33 impartial, and speedy hearing and award.

34 (e) In adopting or reviewing rules of arbitration under this section, the board shall
35 provide that the panel shall include one attorney member whose area of practice is
36 either, at the option of the client, civil law, if the attorney's representation involved
37 civil law, or criminal law, if the attorney's representation involved criminal law, as
38 follows:

39 (1) If the panel is composed of three members the panel shall include one attorney
40 member whose area of practice is either, at the option of the client, civil or criminal
41 law, and shall include one lay member.

42 (2) If the panel is composed of one member, that member shall be an attorney
43 whose area of practice is either, at the option of the client, civil or criminal law.

1 (f) In any arbitration or mediation conducted pursuant to this article by the State
2 Bar or by a local bar association, pursuant to rules of procedure approved by the
3 board of trustees, an arbitrator or mediator, as well as the arbitrating association and
4 its directors, officers, and employees, shall have the same immunity ~~which~~ that
5 attaches in judicial proceedings.

6 (g) In the conduct of arbitrations under this article the arbitrator or arbitrators may
7 do all of the following:

8 (1) Take and hear evidence pertaining to the proceeding.

9 (2) Administer oaths and affirmations.

10 (3) Issue subpoenas for the attendance of witnesses and the production of books,
11 papers, and documents pertaining to the proceeding.

12 (h) Participation in mediation is a voluntary consensual process, based on direct
13 negotiations between the attorney and ~~his or her~~ client, and is an extension of the
14 negotiated settlement process. All discussions and offers of settlement are
15 confidential and shall not be disclosed pursuant to any state law, including, but not
16 limited to, the California Public Records Act (~~Chapter 3.5 (commencing with~~
17 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
18 Title 1 of the Government Code), and may not be disclosed in any subsequent
19 arbitration or other proceedings.

20 **Comment.** Section 6200 is amended to reflect nonsubstantive recodification of the California
21 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
22 Reports __ (2019).

23 The section is also amended to eliminate gendered pronouns and make a grammatical correction.

24 **§ 6232 (amended). Participation in Attorney Diversion and Assistance Program**

25 SEC. ____. Section 6232 of the Business and Professions Code is amended to read:

26 6232. (a) The committee shall establish practices and procedures for the
27 acceptance, denial, completion, or termination of attorneys in the Attorney
28 Diversion and Assistance Program, and may recommend rehabilitative criteria for
29 adoption by the board for acceptance, denial, completion of, or termination from,
30 the program.

31 (b) An attorney currently under investigation by the State Bar may enter the
32 program in the following ways:

33 (1) By referral of the Office of the Chief Trial Counsel.

34 (2) By referral of the State Bar Court following the initiation of a disciplinary
35 proceeding.

36 (3) Voluntarily, and in accordance with terms and conditions agreed upon by the
37 attorney participant with the Office of the Chief Trial Counsel or upon approval by
38 the State Bar Court, as long as the investigation is based primarily on the self-
39 administration of drugs or alcohol or the illegal possession, prescription, or
40 nonviolent procurement of drugs for self-administration, or on mental illness, and
41 does not involve actual harm to the public or ~~his or her~~ the attorney's clients. An
42 attorney seeking entry under this paragraph may be required to execute an

1 agreement that violations of this chapter, or other statutes that would otherwise be
2 the basis for discipline, may nevertheless be prosecuted if the attorney is terminated
3 from the program for failure to comply with program requirements.

4 (c) Neither acceptance into nor participation in the Attorney Diversion and
5 Assistance Program shall relieve the attorney of any lawful duties and obligations
6 otherwise required by any agreements or stipulations with the Office of the Chief
7 Trial Counsel, court orders, or applicable statutes relating to attorney discipline.

8 (d) An attorney who is not the subject of a current investigation may voluntarily
9 enter, whether by self-referral or referral by a third party, the diversion and
10 assistance program on a confidential basis and ~~such~~ that information shall not be
11 disclosed pursuant to any state law, including, but not limited to, the California
12 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
13 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
14 Code). Confidentiality pursuant to this subdivision shall be absolute unless waived
15 by the attorney.

16 (e) By rules subject to the approval of the board and consistent with the
17 requirements of this article, applicants who are in law school or have applied for
18 admission to the State Bar may enter the program.

19 **Comment.** Section 6232 is amended to reflect nonsubstantive recodification of the California
20 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
21 Reports __ (2019).

22 The section is also amended to eliminate gendered pronouns and make a technical change.

23 **§ 6234 (amended). Information provided to or obtained by Attorney Diversion and**
24 **Assistance Program**

25 SEC. _____. Section 6234 of the Business and Professions Code is amended to read:
26 6234. Any information provided to or obtained by the Attorney Diversion and
27 Assistance Program, or any subcommittee or agent thereof, shall be as follows:

28 (a) Confidential and shall not be disclosed pursuant to any state law, including,
29 but not limited to, the California Public Records Act (~~Chapter 3.5 (commencing~~
30 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
31 of Title 1 of the Government Code). This confidentiality shall be absolute unless
32 waived by the attorney.

33 (b) Exempt from the provisions of Section 6086.1.

34 (c) Not discoverable or admissible in any civil proceeding without the written
35 consent of the attorney to whom the information pertains.

36 (d) Not discoverable or admissible in any disciplinary proceeding without the
37 written consent of the attorney to whom the information pertains.

38 (e) Except with respect to the provisions of subdivision (d) of Section 6232, the
39 limitations on the disclosure and admissibility of information in this section shall
40 not apply to information relating to an attorney's noncooperation with, or
41 unsuccessful completion of, the Attorney Diversion and Assistance Program, or any

1 subcommittee or agent thereof, or to information otherwise obtained by the Office
2 of the Chief Trial Counsel, by independent means, or from any other lawful source.

3 **Comment.** Section 6234 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
5 Reports __ (2019).

6 **§ 7071.18 (amended). Licensee's duty to report to registrar**

7 SEC. _____. Section 7071.18 of the Business and Professions Code is amended to
8 read:

9 7071.18. (a) Notwithstanding any other law, a licensee shall report to the registrar
10 in writing the occurrence of any of the following within 90 days after the licensee
11 obtains knowledge of the event:

12 (1) The conviction of the licensee for any felony.

13 (2) The conviction of the licensee for any other crime that is substantially related
14 to the qualifications, functions, and duties of a licensed contractor.

15 (b)(1) The board shall consult with licensees, consumers, and other interested
16 stakeholders in order to prepare a study of judgments, arbitration awards, and
17 settlements that were the result of claims for construction defects for rental
18 residential units and, by January 1, 2018, shall report to the Legislature the results
19 of this study to determine if the board's ability to protect the public as described in
20 Section 7000.6 would be enhanced by regulations requiring licensees to report
21 judgments, arbitration awards, or settlement payments of those claims. Participation
22 by licensees and consumers shall be voluntary. The study shall include, but not be
23 limited to, criteria used by insurers or others to differentiate between settlements
24 that are for nuisance value and those that are not, whether settlement information or
25 other information can help identify licensees who may be subject to an enforcement
26 action, if there is a way to separate subcontractors from general contractors when
27 identifying licensees who may be subject to an enforcement action, whether
28 reporting should be limited to settlements resulting from construction defects that
29 resulted in death or injury, the practice of other boards within the department, and
30 any other criteria considered reasonable by the board. The board shall submit the
31 report to the Legislature in accordance with Section 9795 of the Government Code.

32 (2) Records or documents obtained by the board during the course of
33 implementing this subdivision that are exempt from public disclosure under the
34 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of~~
35 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
36 Government Code) shall remain exempt from disclosure pursuant to that act.

37 **Comment.** Section 7071.18 is amended to reflect nonsubstantive recodification of the California
38 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
39 Reports __ (2019).

40 **§ 7125 (amended). Certificates, reporting, and related matters**

41 SEC. _____. Section 7125 of the Business and Professions Code is amended to read:

1 7125. (a) Except as provided in subdivision (b), the board shall require as a
2 condition precedent to the issuance, reinstatement, reactivation, renewal, or
3 continued maintenance of a license, that the applicant or licensee have on file at all
4 times a current and valid Certificate of Workers' Compensation Insurance or
5 Certification of Self-Insurance in the applicant's or licensee's business name. A
6 Certificate of Workers' Compensation Insurance shall be issued and filed,
7 electronically or otherwise, by an insurer duly licensed to write workers'
8 compensation insurance in this state. A Certification of Self-Insurance shall be
9 issued and filed by the Director of Industrial Relations. If reciprocity conditions
10 exist, as provided in Section 3600.5 of the Labor Code, the registrar shall require
11 the information deemed necessary to ensure compliance with this section.

12 (b) This section does not apply to an applicant or licensee who meets both of the
13 following conditions:

14 (1) Has no employees provided that ~~he or she~~ the applicant or licensee files a
15 statement with the board on a form prescribed by the registrar prior to the issuance,
16 reinstatement, reactivation, or continued maintenance of a license, certifying that ~~he~~
17 ~~or she~~ the applicant or licensee does not employ any person in any manner so as to
18 become subject to the workers' compensation laws of California or is not otherwise
19 required to provide for workers' compensation insurance coverage under California
20 law.

21 (2) Does not hold a C-39 license, as defined in Section 832.39 of Title 16 of the
22 California Code of Regulations.

23 (c) No Certificate of Workers' Compensation Insurance, Certification of Self-
24 Insurance, or exemption certificate is required of a holder of a license that has been
25 inactivated on the official records of the board during the period the license is
26 inactive.

27 (d)(1) The insurer, including the State Compensation Insurance Fund, shall report
28 to the registrar the following information for any policy required under this section:
29 name, license number, policy number, dates that coverage is scheduled to
30 commence and lapse, and cancellation date if applicable.

31 (2) A workers' compensation insurer shall also report to the registrar a licensee
32 whose workers' compensation insurance policy is canceled by the insurer if all of
33 the following conditions are met:

34 (A) The insurer has completed a premium audit or investigation.

35 (B) A material misrepresentation has been made by the insured that results in
36 financial harm to the insurer.

37 (C) No reimbursement has been paid by the insured to the insurer.

38 (3) Willful or deliberate disregard and violation of workers' compensation
39 insurance laws constitutes a cause for disciplinary action by the registrar against the
40 licensee.

41 (e)(1) For any license that, on January 1, 2013, is active and includes a C-39
42 classification in addition to any other classification, the registrar shall, in lieu of the
43 automatic license suspension otherwise required under this article, remove the C-39

1 classification from the license unless a valid Certificate of Workers' Compensation
2 Insurance or Certification of Self-Insurance is received by the registrar.

3 (2) For any licensee whose license, after January 1, 2013, is active and has had
4 the C-39 classification removed as provided in paragraph (1), and who is found by
5 the registrar to have employees and to lack a valid Certificate of Workers'
6 Compensation Insurance or Certification of Self-Insurance, that license shall be
7 automatically suspended as required under this article.

8 (f) The information reported pursuant to paragraph (2) of subdivision (d) shall be
9 confidential, and shall be exempt from disclosure under the California Public
10 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
11 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

12 **Comment.** Section 7125 is amended to reflect nonsubstantive recodification of the California
13 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
14 Reports __ (2019).

15 The section is also amended to eliminate gendered pronouns.

16 **§ 9882.6 (amended). Enforcement program to investigate violations**

17 SEC. ____. Section 9882.6 of the Business and Professions Code is amended to
18 read:

19 9882.6. (a) There is in the department an enforcement program that shall
20 investigate violations of this chapter and the Motor Vehicle Inspection and
21 Maintenance Program (Chapter 5 (commencing with Section 44000) of Part 5 of
22 Division 2 of the Health and Safety Code) and any regulations adopted thereunder.

23 (b)(1) When purchasing undercover vehicles to be used for evidentiary purposes
24 as part of the investigation, the department may purchase motor vehicles of various
25 makes, models, and condition. These acquisitions shall be exempt from the
26 following requirements:

27 (A) Chapter 5.5 (commencing with Section 8350) of Division 1 of Title 2 of the
28 Government Code.

29 (B) Section 12990 of the Government Code and any applicable regulations
30 promulgated thereunder.

31 (C) Subdivision (a) of Section 13332.09 of the Government Code.

32 (D) Section 14841 of the Government Code and subdivision (d) of Section 999.5
33 of the Military and Veterans Code.

34 (E) Sections 2010, 10286.1, 10295.1, 10295.3, 10295.35, 10296, and 12205 and
35 Article 13 (commencing with Section 10475) of Chapter 2 of Part 2 of Division 2
36 of the Public Contract Code.

37 (F) Section 42480 of the Public Resources Code.

38 (2) After purchase, the department may prepare the vehicle for use in an
39 investigation by disabling, modifying, or otherwise changing the vehicle's emission
40 control system components or any other part or parts of the vehicle. To complete
41 the investigation, the department may purchase or attempt to purchase repairs,
42 services, or parts from those entities licensed or registered by the department. The

1 funds for the preparation and purchases shall be not subject to the monetary limit
2 specified in Section 16404 of the Government Code, but the department shall
3 comply with all other provisions of that section. The department shall implement
4 the safeguards necessary to ensure the proper use and disbursement of funds utilized
5 pursuant to this section. These expenses may paid out of the Consumer Affairs Fund
6 established pursuant to Section 204.

7 (3) Vehicles acquired pursuant to this subdivision shall be exempt from
8 requirements established pursuant to Chapter 8.3 (commencing with Section 25722)
9 of Division 15 of the Public Resources Code.

10 (4) The department shall maintain an inventory of these vehicles and provide
11 semiannual fleet reports to the Department of General Services including, but not
12 limited to, the vehicle's identification number, equipment number, and acquisition
13 and disposal information.

14 (5) Records associated with these vehicles shall be exempt from disclosure
15 pursuant to the California Public Records Act (~~Chapter 3.5 (commencing with~~
16 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
17 Title 1 of the Government Code).

18 **Comment.** Section 9882.6 is amended to reflect nonsubstantive recodification of the California
19 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
20 Reports __ (2019).

21 **§ 10083.2 (amended). Information for Real Estate Commissioner to provide on Internet**

22 SEC. ____. Section 10083.2 of the Business and Professions Code is amended to
23 read:

24 10083.2. (a)(1) The commissioner shall provide on the Internet information
25 regarding the status of every license issued by the department in accordance with
26 the California Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of~~
27 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
28 Government Code) and the Information Practices Act of 1977 (Chapter 1
29 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil
30 Code).

31 (2) The public information to be provided on the Internet shall include
32 information on suspensions and revocations of licenses issued by the department
33 and accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5
34 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the
35 Government Code) relative to persons or businesses subject to licensure or
36 regulation by the department.

37 (3) The public information shall not include personal information, including home
38 telephone number, date of birth, or social security number. The commissioner shall
39 disclose a licensee's address of record. However, the commissioner shall allow a
40 licensee to provide a post office box number or other alternate address, instead of
41 ~~his or her~~ the licensee's home address, as the address of record. This section shall
42 not preclude the commissioner from also requiring a licensee who has provided a

1 post office box number or other alternative mailing address as ~~his or her~~ the
2 licensee's address of record to provide a physical business address or residence
3 address only for the department's internal administrative use and not for disclosure
4 as the licensee's address of record or disclosure on the Internet.

5 (4) The public information shall also include whether a licensee is an associate
6 licensee within the meaning of subdivision (b) of Section 2079.13 of the Civil Code
7 and, if the associate licensee is a broker, identify each responsible broker with whom
8 the licensee is contractually associated as described in Section 10032 of this code
9 or Section 2079.13 of the Civil Code.

10 (b) For purposes of this section, "Internet" has the meaning set forth in paragraph
11 (6) of subdivision (f) of Section 17538.

12 (c) Upon petition by a licensee accompanied by a fee sufficient to defray costs
13 associated with consideration of a petition, as described in Section 10223, the
14 commissioner may remove from the posting of discipline described in subdivision
15 (a) an item that has been posted on the bureau's Internet Web site for no less than
16 10 years and for which the licensee provides evidence of rehabilitation indicating
17 that the notice is no longer required in order to prevent a credible risk to members
18 of the public utilizing licensed activity of the licensee. In evaluating a petition, the
19 commissioner shall take into consideration other violations that present a credible
20 risk to the members of the public since the posting of discipline requested for
21 removal.

22 (d) The bureau may develop, through regulations, the amount of the fee and the
23 minimum information to be included in a licensee's petition, including, but not
24 limited to, a written justification and evidence of rehabilitation pursuant to Section
25 482.

26 (e) "Posted" for purposes of this section is defined as the date of disciplinary
27 action taken by the bureau.

28 (f) The petition process described in subdivisions (c) and (d) shall commence
29 January 1, 2018.

30 (g) The bureau shall maintain a list of all licensees whose disciplinary records are
31 altered as a result of a petition approved under subdivision (c). The bureau shall
32 make the list accessible to other licensing bodies. The bureau shall update and
33 provide the list to other licensing bodies as often as it modifies the records displayed
34 on its Internet Web site in response to petitions approved under subdivision (c).

35 (h) This section shall become operative January 1, 2018.

36 **Comment.** Section 10083.2 is amended to reflect nonsubstantive recodification of the California
37 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
38 Reports __ (2019).

39 The section is also amended to eliminate gendered pronouns.

40 **§ 10141.6 (amended). Report of real estate broker regarding escrows**

41 SEC. ____. Section 10141.6 of the Business and Professions Code is amended to
42 read:

1 10141.6. (a) A real estate broker who engages in escrow activities for five or more
2 transactions in a calendar year pursuant to the exemption from the Escrow Law
3 contained in Section 17006 of the Financial Code, or whose escrow activities
4 pursuant to that exemption equal or exceed one million dollars (\$1,000,000) in a
5 calendar year, shall file with the department a report, within 60 days following the
6 completion of the calendar year, documenting the number of escrows conducted and
7 the dollar volume escrowed during the calendar year in which the threshold was
8 met. This report shall be made on a form acceptable to the commissioner.

9 (b) A real estate broker subject to this section and Section 10232.2 may file
10 consolidated reports that include all of the information required under this section
11 and Section 10232.2. Those consolidated reports shall clearly indicate that they are
12 intended to satisfy the requirements of both sections.

13 (c) A real estate broker who fails to submit the report required pursuant to
14 subdivision (a) shall be assessed a penalty of fifty dollars (\$50) per day for each day
15 the report has not been received by the department, up to and including the 30th day
16 after the first day of the assessment penalty. On and after the 31st day, the penalty
17 shall be one hundred dollars (\$100) per day, not to exceed a total penalty of ten
18 thousand dollars (\$10,000), regardless of the number of days, until the department
19 receives the report.

20 (d) The commissioner may suspend or revoke the license of a real estate broker
21 who fails to pay a penalty imposed pursuant to this section. In addition, the
22 commissioner may bring an action in an appropriate court of this state to collect
23 payment of that penalty.

24 (e) All penalties paid or collected under this section shall be deposited into the
25 Recovery Account of the Real Estate Fund and shall, upon appropriation by the
26 Legislature, be available for expenditure for the purposes specified in Chapter 6.5
27 (commencing with Section 10470).

28 (f) The reports described in this section are exempted from any requirement of
29 public disclosure by ~~paragraph (2) of subdivision (d) of Section 6254~~ subdivision
30 (b) of Section 7929.000 of the Government Code.

31 (g) This section shall become operative on July 1, 2012.

32 **Comment.** Section 10141.6 is amended to reflect nonsubstantive recodification of the California
33 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
34 Reports __ (2019).

35 **§ 10166.07 (amended). Business activities report of real estate broker**

36 SEC. ____. Section 10166.07 of the Business and Professions Code is amended to
37 read:

38 10166.07. (a) A real estate broker who acts pursuant to Section 10131.1 or
39 subdivision (d) or (e) of Section 10131, and who makes, arranges, or services one
40 or more loans in a calendar year that are secured by real property containing one to
41 four residential units, shall annually file a business activities report, within 90 days
42 after the end of the broker's fiscal year or within any additional time as the

1 commissioner may allow for filing for good cause. The report shall contain within
2 its scope all of the following information for the fiscal year, relative to the business
3 activities of the broker and those of any other brokers and real estate salespersons
4 acting under that broker's supervision:

5 (1) Name and license number of the supervising broker and names and license
6 numbers of the real estate brokers and salespersons under that broker's supervision.
7 The report shall include brokers and salespersons who were under the supervising
8 broker's supervision for all or part of the year.

9 (2) A list of the real estate-related activities in which the supervising broker and
10 the brokers and salespersons under ~~his or her~~ that broker's supervision engaged
11 during the prior year. This listing shall identify all of the following:

12 (A) Activities relating to mortgages, including arranging, making, or servicing.

13 (B) Other activities performed under the real estate broker's or salesperson's
14 license.

15 (C) Activities performed under related licenses, including, but not limited to, a
16 license to engage as a finance lender or a finance broker under the California
17 Finance Lenders Law (Division 9 (commencing with Section 22000) of the
18 Financial Code), or a license to engage as a residential mortgage lender or residential
19 mortgage loan servicer under the California Residential Mortgage Lending Act
20 (Division 20 (commencing with Section 50000) of the Financial Code).

21 (3) A list of the forms of media used by the broker and those under ~~his or her~~ the
22 broker's supervision to advertise to the public, including print, radio, television, the
23 Internet, or other means.

24 (4) For fixed rate loans made, brokered, or serviced, all of the following:

25 (A) The total number, aggregate principal amount, lowest interest rate, highest
26 interest rate, and a list of the institutional lenders of record. If the loan was funded
27 by any lender other than an institutional lender, the broker shall categorize the loan
28 as privately funded.

29 (B) The total number and aggregate principal amount of covered loans, as defined
30 in Section 4970 of the Financial Code.

31 (C) The total number and aggregate principal amount of loans for which Bureau
32 of Real Estate form RE Form 885 or an equivalent is required.

33 (5) For adjustable rate loans made, brokered, or serviced, all of the following:

34 (A) The total number, aggregate principal amount, lowest beginning interest rate,
35 highest beginning interest rate, highest margin, and a list of the institutional lenders
36 of record. If the loan was funded by any lender other than an institutional lender, the
37 broker shall categorize the loan as privately funded.

38 (B) The total number and aggregate principal amount of covered loans, as defined
39 in Section 4970 of the Financial Code.

40 (C) The total number and aggregate principal amount of loans for which Bureau
41 of Real Estate form RE Form 885 or an equivalent is required.

1 (6) For all loans made, brokered, or serviced, the total number and aggregate
2 principal amount of loans funded by institutional lenders, and the total number and
3 aggregate principal amount of loans funded by private lenders.

4 (7) For all loans made, brokered, or serviced, the total number and aggregate
5 principal amount of loans that included a prepayment penalty, the minimum
6 prepayment penalty length, the maximum prepayment penalty length, and the
7 number of loans with prepayment penalties whose length exceeded the length of
8 time before the borrower's loan payment amount could increase.

9 (8) For all loans brokered, the total compensation received by the broker,
10 including yield spread premiums, commissions, and rebates, but excluding
11 compensation used to pay fees for third-party services on behalf of the borrower.

12 (9) For all mortgage loans made or brokered, the total number of loans for which
13 a mortgage loan disclosure statement was provided in a language other than English,
14 and the number of forms provided per language other than English.

15 (10) For all mortgage loans serviced, the total amount of funds advanced to be
16 applied toward a payment to protect the security of the note being serviced.

17 (11) For purposes of this section, an institutional lender has the meaning specified
18 in paragraph (1) of subdivision (c) of Section 10232.

19 (b) A broker subject to this section and Section 10232.2 may file consolidated
20 reports that include all of the information required under this section and Section
21 10232.2. Those consolidated reports shall clearly indicate that they are intended to
22 satisfy the requirements of both sections.

23 (c) If a broker subject to this section fails to timely file the report required under
24 this section, the commissioner may cause an examination and report to be made and
25 may charge the broker one and one-half times the cost of making the examination
26 and report. In determining the hourly cost incurred by the commissioner for
27 conducting an examination and preparing the report, the commissioner may use the
28 estimated average hourly cost for all department audit staff performing audits of real
29 estate brokers. If a broker fails to pay the commissioner's cost within 60 days of the
30 mailing of a notice of billing, the commissioner may suspend the broker's license
31 or deny renewal of that license. The suspension or denial shall remain in effect until
32 the billed amount is paid or the broker's right to renew a license has expired. The
33 commissioner may maintain an action for the recovery of the billed amount in any
34 court of competent jurisdiction.

35 (d) The report described in this section is exempted from any requirement of
36 public disclosure by ~~paragraph (2) of subdivision (d) of Section 6254~~ subdivision
37 (b) of Section 7929.000 of the Government Code.

38 (e) The commissioner may waive the requirement to submit certain information
39 described in paragraphs (1) to (10), inclusive, of subdivision (a) if the commissioner
40 determines that this information is duplicative of information required by the
41 Nationwide Mortgage Licensing System and Registry, pursuant to Section
42 10166.08.

1 **Comment.** Section 10166.07 is amended to reflect nonsubstantive recodification of the
2 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
3 Comm'n Reports __ (2019).

4 The section is also amended to eliminate gendered pronouns.

5 **§ 10166.11 (amended). Records of real estate broker or salesperson acting under real estate**
6 **broker**

7 SEC. ____. Section 10166.11 of the Business and Professions Code is amended to
8 read:

9 10166.11. (a) A real estate broker who acts pursuant to Section 10131.1 or
10 subdivision (d) or (e) of Section 10131 and who makes, arranges, or services loans
11 secured by real property containing one to four residential units, shall keep
12 documents and records that will properly enable the commissioner to determine
13 whether the residential mortgage brokerage, servicing, and lending functions
14 performed by the broker comply with this division and with all applicable rules and
15 orders made by the commissioner. These documents shall include, at a minimum,
16 the documents described in Section 10148. Upon request of the commissioner, a
17 real estate broker shall file an authorization for disclosure to the commissioner of
18 financial records of ~~his or her~~ the broker's licensed business pursuant to Section
19 7473 of the Government Code.

20 (b) Notwithstanding subdivision (a) of Section 10148, the business documents
21 and records of real estate brokers described in subdivision (a) and real estate
22 salespersons acting under those brokers are subject to inspection and examination
23 or audit by the commissioner, at ~~his or her~~ the commissioner's discretion, after
24 reasonable notice. That real estate broker or salesperson shall, upon request by the
25 commissioner and within the time period specified in that request, allow the
26 commissioner, or ~~his or her~~ the commissioner's authorized representative, to inspect
27 and copy any business documents and records. The commissioner may suspend or
28 revoke the license of the broker or salesperson if ~~he or she~~ that person fails to
29 produce documents or records within the time period specified in the request.

30 (c) Inspection and examination or audit reports prepared by the commissioner's
31 duly designated representatives pursuant to this section are not public records.
32 Those reports may be disclosed to the officers or directors of a licensee that is the
33 subject of the report for the purpose of corrective action. That disclosure shall not
34 operate as a waiver of the exemption specified in ~~subdivision (d) of Section 6254~~
35 Section 7929.000 of the Government Code.

36 **Comment.** Section 10166.11 is amended to reflect nonsubstantive recodification of the
37 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
38 Comm'n Reports __ (2019).

39 The section is also amended to eliminate gendered pronouns.

40 **§ 10232.2 (amended). Reports to be filed by real estate broker**

41 SEC. ____. Section 10232.2 of the Business and Professions Code is amended to
42 read:

1 10232.2. A real estate broker who meets the criteria of subdivision (a) of Section
2 10232 shall annually file the reports referred to in subdivisions (a) and (c) with the
3 Bureau of Real Estate within 90 days after the end of the broker's fiscal year or
4 within any additional time as the Real Estate Commissioner may allow for filing for
5 good cause:

6 (a) The report of a review by a licensed California independent public accountant
7 of trust fund financial statements, conducted in accordance with generally accepted
8 accounting practices, which shall include within its scope the following information
9 for the fiscal year relative to the business activities of the broker described in
10 subdivisions (d) and (e) of Section 10131:

11 (1) The receipt and disposition of all funds of others to be applied to the making
12 of loans and the purchasing of promissory notes or real property sales contracts.

13 (2) The receipt and disposition of all funds of others in connection with the
14 servicing by the broker of the accounts of owners of promissory notes and real
15 property sales contracts including installment payments and loan or contract payoffs
16 by obligors.

17 (3) A statement as of the end of the fiscal ~~year~~ year, which shall include an
18 itemized trust fund accounting of the broker and confirmation that the trust funds
19 are on deposit in an account or accounts maintained by the broker in a financial
20 institution.

21 (b) A broker who meets the criteria of Section 10232, but who, in carrying on the
22 activities described in subdivisions (d) and (e) of Section 10131, has not during a
23 fiscal year, accepted for the benefit of a person to whom the broker is a trustee, any
24 payment or remittance in a form convertible to cash by the broker, need not comply
25 with the provisions of subdivision (a). In lieu thereof, the broker shall submit to the
26 commissioner within 30 days after the end of the broker's fiscal year or, within any
27 additional time as the commissioner may allow for a filing for good cause, a
28 notarized statement under penalty of perjury on a form provided by the bureau
29 attesting to the fact that the broker did not receive any trust funds in cash or
30 convertible to cash during the fiscal year.

31 (c) A report of all of the following aspects of the business conducted by the broker
32 while engaging in activities described in subdivisions (d) and (e) of Section 10131
33 and in Section 10131.1:

34 (1) Number and aggregate dollar amount of loan, trust deed sales, and real
35 property sales contract transactions negotiated.

36 (2) Number and aggregate dollar amount of promissory notes and contracts
37 serviced by the broker or an affiliate of the broker.

38 (3) Number and aggregate dollar amount of late payment charges, prepayment
39 penalties, and other fees or charges collected and retained by the broker under
40 servicing agreements with beneficiaries and obligees.

41 (4) Default and foreclosure experience in connection with promissory notes and
42 contracts subject to servicing agreements between the broker and beneficiaries or
43 obligees.

1 (5) Commissions received by the broker for services performed as agent in
2 negotiating loans and sales of promissory notes and real property sales contracts.

3 (6) Aggregate costs and expenses as referred to in Section 10241 paid by
4 borrowers to the broker.

5 (d) The commissioner shall adopt regulations prescribing the form and content of
6 the report referred to in subdivision (c) with appropriate categories to afford a better
7 understanding of the business conducted by the broker.

8 (e) If the broker fails to file either of the reports required under subdivisions (a)
9 and (c) within the time permitted herein, the commissioner may cause an
10 examination and report to be made and may charge the broker one and one-half
11 times the cost of making the examination and report. In determining the hourly cost
12 incurred by the commissioner for conducting an examination and preparing the
13 report, the commissioner may use the estimated average hourly cost for all
14 department audit staff performing audits of real estate brokers. If a broker fails to
15 pay the above amount within 60 days of the mailing of a notice of billing, the
16 commissioner may suspend the broker's license or deny renewal of the broker's
17 license. The suspension or denial shall remain in effect until the above amount is
18 paid or the broker's right to renew a license has expired. The commissioner may
19 maintain an action for the recovery of the above amount in any court of competent
20 jurisdiction.

21 (f) The reports referred to in subdivisions (a) and (c) are exempted from any
22 requirement of public disclosure by ~~paragraph (2) of subdivision (d) of Section 6254~~
23 subdivision (b) of Section 7929.000 of the Government Code. The commissioner
24 shall annually make and file as a public record, a composite of the annual reports
25 and any comments thereon ~~which~~ that are deemed to be in the public interest.

26 **Comment.** Section 10232.2 is amended to reflect nonsubstantive recodification of the California
27 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
28 Reports __ (2019).

29 The section is also amended to make grammatical corrections.

30 **§ 11317.2 (amended). Information for Bureau of Real Estate Appraisers to provide on**
31 **Internet**

32 SEC. ____. Section 11317.2 of the Business and Professions Code is amended to
33 read:

34 11317.2. (a)(1) In addition to publishing the summary required by Section 11317,
35 the bureau shall provide on the Internet information regarding the status of every
36 license and registration issued by the bureau in accordance with the California
37 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
38 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
39 Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with
40 Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public
41 information to be provided on the Internet shall include information on suspensions
42 and revocations of licenses and registrations issued by the bureau and accusations

1 filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with
2 Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) relative
3 to persons or businesses subject to licensure, registration, or regulation by the
4 bureau. The information shall not include personal information, including home
5 telephone number, date of birth, or social security number. The bureau shall disclose
6 a licensee's or registrant's address of record. However, the bureau shall allow a
7 licensee or registrant to provide a post office box number or other alternate address,
8 instead of ~~his or her~~ the licensee's home address, as the address of record. This
9 section shall not preclude the bureau from also requiring a licensee or registrant who
10 has provided a post office box number or other alternative mailing address as ~~his or~~
11 ~~her~~ the licensee's address of record to provide a physical business address or
12 residence address only for the bureau's internal administrative use and not for
13 disclosure as the licensee's or registrant's address of record or disclosure on the
14 Internet.

15 (2) In addition to the information required by subdivision (a), the bureau shall
16 provide, on the Internet, the continuing education course information provided by a
17 licensee when an individual applies for licensure renewal.

18 (b) The bureau shall not provide on the Internet identifying information with
19 respect to private reprovls or letters of warning, which shall remain confidential.

20 (c) For purposes of this section, "Internet" has the meaning set forth in paragraph
21 (6) of subdivision (f) of Section 17538.

22 **Comment.** Section 11317.2 is amended to reflect nonsubstantive recodification of the California
23 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
24 Reports __ (2019).

25 The section is also amended to eliminate gendered pronouns.

26 **§ 17594 (amended). Information relating to California phone number on "do not call" list**

27 SEC. ____. Section 17594 of the Business and Professions Code is amended to
28 read:

29 17594. Any information regarding any California telephone number ~~which that~~
30 appears on the "do not call" list in the possession of the Attorney General, whether
31 obtained from the Federal Trade Commission or submitted to the Attorney General
32 by a subscriber for inclusion in the "do not call" list, shall not be disclosed pursuant
33 to a request made under ~~Chapter 3.5 (commencing with Section 6250) of Division~~
34 7 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
35 Code and shall also be privileged under Section 1040 of the Evidence Code.
36 Notwithstanding the foregoing, nothing in this section prevents the Attorney
37 General from providing a certificate stating whether a specific telephone number
38 was on the "do not call" list that was effective on the specified date or range of dates
39 in response to:

40 (a) An inquiry from any law enforcement agency that is investigating,
41 prosecuting, or responding to an allegation of a violation of this article.

1 (b) An inquiry from an individual who is investigating or litigating an alleged
2 violation of this article and who seeks the certificate regarding his or her telephone
3 number or to an inquiry from the person who is responding to the allegation.

4 **Comment.** Section 17594 is amended to reflect nonsubstantive recodification of the California
5 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
6 Reports __ (2019).

7 The section is also amended to make a grammatical correction.

8 **§ 19819 (amended). Conduct of business of California Gambling Control Commission**

9 SEC. ____. Section 19819 of the Business and Professions Code is amended to
10 read:

11 19819. (a) The commission shall establish and maintain a general office for the
12 transaction of its business in Sacramento. The commission may hold meetings at
13 any place within the state when the interests of the public may be better served.

14 (b) A public record of every vote shall be maintained at the commission's
15 principal office.

16 (c) A majority of the membership of the commission is a quorum of the
17 commission. The concurring vote of three members of the commission shall be
18 required for any official action of the commission or for the exercise of any of the
19 commission's duties, powers, or functions.

20 (d) Except as otherwise provided in this chapter, Article 9 (commencing with
21 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
22 Code applies to meetings of the commission. Notwithstanding Section 11125.1
23 of the Government Code, documents, which are filed with the commission by the
24 department for the purpose of evaluating the qualifications of an applicant, are
25 exempt from disclosure under ~~Chapter 3.5 (commencing with Section 6250) of~~
26 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
27 Government Code.

28 **Comment.** Section 19819 is amended to reflect nonsubstantive recodification of the California
29 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
30 Reports __ (2019).

31 **§ 19821 (amended). Recordkeeping, confidentiality, and disclosure**

32 SEC. ____. Section 19821 of the Business and Professions Code is amended to
33 read:

34 19821. (a) The commission shall cause to be made and kept a record of all
35 proceedings at regular and special meetings of the commission. These records shall
36 be open to public inspection.

37 (b) The department shall maintain a file of all applications for licenses under this
38 chapter. The commission shall maintain a record of all actions taken with respect to
39 those applications. The file and record shall be open to public inspection.

40 (c) The department and commission may maintain any other files and records as
41 they deem appropriate. Except as provided in this chapter, the records of the
42 department and commission are exempt from disclosure under ~~Chapter 3.5~~

1 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
2 Section 7920.000) of Title 1 of the Government Code.

3 (d) Except as necessary for the administration of this chapter, no commissioner
4 and no official, employee, or agent of the commission or the department, having
5 obtained access to confidential records or information in the performance of duties
6 pursuant to this chapter, shall knowingly disclose or furnish the records or
7 information, or any part thereof, to any person who is not authorized by law to
8 receive it. A violation of this subdivision is a misdemeanor.

9 (e) Notwithstanding subdivision (k) of Section 1798.24 of the Civil Code, a court
10 shall not compel disclosure of personal information in the possession of the
11 department or the commission to any person in any civil proceeding wherein the
12 department or the commission is not a party, except for good cause and upon a
13 showing that the information cannot otherwise be obtained. This section shall not
14 authorize the disclosure of personal information that is otherwise exempt from
15 disclosure.

16 **Comment.** Section 19821 is amended to reflect nonsubstantive recodification of the California
17 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
18 Reports __ (2019).

19 **§ 22954 (amended). Names and addresses of recipients of tobacco products**

20 SEC. ____. Section 22954 of the Business and Professions Code is amended to
21 read:

22 22954. (a) Any cigarette or tobacco products distributor or wholesaler as defined
23 in Sections 30011 and 30016 of the Revenue and Taxation Code, and licensed under
24 Article 1 (commencing with Section 30140) of Chapter 3 of Part 13 of Division 2
25 of the Revenue and Taxation Code or Article 3 (commencing with Section 30155)
26 of Chapter 3 of Part 13 of Division 2 of the Revenue and Taxation Code, and any
27 cigarette vending machine operator granted a seller's permit under the Sales and
28 Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue
29 and Taxation Code), shall annually provide to the State Department of Health
30 Services, the names and addresses of those persons to whom they provide tobacco
31 products, including, but not limited to, dealers as defined in Section 30012 of the
32 Revenue and Taxation Code, for the purpose of identifying retailers of tobacco to
33 ensure compliance with this division.

34 (b) Cigarette vending machine operators granted a seller's permit under the Sales
35 and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the
36 Revenue and Taxation Code), shall annually provide to the department their name
37 and the address of each location where cigarette vending machines are placed, in
38 order to ensure compliance with this division.

39 (c) The data provided, pursuant to this section, shall be deemed confidential
40 official information by the department and shall be exempt from disclosure under
41 the California Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of~~

1 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
2 Government Code).

3 **Comment.** Section 22954 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
5 Reports __ (2019).

6 The section is also amended to insert subdivision labels.

7 **§ 22979.24 (amended). Monthly report of tobacco manufacturer or importer to State Board**
8 **of Equalization**

9 SEC. ____. Section 22979.24 of the Business and Professions Code is amended to
10 read:

11 22979.24. (a) Every manufacturer or importer holding a license pursuant to
12 Section 22979.21 shall file a monthly report to the board, in a manner specified by
13 the board, which may include, but is not limited to, electronic media. The monthly
14 report shall include, but is not limited to, the following:

15 (1) A list of all distributors licensed pursuant to Section 22975 to which the
16 manufacturer or importer shipped its tobacco products or caused its tobacco
17 products to be shipped.

18 (2) The total wholesale cost of the products.

19 (b) The board may suspend the license or revoke the license, pursuant to the
20 provisions applicable to the revocation of a license set forth in Section 30148 of the
21 Revenue and Taxation Code, of any importer or any manufacturer that has failed to
22 comply with the requirements of this section.

23 (c) All information and records provided to the board pursuant to subdivision (a)
24 are confidential in nature and shall not be disclosed by the board. Information
25 required under subdivision (a) are not public records under the California Public
26 Records Act, as described in ~~Chapter 3.5 (commencing with Section 6250)~~ of
27 Division 10 (commencing with Section 7920.000) of Title 1 of the
28 Government Code and shall not be open to public inspection.

29 (d) The amendments made to this section by the act adding this subdivision shall
30 become operative May 1, 2007.

31 **Comment.** Section 22979.24 is amended to reflect nonsubstantive recodification of the
32 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
33 Comm'n Reports __ (2019).

34 **§ 25205 (amended). Label requirement**

35 SEC. ____. Section 25205 of the Business and Professions Code is amended to
36 read:

37 25205. (a) Any container of beer or alcoholic beverage, other than sake, that is
38 approved for labeling as a malt beverage under the Federal Alcohol Administration
39 Act (27 U.S.C. Sec. 201 et seq.), that derives 0.5 percent or more of its alcoholic
40 content by volume from flavors or other ingredients containing distilled alcohol and
41 that is sold by a manufacturer or importer to a wholesaler or retailer within this state

1 on or after July 1, 2009, shall bear a distinctive, conspicuous, and prominently
2 displayed label, or firmly affixed sticker, containing the following information:

3 (1) The percentage alcohol content of the beverage by volume.

4 (2) The phrase “CONTAINS ALCOHOL” in bold capitalized letters at least three
5 millimeters in height and that is distinguishable from the background and placed
6 conspicuously in either horizontal or vertical lettering on the front of the brand label.
7 A firmly affixed sticker need not be placed on the brand label provided it is placed
8 on the front of the container.

9 (b) The department may require licensees to submit information as it determines
10 to be necessary, and may adopt regulations as may be required, to implement and
11 enforce this section. The regulations shall be for the limited purpose of ensuring
12 compliance with this section and shall not place additional requirements on the label
13 or sticker required by this section. Any information required to be provided by any
14 licensee to the department pursuant to this section shall be considered confidential
15 and corporate proprietary information. This information shall not be subject to
16 disclosure under the California Public Records Act (~~Chapter 3.5 (commencing with~~
17 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
18 Title 1 of the Government Code).

19 (c) It is the exclusive purpose of this section to identify and specially label
20 products described in subdivision (a) and not to classify these specially labeled
21 products. Nothing in this section shall be construed to permit the classification of
22 any product in a manner that is inconsistent with the definitions of beer, wine, and
23 distilled spirits set forth in Chapter 1 (commencing with Section 23000) of this
24 division.

25 **Comment.** Section 25205 is amended to reflect nonsubstantive recodification of the California
26 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
27 Reports __ (2019).

28 **§ 26067 (amended). Track and trace program for movement of cannabis and cannabis**
29 **products**

30 SEC. _____. Section 26067 of the Business and Professions Code is amended to
31 read:

32 26067. (a) The department, in consultation with the bureau, shall establish a track
33 and trace program for reporting the movement of cannabis and cannabis products
34 throughout the distribution chain that utilizes a unique identifier pursuant to Section
35 26069, secure packaging, and is capable of providing information that captures, at
36 a minimum, all of the following:

37 (1) The licensee receiving the product.

38 (2) The transaction date.

39 (3) The cultivator from which the product originates, including the associated
40 unique identifier pursuant to Section 26069.

41 (b)(1) The department, in consultation with the California Department of Tax and
42 Fee Administration, shall create an electronic database containing the electronic

1 shipping manifests to facilitate the administration of the track and trace program,
2 which shall include, but not be limited to, the following information:

3 (A) The variety and quantity or weight of products shipped.

4 (B) The estimated times of departure and arrival.

5 (C) The variety and quantity or weight of products received.

6 (D) The actual time of departure and arrival.

7 (E) A categorization of the product.

8 (F) The license number and the unique identifier pursuant to Section 26069 issued
9 by the licensing authority for all licensees involved in the shipping process,
10 including, but not limited to, cultivators, manufacturers, distributors, and
11 dispensaries.

12 (2)(A) The database shall be designed to flag irregularities for all licensing
13 authorities in this division to investigate. All licensing authorities pursuant to this
14 division may access the database and share information related to licensees under
15 this chapter, including social security and individual taxpayer identifications
16 notwithstanding Section 30.

17 (B) The department shall immediately inform the bureau upon the finding of an
18 irregularity or suspicious finding related to a licensee, applicant, or commercial
19 cannabis activity for investigatory purposes.

20 (3) Licensing authorities and state and local agencies may, at any time, inspect
21 shipments and request documentation for current inventory.

22 (4) The bureau shall have 24-hour access to the electronic database administered
23 by the department. The California Department of Tax and Fee Administration shall
24 have read access to the electronic database for the purpose of taxation and regulation
25 of cannabis and cannabis products.

26 (5) The department shall be authorized to enter into memoranda of understandings
27 with licensing authorities for data sharing purposes, as deemed necessary by the
28 department.

29 (6) Information received and contained in records kept by the department or
30 licensing authorities for the purposes of administering this chapter are confidential
31 and shall not be disclosed pursuant to the California Public Records Act (~~Chapter~~
32 ~~3.5 (commencing with Section 6250) of Division 7~~ Division 10 (commencing with
33 Section 7920.000) of Title 1 of the Government Code), except as necessary for
34 authorized employees of the State of California or any city, county, or city and
35 county to perform official duties pursuant to this division or a local ordinance.

36 (7) Upon the request of a state or local law enforcement agency, licensing
37 authorities shall allow access to or provide information contained within the
38 database to assist law enforcement in their duties and responsibilities pursuant to
39 this division.

40 **Comment.** Section 26067 is amended to reflect nonsubstantive recodification of the California
41 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
42 Reports __ (2019).

1 **§ 26162 (amended). Information identifying names of patients, their medical conditions, or**
2 **names of their primary caregivers**

3 SEC. ____ . Section 26162 of the Business and Professions Code is amended to
4 read:

5 26162. (a) Information identifying the names of patients, their medical conditions,
6 or the names of their primary caregivers received and contained in records kept by
7 the office or licensing authorities for the purposes of administering this chapter are
8 confidential and shall not be disclosed pursuant to the California Public Records Act
9 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
10 (commencing with Section 7920.000) of Title 1 of the Government Code), except
11 as necessary for authorized employees of the State of California or any city, county,
12 or city and county to perform official duties pursuant to this chapter, or a local
13 ordinance.

14 (b) Information identifying the names of patients, their medical conditions, or the
15 names of their primary caregivers received and contained in records kept by the
16 bureau for the purposes of administering this chapter shall be maintained in
17 accordance with Chapter 1 (commencing with Section 123100) of Part 1 of Division
18 106 of the Health and Safety Code, Part 2.6 (commencing with Section 56) of
19 Division 1 of the Civil Code, and other state and federal laws relating to confidential
20 patient information.

21 (c) Nothing in this section precludes the following:

22 (1) Employees of the bureau or any licensing authorities notifying state or local
23 agencies about information submitted to the agency that the employee suspects is
24 falsified or fraudulent.

25 (2) Notifications from the bureau or any licensing authorities to state or local
26 agencies about apparent violations of this chapter or applicable local ordinance.

27 (3) Verification of requests by state or local agencies to confirm licenses and
28 certificates issued by the regulatory authorities or other state agency.

29 (4) Provision of information requested pursuant to a court order or subpoena
30 issued by a court or an administrative agency or local governing body authorized by
31 law to issue subpoenas.

32 (d) Information shall not be disclosed by any state or local agency beyond what is
33 necessary to achieve the goals of a specific investigation, notification, or the
34 parameters of a specific court order or subpoena.

35 **Comment.** Section 26162 is amended to reflect nonsubstantive recodification of the California
36 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
37 Reports __ (2019).

38 CIVIL CODE

39 **§ 1670.9 (amended). Housing or detention of noncitizens in locked detention facility for**
40 **purposes of civil immigration custody**

41 SEC. ____ . Section 1670.9 of the Civil Code is amended to read:

1 1670.9. (a) A city, county, city and county, or local law enforcement agency that
2 does not, as of January 1, 2018, have a contract with the federal government or any
3 federal agency or a private corporation to house or detain noncitizens for purposes
4 of civil immigration custody, shall not, on and after January 1, 2018, enter into a
5 contract with the federal government or any federal agency or a private corporation,
6 to house or detain in a locked detention facility noncitizens for purposes of civil
7 immigration custody.

8 (b) A city, county, city and county, or local law enforcement agency that, as of
9 January 1, 2018, has an existing contract with the federal government or any federal
10 agency or a private corporation to detain noncitizens for purposes of civil
11 immigration custody, shall not, on and after January 1, 2018, renew or modify that
12 contract in a manner that would expand the maximum number of contract beds that
13 may be utilized to house or detain in a locked detention facility noncitizens for
14 purposes of civil immigration custody.

15 (c) Any facility that detains a noncitizen pursuant to a contract with a city, county,
16 city and county, or a local law enforcement agency is subject to the California Public
17 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
18 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

19 (d) A city, county, city and county, or public agency shall not, on and after January
20 1, 2018, approve or sign a deed, instrument, or other document related to a
21 conveyance of land or issue a permit for the building or reuse of existing buildings
22 by any private corporation, contractor, or vendor to house or detain noncitizens for
23 purposes of civil immigration proceedings unless the city, county, city and county,
24 or public agency has done both of the following:

25 (1) Provided notice to the public of the proposed conveyance or permitting action
26 at least 180 days before execution of the conveyance or permit.

27 (2) Solicited and heard public comments on the proposed conveyance or permit
28 action in at least two separate meetings open to the public.

29 **Comment.** Section 1670.9 is amended to reflect nonsubstantive recodification of the California
30 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
31 Reports __ (2019).

32 **§ 1798.3 (amended). Definitions**

33 SEC. ____ . Section 1798.3 of the Civil Code is amended to read:

34 1798.3. As used in this chapter:

35 (a) The term “personal information” means any information that is maintained by
36 an agency that identifies or describes an individual, including, but not limited to, ~~his~~
37 ~~or her~~ the individual’s name, social security number, physical description, home
38 address, home telephone number, education, financial matters, and medical or
39 employment history. It includes statements made by, or attributed to, the individual.

40 (b) The term “agency” means every state office, officer, department, division,
41 bureau, board, commission, or other state agency, except that the term agency shall
42 not include:

1 (1) The California Legislature.

2 (2) Any agency established under Article VI of the California Constitution.

3 (3) The State Compensation Insurance Fund, except as to any records ~~which~~ that
4 contain personal information about the employees of the State Compensation
5 Insurance Fund.

6 (4) A local agency, as defined in ~~subdivision (a) of Section 6252~~ Section 7920.510
7 of the Government Code.

8 (c) The term “disclose” means to disclose, release, transfer, disseminate, or
9 otherwise communicate all or any part of any record orally, in writing, or by
10 electronic or any other means to any person or entity.

11 (d) The term “individual” means a natural person.

12 (e) The term “maintain” includes maintain, acquire, use, or disclose.

13 (f) The term “person” means any natural person, corporation, partnership, limited
14 liability company, firm, or association.

15 (g) The term “record” means any file or grouping of information about an
16 individual that is maintained by an agency by reference to an identifying particular
17 such as the individual’s name, photograph, finger or voice print, or a number or
18 symbol assigned to the individual.

19 (h) The term “system of records” means one or more records, which pertain to
20 one or more individuals, which is maintained by any agency, from which
21 information is retrieved by the name of an individual or by some identifying
22 number, symbol or other identifying particular assigned to the individual.

23 (i) The term “governmental entity,” except as used in Section 1798.26, means any
24 branch of the federal government or of the local government.

25 (j) The term “commercial purpose” means any purpose ~~which~~ that has financial
26 gain as a major objective. It does not include the gathering or dissemination of
27 newsworthy facts by a publisher or broadcaster.

28 (k) The term “regulatory agency” means the Department of Business Oversight,
29 the Department of Insurance, the Bureau of Real Estate, and agencies of the United
30 States or of any other state responsible for regulating financial institutions.

31 **Comment.** Section 1798.3 is amended to reflect nonsubstantive recodification of the California
32 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
33 Reports __ (2019).

34 The section is also amended to eliminate gendered pronouns and make grammatical corrections.

35 **§ 1798.24 (amended). Disclosure of personal information by agency**

36 SEC. ____. Section 1798.24 of the Civil Code is amended to read:

37 1798.24. An agency shall not disclose any personal information in a manner that
38 would link the information disclosed to the individual to whom it pertains unless the
39 information is disclosed, as follows:

40 (a) To the individual to whom the information pertains.

41 (b) With the prior written voluntary consent of the individual to whom the
42 information pertains, but only if that consent has been obtained not more than 30

1 days before the disclosure, or in the time limit agreed to by the individual in the
2 written consent.

3 (c) To the duly appointed guardian or conservator of the individual or a person
4 representing the individual if it can be proven with reasonable certainty through the
5 possession of agency forms, documents, or correspondence that this person is the
6 authorized representative of the individual to whom the information pertains.

7 (d) To those officers, employees, attorneys, agents, or volunteers of the agency
8 that has custody of the information if the disclosure is relevant and necessary in the
9 ordinary course of the performance of their official duties and is related to the
10 purpose for which the information was acquired.

11 (e) To a person, or to another agency if the transfer is necessary for the transferee
12 agency to perform its constitutional or statutory duties, and the use is compatible
13 with a purpose for which the information was collected and the use or transfer is in
14 accordance with Section 1798.25. With respect to information transferred from a
15 law enforcement or regulatory agency, or information transferred to another law
16 enforcement or regulatory agency, a use is compatible if the use of the information
17 requested is needed in an investigation of unlawful activity under the jurisdiction of
18 the requesting agency or for licensing, certification, or regulatory purposes by that
19 agency.

20 (f) To a governmental entity if required by state or federal law.

21 (g) Pursuant to the California Public Records Act (~~Chapter 3.5 (commencing with~~
22 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
23 Title 1 of the Government Code).

24 (h) To a person who has provided the agency with advance, adequate written
25 assurance that the information will be used solely for statistical research or reporting
26 purposes, but only if the information to be disclosed is in a form that will not identify
27 any individual.

28 (i) Pursuant to a determination by the agency that maintains information that
29 compelling circumstances exist that affect the health or safety of an individual, if
30 upon the disclosure notification is transmitted to the individual to whom the
31 information pertains at ~~his or her~~ the individual's last known address. Disclosure
32 shall not be made if it is in conflict with other state or federal laws.

33 (j) To the State Archives as a record that has sufficient historical or other value to
34 warrant its continued preservation by the California state government, or for
35 evaluation by the Director of General Services or ~~his or her~~ the director's designee
36 to determine whether the record has further administrative, legal, or fiscal value.

37 (k) To any person pursuant to a subpoena, court order, or other compulsory legal
38 process if, before the disclosure, the agency reasonably attempts to notify the
39 individual to whom the record pertains, and if the notification is not prohibited by
40 law.

41 (l) To any person pursuant to a search warrant.

42 (m) Pursuant to Article 3 (commencing with Section 1800) of Chapter 1 of
43 Division 2 of the Vehicle Code.

1 (n) For the sole purpose of verifying and paying government health care service
2 claims made pursuant to Division 9 (commencing with Section 10000) of the
3 Welfare and Institutions Code.

4 (o) To a law enforcement or regulatory agency when required for an investigation
5 of unlawful activity or for licensing, certification, or regulatory purposes, unless the
6 disclosure is otherwise prohibited by law.

7 (p) To another person or governmental organization to the extent necessary to
8 obtain information from the person or governmental organization for an
9 investigation by the agency of a failure to comply with a specific state law that the
10 agency is responsible for enforcing.

11 (q) To an adopted person and is limited to general background information
12 pertaining to the adopted person's biological parents, if the information does not
13 include or reveal the identity of the biological parents.

14 (r) To a child or a grandchild of an adopted person and disclosure is limited to
15 medically necessary information pertaining to the adopted person's biological
16 parents. However, the information, or the process for obtaining the information,
17 shall not include or reveal the identity of the biological parents. The State
18 Department of Social Services shall adopt regulations governing the release of
19 information pursuant to this subdivision. The regulations shall require licensed
20 adoption agencies to provide the same services provided by the department as
21 established by this subdivision.

22 (s) To a committee of the Legislature or to a Member of the Legislature, or ~~his or~~
23 ~~her~~ a member's staff if authorized in writing by the member, if the member has
24 permission to obtain the information from the individual to whom it pertains or if
25 the member provides reasonable assurance that ~~he or she~~ the member is acting on
26 behalf of the individual.

27 (t)(1) To the University of California, a nonprofit educational institution, or, in
28 the case of education-related data, another nonprofit entity, conducting scientific
29 research, if the request for information is approved by the Committee for the
30 Protection of Human Subjects (CPHS) for the California Health and Human
31 Services Agency (CHHSA) or an institutional review board, as authorized in
32 paragraphs (4) and (5). The approval shall include a review and determination that
33 all the following criteria have been satisfied:

34 (A) The researcher has provided a plan sufficient to protect personal information
35 from improper use and disclosures, including sufficient administrative, physical,
36 and technical safeguards to protect personal information from reasonable
37 anticipated threats to the security or confidentiality of the information.

38 (B) The researcher has provided a sufficient plan to destroy or return all personal
39 information as soon as it is no longer needed for the research project, unless the
40 researcher has demonstrated an ongoing need for the personal information for the
41 research project and has provided a long-term plan sufficient to protect the
42 confidentiality of that information.

1 (C) The researcher has provided sufficient written assurances that the personal
2 information will not be reused or disclosed to any other person or entity, or used in
3 any manner, not approved in the research protocol, except as required by law or for
4 authorized oversight of the research project.

5 (2) The CPHS or institutional review board shall, at a minimum, accomplish all
6 of the following as part of its review and approval of the research project for the
7 purpose of protecting personal information held in agency databases:

8 (A) Determine whether the requested personal information is needed to conduct
9 the research.

10 (B) Permit access to personal information only if it is needed for the research
11 project.

12 (C) Permit access only to the minimum necessary personal information needed
13 for the research project.

14 (D) Require the assignment of unique subject codes that are not derived from
15 personal information in lieu of social security numbers if the research can still be
16 conducted without social security numbers.

17 (E) If feasible, and if cost, time, and technical expertise permit, require the agency
18 to conduct a portion of the data processing for the researcher to minimize the release
19 of personal information.

20 (3) Reasonable costs to the agency associated with the agency's process of
21 protecting personal information under the conditions of CPHS approval may be
22 billed to the researcher, including, but not limited to, the agency's costs for
23 conducting a portion of the data processing for the researcher, removing personal
24 information, encrypting or otherwise securing personal information, or assigning
25 subject codes.

26 (4) The CPHS may enter into written agreements to enable other institutional
27 review boards to provide the data security approvals required by this subdivision, if
28 the data security requirements set forth in this subdivision are satisfied.

29 (5) Pursuant to paragraph (4), the CPHS shall enter into a written agreement with
30 the institutional review board established pursuant to former Section 49079.6 of the
31 Education Code. The agreement shall authorize, commencing July 1, 2010, or the
32 date upon which the written agreement is executed, whichever is later, that board to
33 provide the data security approvals required by this subdivision, if the data security
34 requirements set forth in this subdivision and the act specified in subdivision (a) of
35 Section 49079.5 of the Education Code are satisfied.

36 (u) To an insurer if authorized by Chapter 5 (commencing with Section 10900) of
37 Division 4 of the Vehicle Code.

38 (v) Pursuant to Section 450, 452, 8009, or 18396 of the Financial Code.

39 (w) For the sole purpose of participation in interstate data sharing of prescription
40 drug monitoring program information pursuant to the California Uniform
41 Controlled Substances Act (Division 10 (commencing with Section 11000) of the
42 Health and Safety Code), if disclosure is limited to prescription drug monitoring
43 program information.

1 This article does not require the disclosure of personal information to the
2 individual to whom the information pertains if that information may otherwise be
3 withheld as set forth in Section 1798.40.

4 **Comment.** Section 1798.24 is amended to reflect nonsubstantive recodification of the California
5 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
6 Reports __ (2019).

7 The section is also amended to eliminate gendered pronouns.

8 **§ 1798.29 (amended). Notice of data breach**

9 SEC. ____. Section 1798.29 of the Civil Code is amended to read:

10 1798.29. (a) Any agency that owns or licenses computerized data that includes
11 personal information shall disclose any breach of the security of the system
12 following discovery or notification of the breach in the security of the data to any
13 resident of California (1) whose unencrypted personal information was, or is
14 reasonably believed to have been, acquired by an unauthorized person, or, (2) whose
15 encrypted personal information was, or is reasonably believed to have been,
16 acquired by an unauthorized person and the encryption key or security credential
17 was, or is reasonably believed to have been, acquired by an unauthorized person and
18 the agency that owns or licenses the encrypted information has a reasonable belief
19 that the encryption key or security credential could render that personal information
20 readable or useable. The disclosure shall be made in the most expedient time
21 possible and without unreasonable delay, consistent with the legitimate needs of law
22 enforcement, as provided in subdivision (c), or any measures necessary to determine
23 the scope of the breach and restore the reasonable integrity of the data system.

24 (b) Any agency that maintains computerized data that includes personal
25 information that the agency does not own shall notify the owner or licensee of the
26 information of any breach of the security of the data immediately following
27 discovery, if the personal information was, or is reasonably believed to have been,
28 acquired by an unauthorized person.

29 (c) The notification required by this section may be delayed if a law enforcement
30 agency determines that the notification will impede a criminal investigation. The
31 notification required by this section shall be made after the law enforcement agency
32 determines that it will not compromise the investigation.

33 (d) Any agency that is required to issue a security breach notification pursuant to
34 this section shall meet all of the following requirements:

35 (1) The security breach notification shall be written in plain language, shall be
36 titled "Notice of Data Breach," and shall present the information described in
37 paragraph (2) under the following headings: "What Happened," "What Information
38 Was Involved," "What We Are Doing," "What You Can Do," and "For More
39 Information." Additional information may be provided as a supplement to the
40 notice.

41 (A) The format of the notice shall be designed to call attention to the nature and
42 significance of the information it contains.

1 (B) The title and headings in the notice shall be clearly and conspicuously
2 displayed.

3 (C) The text of the notice and any other notice provided pursuant to this section
4 shall be no smaller than 10-point type.

5 (D) For a written notice described in paragraph (1) of subdivision (i), use of the
6 model security breach notification form prescribed below or use of the headings
7 described in this paragraph with the information described in paragraph (2), written
8 in plain language, shall be deemed to be in compliance with this subdivision.

9

[NAME OF INSTITUTION / LOGO]		Date: [insert date]
NOTICE OF DATA BREACH		
What Happened?		
What Information Was Involved?		
What We Are Doing.		
What You Can Do.		

<p>Other Important Information. [insert other important information]</p>	
<p>For More Information.</p>	<p>Call [telephone number] or go to [Internet Web site]</p>

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(E) For an electronic notice described in paragraph (2) of subdivision (i), use of the headings described in this paragraph with the information described in paragraph (2), written in plain language, shall be deemed to be in compliance with this subdivision.

(2) The security breach notification described in paragraph (1) shall include, at a minimum, the following information:

(A) The name and contact information of the reporting agency subject to this section.

(B) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.

(C) If the information is possible to determine at the time the notice is provided, then any of the following: (i) the date of the breach, (ii) the estimated date of the breach, or (iii) the date range within which the breach occurred. The notification shall also include the date of the notice.

(D) Whether the notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided.

1 (E) A general description of the breach incident, if that information is possible to
2 determine at the time the notice is provided.

3 (F) The toll-free telephone numbers and addresses of the major credit reporting
4 agencies, if the breach exposed a social security number or a driver's license or
5 California identification card number.

6 (3) At the discretion of the agency, the security breach notification may also
7 include any of the following:

8 (A) Information about what the agency has done to protect individuals whose
9 information has been breached.

10 (B) Advice on steps that the person whose information has been breached may
11 take to protect ~~himself or herself~~ that person.

12 (e) Any agency that is required to issue a security breach notification pursuant to
13 this section to more than 500 California residents as a result of a single breach of
14 the security system shall electronically submit a single sample copy of that security
15 breach notification, excluding any personally identifiable information, to the
16 Attorney General. A single sample copy of a security breach notification shall not
17 be deemed to be within ~~subdivision (f) of Section 6254~~ Article 1 (commencing with
18 Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government
19 Code.

20 (f) For purposes of this section, "breach of the security of the system" means
21 unauthorized acquisition of computerized data that compromises the security,
22 confidentiality, or integrity of personal information maintained by the agency. Good
23 faith acquisition of personal information by an employee or agent of the agency for
24 the purposes of the agency is not a breach of the security of the system, provided
25 that the personal information is not used or subject to further unauthorized
26 disclosure.

27 (g) For purposes of this section, "personal information" means either of the
28 following:

29 (1) An individual's first name or first initial and last name in combination with
30 any one or more of the following data elements, when either the name or the data
31 elements are not encrypted:

32 (A) Social security number.

33 (B) Driver's license number or California identification card number.

34 (C) Account number or credit or debit card number, in combination with any
35 required security code, access code, or password that would permit access to an
36 individual's financial account.

37 (D) Medical information.

38 (E) Health insurance information.

39 (F) Information or data collected through the use or operation of an automated
40 license plate recognition system, as defined in Section 1798.90.5.

41 (2) A user name or email address, in combination with a password or security
42 question and answer that would permit access to an online account.

1 (h)(1) For purposes of this section, “personal information” does not include
2 publicly available information that is lawfully made available to the general public
3 from federal, state, or local government records.

4 (2) For purposes of this section, “medical information” means any information
5 regarding an individual’s medical history, mental or physical condition, or medical
6 treatment or diagnosis by a health care professional.

7 (3) For purposes of this section, “health insurance information” means an
8 individual’s health insurance policy number or subscriber identification number,
9 any unique identifier used by a health insurer to identify the individual, or any
10 information in an individual’s application and claims history, including any appeals
11 records.

12 (4) For purposes of this section, “encrypted” means rendered unusable,
13 unreadable, or indecipherable to an unauthorized person through a security
14 technology or methodology generally accepted in the field of information security.

15 (i) For purposes of this section, “notice” may be provided by one of the following
16 methods:

17 (1) Written notice.

18 (2) Electronic notice, if the notice provided is consistent with the provisions
19 regarding electronic records and signatures set forth in Section 7001 of Title 15 of
20 the United States Code.

21 (3) Substitute notice, if the agency demonstrates that the cost of providing notice
22 would exceed two hundred fifty thousand dollars (\$250,000), or that the affected
23 class of subject persons to be notified exceeds 500,000, or the agency does not have
24 sufficient contact information. Substitute notice shall consist of all of the following:

25 (A) Email notice when the agency has an email address for the subject persons.

26 (B) Conspicuous posting, for a minimum of 30 days, of the notice on the agency’s
27 Internet Web site page, if the agency maintains one. For purposes of this
28 subparagraph, conspicuous posting on the agency’s Internet Web site means
29 providing a link to the notice on the home page or first significant page after entering
30 the Internet Web site that is in larger type than the surrounding text, or in contrasting
31 type, font, or color to the surrounding text of the same size, or set off from the
32 surrounding text of the same size by symbols or other marks that call attention to
33 the link.

34 (C) Notification to major statewide media and the Office of Information Security
35 within the Department of Technology.

36 (4) In the case of a breach of the security of the system involving personal
37 information defined in paragraph (2) of subdivision (g) for an online account, and
38 no other personal information defined in paragraph (1) of subdivision (g), the
39 agency may comply with this section by providing the security breach notification
40 in electronic or other form that directs the person whose personal information has
41 been breached to promptly change ~~his or her~~ the person’s password and security
42 question or answer, as applicable, or to take other steps appropriate to protect the
43 online account with the agency and all other online accounts for which the person

1 uses the same user name or email address and password or security question or
2 answer.

3 (5) In the case of a breach of the security of the system involving personal
4 information defined in paragraph (2) of subdivision (g) for login credentials of an
5 email account furnished by the agency, the agency shall not comply with this section
6 by providing the security breach notification to that email address, but may, instead,
7 comply with this section by providing notice by another method described in this
8 subdivision or by clear and conspicuous notice delivered to the resident online when
9 the resident is connected to the online account from an Internet Protocol address or
10 online location from which the agency knows the resident customarily accesses the
11 account.

12 (j) Notwithstanding subdivision (i), an agency that maintains its own notification
13 procedures as part of an information security policy for the treatment of personal
14 information and is otherwise consistent with the timing requirements of this part
15 shall be deemed to be in compliance with the notification requirements of this
16 section if it notifies subject persons in accordance with its policies in the event of a
17 breach of security of the system.

18 (k) Notwithstanding the exception specified in paragraph (4) of subdivision (b) of
19 Section 1798.3, for purposes of this section, “agency” includes a local agency, as
20 defined in ~~subdivision (a) of Section 6252~~ Section 7920.510 of the Government
21 Code.

22 (l) For purposes of this section, “encryption key” and “security credential” mean
23 the confidential key or process designed to render the data useable, readable, and
24 decipherable.

25 **Comment.** Section 1798.29 is amended to reflect nonsubstantive recodification of the California
26 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
27 Reports __ (2019).

28 The section is also amended to eliminate gendered pronouns.

29 **§ 1798.70 (amended). Effect on other state law**

30 SEC. ____. Section 1798.70 of the Civil Code is amended to read:

31 1798.70. This chapter shall be construed to supersede any other provision of state
32 law, including ~~Section 6253.5~~ Article 2 (commencing with Section 7924.100) of
33 Chapter 2 of Part 5 of Division 10 of the Government Code, or any exemption in
34 Section 6254 or 6255 7922.000 of the Government Code or in any provision listed
35 in Section 7920.505 of the Government Code, ~~which that~~ which that authorizes any agency to
36 withhold from an individual any record containing personal information ~~which that~~
37 is otherwise accessible under the provisions of this chapter.

38 **Comment.** Section 1798.70 is amended to reflect nonsubstantive recodification of the California
39 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
40 Reports __ (2019).

41 The section is also amended to make grammatical corrections.

1 **§ 1798.75 (amended). Effect of chapter**

2 SEC. _____. Section 1798.75 of the Civil Code is amended to read:

3 1798.75. This chapter shall not be deemed to supersede ~~Chapter 3.5 (commencing~~
4 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
5 of Title 1 of the Government Code, except as to the provisions of Sections 1798.60,
6 1798.69, and 1798.70.

7 **Comment.** Section 1798.75 is amended to reflect nonsubstantive recodification of the California
8 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
9 Reports __ (2019).

10 **§ 1798.82 (amended). Notice of data breach**

11 SEC. _____. Section 1798.82 of the Civil Code is amended to read:

12 1798.82. (a) A person or business that conducts business in California, and that
13 owns or licenses computerized data that includes personal information, shall
14 disclose a breach of the security of the system following discovery or notification
15 of the breach in the security of the data to a resident of California (1) whose
16 unencrypted personal information was, or is reasonably believed to have been,
17 acquired by an unauthorized person, or, (2) whose encrypted personal information
18 was, or is reasonably believed to have been, acquired by an unauthorized person and
19 the encryption key or security credential was, or is reasonably believed to have been,
20 acquired by an unauthorized person and the person or business that owns or licenses
21 the encrypted information has a reasonable belief that the encryption key or security
22 credential could render that personal information readable or useable. The
23 disclosure shall be made in the most expedient time possible and without
24 unreasonable delay, consistent with the legitimate needs of law enforcement, as
25 provided in subdivision (c), or any measures necessary to determine the scope of
26 the breach and restore the reasonable integrity of the data system.

27 (b) A person or business that maintains computerized data that includes personal
28 information that the person or business does not own shall notify the owner or
29 licensee of the information of the breach of the security of the data immediately
30 following discovery, if the personal information was, or is reasonably believed to
31 have been, acquired by an unauthorized person.

32 (c) The notification required by this section may be delayed if a law enforcement
33 agency determines that the notification will impede a criminal investigation. The
34 notification required by this section shall be made promptly after the law
35 enforcement agency determines that it will not compromise the investigation.

36 (d) A person or business that is required to issue a security breach notification
37 pursuant to this section shall meet all of the following requirements:

38 (1) The security breach notification shall be written in plain language, shall be
39 titled “Notice of Data Breach,” and shall present the information described in
40 paragraph (2) under the following headings: “What Happened,” “What Information
41 Was Involved,” “What We Are Doing,” “What You Can Do,” and “For More

1 Information.” Additional information may be provided as a supplement to the
2 notice.

3 (A) The format of the notice shall be designed to call attention to the nature and
4 significance of the information it contains.

5 (B) The title and headings in the notice shall be clearly and conspicuously
6 displayed.

7 (C) The text of the notice and any other notice provided pursuant to this section
8 shall be no smaller than 10-point type.

9 (D) For a written notice described in paragraph (1) of subdivision (j), use of the
10 model security breach notification form prescribed below or use of the headings
11 described in this paragraph with the information described in paragraph (2), written
12 in plain language, shall be deemed to be in compliance with this subdivision.
13

[NAME OF INSTITUTION / LOGO] _____ Date: [insert date]	
NOTICE OF DATA BREACH	
What Happened?	
What Information Was Involved?	
What We Are Doing.	

<p>What You Can Do.</p>	
<p>Other Important Information. [insert other important information]</p>	
<p>For More Information.</p>	<p>Call [telephone number] or go to [Internet Web site]</p>

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(E) For an electronic notice described in paragraph (2) of subdivision (j), use of the headings described in this paragraph with the information described in paragraph (2), written in plain language, shall be deemed to be in compliance with this subdivision.

(2) The security breach notification described in paragraph (1) shall include, at a minimum, the following information:

(A) The name and contact information of the reporting person or business subject to this section.

1 (B) A list of the types of personal information that were or are reasonably believed
2 to have been the subject of a breach.

3 (C) If the information is possible to determine at the time the notice is provided,
4 then any of the following: (i) the date of the breach, (ii) the estimated date of the
5 breach, or (iii) the date range within which the breach occurred. The notification
6 shall also include the date of the notice.

7 (D) Whether notification was delayed as a result of a law enforcement
8 investigation, if that information is possible to determine at the time the notice is
9 provided.

10 (E) A general description of the breach incident, if that information is possible to
11 determine at the time the notice is provided.

12 (F) The toll-free telephone numbers and addresses of the major credit reporting
13 agencies if the breach exposed a social security number or a driver's license or
14 California identification card number.

15 (G) If the person or business providing the notification was the source of the
16 breach, an offer to provide appropriate identity theft prevention and mitigation
17 services, if any, shall be provided at no cost to the affected person for not less than
18 12 months along with all information necessary to take advantage of the offer to any
19 person whose information was or may have been breached if the breach exposed or
20 may have exposed personal information defined in subparagraphs (A) and (B) of
21 paragraph (1) of subdivision (h).

22 (3) At the discretion of the person or business, the security breach notification
23 may also include any of the following:

24 (A) Information about what the person or business has done to protect individuals
25 whose information has been breached.

26 (B) Advice on steps that the person whose information has been breached may
27 take to protect ~~himself or herself~~ that person.

28 (e) A covered entity under the federal Health Insurance Portability and
29 Accountability Act of 1996 (42 U.S.C. Sec. 1320d et seq.) will be deemed to have
30 complied with the notice requirements in subdivision (d) if it has complied
31 completely with Section 13402(f) of the federal Health Information Technology for
32 Economic and Clinical Health Act (Public Law 111-5). However, nothing in this
33 subdivision shall be construed to exempt a covered entity from any other provision
34 of this section.

35 (f) A person or business that is required to issue a security breach notification
36 pursuant to this section to more than 500 California residents as a result of a single
37 breach of the security system shall electronically submit a single sample copy of
38 that security breach notification, excluding any personally identifiable information,
39 to the Attorney General. A single sample copy of a security breach notification shall
40 not be deemed to be within ~~subdivision (f) of Section 6254~~ Article 1 (commencing
41 with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the
42 Government Code.

1 (g) For purposes of this section, “breach of the security of the system” means
2 unauthorized acquisition of computerized data that compromises the security,
3 confidentiality, or integrity of personal information maintained by the person or
4 business. Good faith acquisition of personal information by an employee or agent
5 of the person or business for the purposes of the person or business is not a breach
6 of the security of the system, provided that the personal information is not used or
7 subject to further unauthorized disclosure.

8 (h) For purposes of this section, “personal information” means either of the
9 following:

10 (1) An individual’s first name or first initial and last name in combination with
11 any one or more of the following data elements, when either the name or the data
12 elements are not encrypted:

13 (A) Social security number.

14 (B) Driver’s license number or California identification card number.

15 (C) Account number or credit or debit card number, in combination with any
16 required security code, access code, or password that would permit access to an
17 individual’s financial account.

18 (D) Medical information.

19 (E) Health insurance information.

20 (F) Information or data collected through the use or operation of an automated
21 license plate recognition system, as defined in Section 1798.90.5.

22 (2) A user name or email address, in combination with a password or security
23 question and answer that would permit access to an online account.

24 (i)(1) For purposes of this section, “personal information” does not include
25 publicly available information that is lawfully made available to the general public
26 from federal, state, or local government records.

27 (2) For purposes of this section, “medical information” means any information
28 regarding an individual’s medical history, mental or physical condition, or medical
29 treatment or diagnosis by a health care professional.

30 (3) For purposes of this section, “health insurance information” means an
31 individual’s health insurance policy number or subscriber identification number,
32 any unique identifier used by a health insurer to identify the individual, or any
33 information in an individual’s application and claims history, including any appeals
34 records.

35 (4) For purposes of this section, “encrypted” means rendered unusable,
36 unreadable, or indecipherable to an unauthorized person through a security
37 technology or methodology generally accepted in the field of information security.

38 (j) For purposes of this section, “notice” may be provided by one of the following
39 methods:

40 (1) Written notice.

41 (2) Electronic notice, if the notice provided is consistent with the provisions
42 regarding electronic records and signatures set forth in Section 7001 of Title 15 of
43 the United States Code.

1 (3) Substitute notice, if the person or business demonstrates that the cost of
2 providing notice would exceed two hundred fifty thousand dollars (\$250,000), or
3 that the affected class of subject persons to be notified exceeds 500,000, or the
4 person or business does not have sufficient contact information. Substitute notice
5 shall consist of all of the following:

6 (A) Email notice when the person or business has an email address for the subject
7 persons.

8 (B) Conspicuous posting, for a minimum of 30 days, of the notice on the Internet
9 Web site page of the person or business, if the person or business maintains one. For
10 purposes of this subparagraph, conspicuous posting on the person's or business's
11 Internet Web site means providing a link to the notice on the home page or first
12 significant page after entering the Internet Web site that is in larger type than the
13 surrounding text, or in contrasting type, font, or color to the surrounding text of the
14 same size, or set off from the surrounding text of the same size by symbols or other
15 marks that call attention to the link.

16 (C) Notification to major statewide media.

17 (4) In the case of a breach of the security of the system involving personal
18 information defined in paragraph (2) of subdivision (h) for an online account, and
19 no other personal information defined in paragraph (1) of subdivision (h), the person
20 or business may comply with this section by providing the security breach
21 notification in electronic or other form that directs the person whose personal
22 information has been breached promptly to change ~~his or her~~ the person's password
23 and security question or answer, as applicable, or to take other steps appropriate to
24 protect the online account with the person or business and all other online accounts
25 for which the person whose personal information has been breached uses the same
26 user name or email address and password or security question or answer.

27 (5) In the case of a breach of the security of the system involving personal
28 information defined in paragraph (2) of subdivision (h) for login credentials of an
29 email account furnished by the person or business, the person or business shall not
30 comply with this section by providing the security breach notification to that email
31 address, but may, instead, comply with this section by providing notice by another
32 method described in this subdivision or by clear and conspicuous notice delivered
33 to the resident online when the resident is connected to the online account from an
34 Internet Protocol address or online location from which the person or business
35 knows the resident customarily accesses the account.

36 (k) For purposes of this section, "encryption key" and "security credential" mean
37 the confidential key or process designed to render data useable, readable, and
38 decipherable.

39 (l) Notwithstanding subdivision (j), a person or business that maintains its own
40 notification procedures as part of an information security policy for the treatment of
41 personal information and is otherwise consistent with the timing requirements of
42 this part, shall be deemed to be in compliance with the notification requirements of

1 this section if the person or business notifies subject persons in accordance with its
2 policies in the event of a breach of security of the system.

3 **Comment.** Section 1798.82 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
5 Reports __ (2019).

6 The section is also amended to eliminate gendered pronouns.

7 **§ 1798.85 (amended). Social security numbers**

8 SEC. ____. Section 1798.85 of the Civil Code is amended to read:

9 1798.85. (a) Except as provided in this section, a person or entity may not do any
10 of the following:

11 (1) Publicly post or publicly display in any manner an individual's social security
12 number. "Publicly post" or "publicly display" means to intentionally communicate
13 or otherwise make available to the general public.

14 (2) Print an individual's social security number on any card required for the
15 individual to access products or services provided by the person or entity.

16 (3) Require an individual to transmit ~~his or her~~ the individual's social security
17 number over the Internet, unless the connection is secure or the social security
18 number is encrypted.

19 (4) Require an individual to use ~~his or her~~ the individual's social security number
20 to access an Internet Web site, unless a password or unique personal identification
21 number or other authentication device is also required to access the Internet Web
22 site.

23 (5) Print an individual's social security number on any materials that are mailed
24 to the individual, unless state or federal law requires the social security number to
25 be on the document to be mailed. Notwithstanding this paragraph, social security
26 numbers may be included in applications and forms sent by mail, including
27 documents sent as part of an application or enrollment process, or to establish,
28 amend or terminate an account, contract or policy, or to confirm the accuracy of the
29 social security number. A social security number that is permitted to be mailed
30 under this section may not be printed, in whole or in part, on a postcard or other
31 mailer not requiring an envelope, or visible on the envelope or without the envelope
32 having been opened.

33 (6) Sell, advertise for sale, or offer to sell an individual's social security number.
34 For purposes of this paragraph, the following apply:

35 (A) "Sell" shall not include the release of an individual's social security number
36 if the release of the social security number is incidental to a larger transaction and
37 is necessary to identify the individual in order to accomplish a legitimate business
38 purpose. Release of an individual's social security number for marketing purposes
39 is not permitted.

40 (B) "Sell" shall not include the release of an individual's social security number
41 for a purpose specifically authorized or specifically allowed by federal or state law.

1 (b) This section does not prevent the collection, use, or release of a social security
2 number as required by state or federal law or the use of a social security number for
3 internal verification or administrative purposes.

4 (c) This section does not prevent an adult state correctional facility, an adult city
5 jail, or an adult county jail from releasing an inmate's social security number, with
6 the inmate's consent and upon request by the county veterans service officer or the
7 United States Department of Veterans Affairs, for the purposes of determining the
8 inmate's status as a military veteran and ~~his or her~~ the inmate's eligibility for federal,
9 state, or local veterans' benefits or services.

10 (d) This section does not apply to documents that are recorded or required to be
11 open to the public pursuant to ~~Chapter 3.5 (commencing with Section 6250),~~
12 Chapter 14 (commencing with Section 7150) or Chapter 14.5 (commencing with
13 Section 7220) of Division 7 of Title 1 of, Division 10 (commencing with Section
14 7920.000) of Title 1 of, Article 9 (commencing with Section 11120) of Chapter 1 of
15 Part 1 of Division 3 of Title 2 of, or Chapter 9 (commencing with Section 54950)
16 of Part 1 of Division 2 of Title 5 of, the Government Code. This section does not
17 apply to records that are required by statute, case law, or California Rule of Court,
18 to be made available to the public by entities provided for in Article VI of the
19 California Constitution.

20 (e)(1) In the case of a health care service plan, a provider of health care, an insurer
21 or a pharmacy benefits manager, a contractor as defined in Section 56.05, or the
22 provision by any person or entity of administrative or other services relative to
23 health care or insurance products or services, including third-party administration
24 or administrative services only, this section shall become operative in the following
25 manner:

26 (A) On or before January 1, 2003, the entities listed in paragraph (1) shall comply
27 with paragraphs (1), (3), (4), and (5) of subdivision (a) as these requirements pertain
28 to individual policyholders or individual contractholders.

29 (B) On or before January 1, 2004, the entities listed in paragraph (1) shall comply
30 with paragraphs (1) to (5), inclusive, of subdivision (a) as these requirements pertain
31 to new individual policyholders or new individual contractholders and new groups,
32 including new groups administered or issued on or after January 1, 2004.

33 (C) On or before July 1, 2004, the entities listed in paragraph (1) shall comply
34 with paragraphs (1) to (5), inclusive, of subdivision (a) for all individual
35 policyholders and individual contractholders, for all groups, and for all enrollees of
36 the Healthy Families and Medi-Cal programs, except that for individual
37 policyholders, individual contractholders and groups in existence prior to January
38 1, 2004, the entities listed in paragraph (1) shall comply upon the renewal date of
39 the policy, contract, or group on or after July 1, 2004, but no later than July 1, 2005.

40 (2) A health care service plan, a provider of health care, an insurer or a pharmacy
41 benefits manager, a contractor, or another person or entity as described in paragraph
42 (1) shall make reasonable efforts to cooperate, through systems testing and other

1 means, to ensure that the requirements of this article are implemented on or before
2 the dates specified in this section.

3 (3) Notwithstanding paragraph (2), the Director of the Department of Managed
4 Health Care, pursuant to the authority granted under Section 1346 of the Health and
5 Safety Code, or the Insurance Commissioner, pursuant to the authority granted
6 under Section 12921 of the Insurance Code, and upon a determination of good
7 cause, may grant extensions not to exceed six months for compliance by health care
8 service plans and insurers with the requirements of this section when requested by
9 the health care service plan or insurer. Any extension granted shall apply to the
10 health care service plan or insurer's affected providers, pharmacy benefits manager,
11 and contractors.

12 (f) If a federal law takes effect requiring the United States Department of Health
13 and Human Services to establish a national unique patient health identifier program,
14 a provider of health care, a health care service plan, a licensed health care
15 professional, or a contractor, as those terms are defined in Section 56.05, that
16 complies with the federal law shall be deemed in compliance with this section.

17 (g) A person or entity may not encode or embed a social security number in or on
18 a card or document, including, but not limited to, using a barcode, chip, magnetic
19 strip, or other technology, in place of removing the social security number, as
20 required by this section.

21 (h) This section shall become operative, with respect to the University of
22 California, in the following manner:

23 (1) On or before January 1, 2004, the University of California shall comply with
24 paragraphs (1), (2), and (3) of subdivision (a).

25 (2) On or before January 1, 2005, the University of California shall comply with
26 paragraphs (4) and (5) of subdivision (a).

27 (i) This section shall become operative with respect to the Franchise Tax Board
28 on January 1, 2007.

29 (j) This section shall become operative with respect to the California community
30 college districts on January 1, 2007.

31 (k) This section shall become operative with respect to the California State
32 University system on July 1, 2005.

33 (l) This section shall become operative, with respect to the California Student Aid
34 Commission and its auxiliary organization, in the following manner:

35 (1) On or before January 1, 2004, the commission and its auxiliary organization
36 shall comply with paragraphs (1), (2), and (3) of subdivision (a).

37 (2) On or before January 1, 2005, the commission and its auxiliary organization
38 shall comply with paragraphs (4) and (5) of subdivision (a).

39 **Comment.** Section 1798.85 is amended to reflect nonsubstantive recodification of the California
40 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
41 Reports __ (2019).

42 The section is also amended to eliminate gendered pronouns.

1 **§ 1899.5 (amended). Notice of intent to preserve interest in property on loan to museum**

2 SEC. _____. Section 1899.5 of the Civil Code is amended to read:

3 1899.5. (a) A notice of intent to preserve an interest in property on loan to a
4 museum filed pursuant to this chapter shall be in writing, shall contain a description
5 of the property adequate to enable the museum to identify the property, shall be
6 accompanied by documentation sufficient to establish the claimant as owner of the
7 property, and shall be signed under penalty of perjury by the claimant or by a person
8 authorized to act on behalf of the claimant.

9 (b) The museum need not retain a notice ~~which~~ that does not meet the
10 requirements set forth in subdivision (a). If, however, the museum does not intend
11 to retain a notice for this reason, the museum shall promptly notify the claimant at
12 the address given on the notice that it believes the notice is ineffective to preserve
13 an interest, and the reasons therefor. The fact that the museum retains a notice shall
14 not be construed to mean that the museum accepts the sufficiency or accuracy of the
15 notice or that the notice is effective to preserve an interest in property on loan to the
16 museum.

17 (c) A notice of intent to preserve an interest in property on loan to a museum,
18 which is in substantially the following form, and contains the information and
19 attachments described, satisfies the requirements of subdivision (a):

20 **NOTICE OF INTENT TO PRESERVE AN INTEREST IN**
21 **PROPERTY ON LOAN TO A MUSEUM**

22 **TO THE LENDER:** Section 1899.4 of the California Civil Code requires that you
23 notify the museum promptly in writing of any change of address or ownership of
24 the property. If the museum is unable to contact you regarding your loan, you may
25 lose rights in the loaned property. If you choose to file this form with the museum
26 to preserve your interest in the property, the museum is required to maintain it, or a
27 copy of it, for 25 years. For full details, see Section 1899, et seq. of the California
28 Civil Code.

29 **TO THE MUSEUM:** You are hereby notified that the undersigned claims an interest
30 in the property described herein.

31 Claimant

Name:

Address:

Telephone:

Social Security Number (optional):

Museum Name:

Date Property Loaned:

Interest in Property:

If you are not the original lender, describe the origin of your interest in the property and attach a copy of any document creating your interest:

Description of Property:

Unless an accurate, legible copy of the original loan receipt is attached, give a detailed description of the claimed property, including its nature and general characteristics and the museum registration number assigned to the property, if known, and attach any documentary evidence you have establishing the loan:

Registration #

Description:

(Attach additional sheets if necessary.)

I understand that I must promptly notify the museum in writing of any change of address or change in ownership of the loaned property.

I declare under penalty of perjury that to the best of my knowledge the information contained in this notice is true.

Signed: _____ Date:

(claimant) _____

OR

I declare under penalty of perjury that I am authorized to act on behalf of the claimant and am informed and believe that the information contained in this notice is true.

Signed: _____ Date:

(claimant's representative) _____

RECEIPT FOR NOTICE OF INTENT
TO PRESERVE AN INTEREST IN PROPERTY
(For use by the museum.)

Notice received by:

Date of receipt:

Copy of receipt returned to claimant:

By

Date:

1 (d) Notices of intent to preserve an interest in property on loan to a museum filed
2 pursuant to this chapter are exempt from the disclosure requirements of the
3 California Public Records Act (Division 10 (commencing with Section ~~6250~~
4 7920.000) of the Government Code).

5 **Comment.** Section 1899.5 is amended to reflect nonsubstantive recodification of the California
6 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
7 Reports __ (2019).

8 The section is also amended to make grammatical corrections.

9 **§ 1947.8 (amended). Permissible rent levels**

10 SEC. ____. Section 1947.8 of the Civil Code is amended to read:

11 1947.8. (a) If an ordinance or charter controls or establishes a system of controls
12 on the price at which residential rental units may be offered for rent or lease and
13 requires the registration of rents, the ordinance or charter, or any regulation adopted
14 pursuant thereto, shall provide for the establishment and certification of permissible
15 rent levels for the registered rental units, and any changes thereafter to those rent
16 levels, by the local agency as provided in this section.

17 (b) If the ordinance, charter, or regulation is in effect on January 1, 1987, the
18 ordinance, charter, or regulation shall provide for the establishment and certification
19 of permissible rent levels on or before January 1, 1988, including completion of all
20 appeals and administrative proceedings connected therewith. After July 1, 1990, no
21 local agency may maintain any action to recover excess rent against any property
22 owner who has registered the unit with the local agency within the time limits set
23 forth in this section if the initial certification of permissible rent levels affecting that
24 particular property has not been completed, unless the delay is willfully and
25 intentionally caused by the property owner or is a result of court proceedings or
26 further administrative proceedings ordered by a court. If the ordinance, charter, or
27 regulation is adopted on or after January 1, 1987, the ordinance, charter, or
28 regulation shall provide for the establishment and certification of permissible rent
29 levels within one year after it is adopted, including completion of all appeals and

1 administrative proceedings connected therewith. Upon the request of the landlord
2 or the tenant, the local agency shall provide the landlord and the tenant with a
3 certificate or other documentation reflecting the permissible rent levels of the rental
4 unit. A landlord may request a certificate of permissible rent levels for rental units
5 ~~which~~ that have a base rent established, but ~~which~~ are vacant and not exempt from
6 registration under this section. The landlord or the tenant may appeal the
7 determination of the permissible rent levels reflected in the certificate. The
8 permissible rent levels reflected in the certificate or other documentation shall, in
9 the absence of intentional misrepresentation or fraud, be binding and conclusive
10 upon the local agency unless the determination of the permissible rent levels is being
11 appealed.

12 (c) After the establishment and certification of permissible rent levels under
13 subdivision (b), the local agency shall, upon the request of the landlord or the tenant,
14 provide the landlord and the tenant with a certificate of the permissible rent levels
15 of the rental unit. The certificate shall be issued within five business days from the
16 date of request by the landlord or the tenant. The permissible rent levels reflected in
17 the certificate shall, in the absence of intentional misrepresentation or fraud, be
18 binding and conclusive upon the local agency unless the determination of the
19 permissible rent levels is being appealed. The landlord or the tenant may appeal the
20 determination of the permissible rent levels reflected in the certificate. Any appeal
21 of a determination of permissible rent levels as reflected in the certificate, other than
22 an appeal made pursuant to subdivision (b), shall be filed with the local agency
23 within 15 days from issuance of the certificate. The local agency shall notify, in
24 writing, the landlord and the tenant of its decision within 60 days following the
25 filing of the appeal.

26 (d) The local agency may charge the person to whom a certificate is issued a fee
27 in the amount necessary to cover the reasonable costs incurred by the local agency
28 in issuing the certificate.

29 (e) The absence of a certification of permissible rent levels shall not impair,
30 restrict, abridge, or otherwise interfere with either of the following:

31 (1) A judicial or administrative hearing.

32 (2) Any matter in connection with a conveyance of an interest in property.

33 (f) The record of permissible rent levels is a public record for purposes of the
34 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of
35 Division 7 Division 10 (commencing with Section 7920.000) of Title 1 of the
36 Government Code).

37 (g) Any notice specifying the rents applicable to residential rental units ~~which~~ that
38 is given by an owner to a public entity or tenant in order to comply with Chapter
39 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government
40 Code shall not be considered a registration of rents for purposes of this section.

41 (h) “Local agency,” as used in this section, means the public entity responsible
42 for the implementation of the ordinance, charter, or regulation.

43 (i) Nothing in this section shall be construed:

1 (1) To grant to any public entity any power ~~which~~ that it does not possess
2 independent of this section to control or establish a system of control on the price at
3 which accommodations may be offered for rent or lease, or to diminish any ~~such~~
4 ~~power which that~~ power of this type that the public entity may possess, except as
5 specifically provided in this section.

6 (2) On and after January 1, 2016, to apply to tenancies commencing on or after
7 January 1, 1999, for which the owner of residential property may establish the initial
8 rent under Chapter 2.7 (commencing with Section 1954.50). However, for a tenancy
9 that commenced on or after January 1, 1999, if a property owner has provided the
10 local agency with the tenancy's initial rent in compliance with that agency's
11 registration requirements in a writing signed under penalty of perjury, there shall be
12 a rebuttable presumption that the statement of the initial rent is correct.

13 **Comment.** Section 1947.8 is amended to reflect nonsubstantive recodification of the California
14 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
15 Reports __ (2019).

16 The section is also amended to make technical changes.

17 **§ 3426.7 (amended). Trade secrets and effect of title**

18 SEC. ____. Section 3426.7 of the Civil Code is amended to read:

19 3426.7. (a) Except as otherwise expressly provided, this title does not supersede
20 any statute relating to misappropriation of a trade secret, or any statute otherwise
21 regulating trade secrets.

22 (b) This title does not affect (1) contractual remedies, whether or not based upon
23 misappropriation of a trade secret, (2) other civil remedies that are not based upon
24 misappropriation of a trade secret, or (3) criminal remedies, whether or not based
25 upon misappropriation of a trade secret.

26 (c) This title does not affect the disclosure of a record by a state or local agency
27 under the California Public Records Act (~~Chapter 3.5 (commencing with~~
28 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
29 Title 1 of the Government Code). Any determination as to whether the disclosure of
30 a record under the California Public Records Act constitutes a misappropriation of
31 a trade secret and the rights and remedies with respect thereto shall be made pursuant
32 to the law in effect before the operative date of this title.

33 **Comment.** Section 3426.7 is amended to reflect nonsubstantive recodification of the California
34 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
35 Reports __ (2019).

36 **§ 5405 (amended). CID information to be submitted to Secretary of State**

37 SEC. ____. Section 5405 of the Civil Code is amended to read:

38 5405. (a) To assist with the identification of common interest developments, each
39 association, whether incorporated or unincorporated, shall submit to the Secretary
40 of State, on a form and for a fee not to exceed thirty dollars (\$30) that the Secretary
41 of State shall prescribe, the following information concerning the association and
42 the development that it manages:

1 (1) A statement that the association is formed to manage a common interest
2 development under the Davis-Stirling Common Interest Development Act.

3 (2) The name of the association.

4 (3) The street address of the business or corporate office of the association, if any.

5 (4) The street address of the association's onsite office, if different from the street
6 address of the business or corporate office, or if there is no onsite office, the street
7 address of the responsible officer or managing agent of the association.

8 (5) The name, address, and either the daytime telephone number or email address
9 of the president of the association, other than the address, telephone number, or
10 email address of the association's onsite office or managing agent.

11 (6) The name, street address, and daytime telephone number of the association's
12 managing agent, if any.

13 (7) The county, and, if in an incorporated area, the city in which the development
14 is physically located. If the boundaries of the development are physically located in
15 more than one county, each of the counties in which it is located.

16 (8) If the development is in an unincorporated area, the city closest in proximity
17 to the development.

18 (9) The front street and nearest cross street of the physical location of the
19 development.

20 (10) The type of common interest development managed by the association.

21 (11) The number of separate interests in the development.

22 (b) The association shall submit the information required by this section as
23 follows:

24 (1) By incorporated associations, within 90 days after the filing of its original
25 articles of incorporation, and thereafter at the time the association files its statement
26 of principal business activity with the Secretary of State pursuant to Section 8210
27 of the Corporations Code.

28 (2) By unincorporated associations, in July 2003, and in that same month
29 biennially thereafter. Upon changing its status to that of a corporation, the
30 association shall comply with the filing deadlines in paragraph (1).

31 (c) The association shall notify the Secretary of State of any change in the street
32 address of the association's onsite office or of the responsible officer or managing
33 agent of the association in the form and for a fee prescribed by the Secretary of
34 State, within 60 days of the change.

35 (d) The penalty for an incorporated association's noncompliance with the initial
36 or biennial filing requirements of this section shall be suspension of the
37 association's rights, privileges, and powers as a corporation and monetary penalties,
38 to the same extent and in the same manner as suspension and monetary penalties
39 imposed pursuant to Section 8810 of the Corporations Code.

40 (e) The statement required by this section may be filed, notwithstanding
41 suspension of the corporate powers, rights, and privileges under this section or under
42 provisions of the Revenue and Taxation Code. Upon the filing of a statement under
43 this section by a corporation that has suffered suspension under this section, the

1 Secretary of State shall certify that fact to the Franchise Tax Board and the
2 corporation may thereupon be relieved from suspension, unless the corporation is
3 held in suspension by the Franchise Tax Board by reason of Section 23301, 23301.5,
4 or 23775 of the Revenue and Taxation Code.

5 (f) The Secretary of State shall make the information submitted pursuant to
6 paragraph (5) of subdivision (a) available only for governmental purposes and only
7 to Members of the Legislature and the Business, Consumer Services, and Housing
8 Agency, upon written request. All other information submitted pursuant to this
9 section shall be subject to public inspection pursuant to the California Public
10 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
11 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The
12 information submitted pursuant to this section shall be made available for
13 governmental or public inspection.

14 (g) Whenever any form is filed pursuant to this section, it supersedes any
15 previously filed form.

16 (h) The Secretary of State may destroy or otherwise dispose of any form filed
17 pursuant to this section after it has been superseded by the filing of a new form.

18 **Comment.** Section 5405 is amended to reflect nonsubstantive recodification of the California
19 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
20 Reports __ (2019).

21 **§ 6760 (amended). Commercial or industrial CID information to be submitted to Secretary**
22 **of State**

23 SEC. ____. Section 6760 of the Civil Code is amended to read:

24 6760. (a) To assist with the identification of commercial or industrial common
25 interest developments, each association, whether incorporated or unincorporated,
26 shall submit to the Secretary of State, on a form and for a fee, to cover the reasonable
27 cost to the Secretary of State of processing the form, not to exceed thirty dollars
28 (\$30), that the Secretary of State shall prescribe, the following information
29 concerning the association and the development that it manages:

30 (1) A statement that the association is formed to manage a common interest
31 development under the Commercial and Industrial Common Interest Development
32 Act.

33 (2) The name of the association.

34 (3) The street address of the business or corporate office of the association, if any.

35 (4) The street address of the association's onsite office, if different from the street
36 address of the business or corporate office, or if there is no onsite office, the street
37 address of the responsible officer or managing agent of the association.

38 (5) The name, address, and either the daytime telephone number or email address
39 of the association's onsite office or managing agent.

40 (6) The name, street address, and daytime telephone number of the association's
41 managing agent, if any.

1 (7) The county, and, if in an incorporated area, the city in which the development
2 is physically located. If the boundaries of the development are physically located in
3 more than one county, each of the counties in which it is located.

4 (8) If the development is in an unincorporated area, the city closest in proximity
5 to the development.

6 (9) The front street and nearest cross street of the physical location of the
7 development.

8 (10) The type of common interest development managed by the association.

9 (11) The number of separate interests in the development.

10 (b) The association shall submit the information required by this section as
11 follows:

12 (1) By incorporated associations, within 90 days after the filing of its original
13 articles of incorporation, and thereafter at the time the association files its statement
14 of principal business activity with the Secretary of State pursuant to Section 8210
15 of the Corporations Code.

16 (2) By unincorporated associations, in July of 2003, and in that same month
17 biennially thereafter. Upon changing its status to that of a corporation, the
18 association shall comply with the filing deadlines in paragraph (1).

19 (c) The association shall notify the Secretary of State of any change in the street
20 address of the association's onsite office or of the responsible officer or managing
21 agent of the association in the form and for a fee, to cover the reasonable cost to the
22 Secretary of State of processing the form, prescribed by the Secretary of State,
23 within 60 days of the change.

24 (d) The penalty for an incorporated association's noncompliance with the initial
25 or biennial filing requirements of this section shall be suspension of the
26 association's rights, privileges, and powers as a corporation and monetary penalties,
27 to the same extent and in the same manner as suspension and monetary penalties
28 imposed pursuant to Section 8810 of the Corporations Code.

29 (e) The statement required by this section may be filed, notwithstanding
30 suspension of the corporate powers, rights, and privileges under this section or under
31 provisions of the Revenue and Taxation Code. Upon the filing of a statement under
32 this section by a corporation that has suffered suspension under this section, the
33 Secretary of State shall certify that fact to the Franchise Tax Board and the
34 corporation may thereupon be relieved from suspension, unless the corporation is
35 held in suspension by the Franchise Tax Board by reason of Section 23301, 23301.5,
36 or 23775 of the Revenue and Taxation Code.

37 (f) The Secretary of State shall make the information submitted pursuant to
38 paragraph (5) of subdivision (a) available only for governmental purposes and only
39 to Members of the Legislature and the Business, Consumer Services, and Housing
40 Agency, upon written request. All other information submitted pursuant to this
41 section shall be subject to public inspection pursuant to the California Public
42 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
43 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The

1 information submitted pursuant to this section shall be made available for
2 governmental or public inspection.

3 (g) Whenever any form is filed pursuant to this section, it supersedes any
4 previously filed form.

5 (h) The Secretary of State may destroy or otherwise dispose of any form filed
6 pursuant to this section after it has been superseded by the filing of a new form.

7 **Comment.** Section 6760 is amended to reflect nonsubstantive recodification of the California
8 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
9 Reports __ (2019).

10 CODE OF CIVIL PROCEDURE

11 **§ 130 (amended). Autopsy report and evidence associated with examination of deceased**
12 **minor victim**

13 SEC. ____ . Section 130 of the Code of Civil Procedure is amended to read:

14 130. (a) Subject to the provisions of this section, when a child who is under 18
15 years of age is killed as a result of a criminal act and a person has been convicted
16 and sentenced for the commission of that criminal act, or a person has been found
17 to have committed that offense by the juvenile court and adjudged a ward of the
18 juvenile court, upon the request of a qualifying family member of the deceased
19 child, the autopsy report and evidence associated with the examination of the victim
20 in the possession of a public agency, as defined in Section ~~6252~~ 7920.525 of the
21 Government Code, shall be sealed and not disclosed, except that an autopsy report
22 and evidence associated with the examination of the victim ~~which~~ that has been
23 sealed pursuant to this section may be disclosed, as follows:

24 (1) To law enforcement, prosecutorial agencies and experts hired by those
25 agencies, public social service agencies, child death review teams, or the hospital
26 that treated the child immediately prior to death, to be used solely for investigative,
27 prosecutorial, or review purposes, and may not be disseminated further.

28 (2) To the defendant and the defense team in the course of criminal proceedings
29 or related habeas proceedings, to be used solely for investigative, criminal defense,
30 and review purposes, including review for the purpose of initiating any criminal
31 proceeding or related habeas proceeding, and may not be disseminated further. The
32 “defense team” includes, but is not limited to, all of the following: attorneys,
33 investigators, experts, paralegals, support staff, interns, students, and state and
34 privately funded legal assistance projects hired or consulted for the purposes of
35 investigation, defense, appeal, or writ of habeas corpus on behalf of the person
36 accused of killing the deceased child victim.

37 (3) To civil litigants in a cause of action related to the victim’s death with a court
38 order upon a showing of good cause and proper notice under Section 129, to be used
39 solely to pursue the cause of action, and may not be disseminated further.

40 (b) Nothing in this section shall prohibit the use of autopsy reports and evidence
41 in relation to court proceedings.

1 (c) Nothing in this section shall abrogate the rights of victims, their authorized
2 representatives, or insurance carriers to request the release of information pursuant
3 to ~~subdivision (f) of Section 6254~~ Article 1 (commencing with Section 7923.600)
4 of Chapter 1 of Part 4 of Division 10 of the Government Code. However, if a seal
5 has been requested, an insurance carrier receiving items pursuant to a request under
6 that ~~subdivision~~ article is prohibited from disclosing the requested items except as
7 necessary in the normal course of business. An insurance carrier shall not, under
8 any circumstances, disclose to the general public items received pursuant to
9 ~~subdivision (f) of Section 6254~~ Article 1 (commencing with Section 7923.600) of
10 Chapter 1 of Part 4 of Division 10 of the Government Code.

11 (d) This section may not be invoked by a qualifying family member who has been
12 charged with or convicted of any act in furtherance of the victim's death. Upon the
13 filing of those charges against a qualifying family member, any seal maintained at
14 the request of that qualifying family member under this section shall be removed.

15 (e) A coroner or medical examiner shall not be liable for damages in a civil action
16 for any reasonable act or omission taken in good faith in compliance with this
17 section.

18 (f) If sealing of the autopsy report has been requested by a qualifying family
19 member and another qualifying family member opposes sealing, the opposing party
20 may request a hearing in the superior court in the county with jurisdiction over the
21 crime leading to the child's death for a determination of whether the sealing should
22 be maintained. The opposing party shall notify all other qualifying family members,
23 the medical examiner's office that conducted the autopsy, and the district attorney's
24 office with jurisdiction over the crime at least 10 court days in advance of the
25 hearing. At the hearing, the court shall consider the interests of all qualifying family
26 members, the protection of the memory of the deceased child, any evidence that the
27 qualifying family member requesting the seal was involved in the crime that resulted
28 in the death of the child, the public interest in scrutiny of the autopsy report or the
29 performance of the medical examiner, any impact that unsealing would have on
30 pending investigations or pending litigation, and any other relevant factors. Official
31 information in the possession of a public agency necessary to the determination of
32 the hearing shall be received in camera upon a proper showing. In its discretion, the
33 court may, to the extent allowable by law and with good cause shown, restrict the
34 dissemination of an autopsy report or evidence associated with the examination of
35 a victim. This section shall not apply if a public agency has independently
36 determined that the autopsy report may not be disclosed pursuant to ~~subdivision (f)~~
37 ~~of Section 6254~~ Article 1 (commencing with Section 7923.600) of Chapter 1 of Part
38 4 of Division 10 of the Government Code because it is an investigative file. In that
39 instance, nothing in this section shall preclude the application of ~~Sections 6258~~
40 ~~and 6259~~ Part 4 (commencing with Section 7923.000) of Division 10 of Title 1 of
41 the Government Code.

42 (g) If a seal has been maintained pursuant to this section, a qualifying family
43 member, or a biological or adoptive aunt, uncle, sibling, first cousin, child, or

1 grandparent of the deceased child may request that the seal be removed. The request
2 to remove the seal shall be adjudicated pursuant to subdivision (f), with the party
3 requesting the removal of the seal being the opposing party.

4 (h) Nothing in this section shall limit the public access to information contained
5 in the death certificate including: name, age, gender, race, date, time and location of
6 death, the name of a physician reporting a death in a hospital, the name of the
7 certifying pathologist, date of certification, burial information, and cause of death.

8 (i) When a medical examiner declines a request to provide a copy of an autopsy
9 report that has been sealed pursuant to this section, the examiner shall cite this
10 section as the reason for declining to provide a copy of the report.

11 (j) For purposes of this section:

12 (1) A “child who is under 18 years of age” does not include any child who comes
13 within either of the following descriptions:

14 (A) ~~He or she~~ The child was a dependent child of the juvenile court pursuant to
15 Section 300 of the Welfare and Institutions Code at the time of ~~his or her~~ the child’s
16 death, or, pursuant to subdivision (b) of Section 10850.4 of the Welfare and
17 Institutions Code, abuse or neglect is determined to have led to ~~his or her~~ the child’s
18 death.

19 (B) ~~He or she~~ The child was residing in a state or county juvenile facility, or a
20 private facility under contract with the state or county for the placement of juveniles,
21 as a ward of the juvenile court pursuant to Section 602 of the Welfare and
22 Institutions Code at the time of ~~his or her~~ the child’s death.

23 (2) “Evidence associated with the examination of a victim” means any object,
24 writing, diagram, recording, computer file, photograph, video, DVD, CD, film,
25 digital device, or other item that was collected during, or serves to document, the
26 autopsy of a deceased child.

27 (3) “Qualifying family member” means the biological or adoptive parent, spouse,
28 or legal guardian.

29 (k) Nothing in this section shall limit the discovery provisions set forth in Chapter
30 10 (commencing with Section 1054) of Title 6 of the Penal Code.

31 (l) Nothing in this section shall be construed to limit the authority of the court to
32 seal records or restrict the dissemination of an autopsy report or evidence associated
33 with the examination of a victim under case law, other statutory law, or the rules of
34 court.

35 (m) The provisions of this section are severable. If any provision of this section
36 or its application is held invalid, that invalidity shall not affect other provisions or
37 applications that can be given effect without the invalid provision or application.

38 **Comment.** Section 130 is amended to reflect nonsubstantive recodification of the California
39 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
40 Reports __ (2019).

41 The section is also amended to eliminate gendered pronouns and make a grammatical correction.

1 § 425.16 (amended). Special motion to strike

2 SEC. _____. Section 425.16 of the Code of Civil Procedure is amended to read:

3 425.16. (a) The Legislature finds and declares that there has been a disturbing
4 increase in lawsuits brought primarily to chill the valid exercise of the constitutional
5 rights of freedom of speech and petition for the redress of grievances. The
6 Legislature finds and declares that it is in the public interest to encourage continued
7 participation in matters of public significance, and that this participation should not
8 be chilled through abuse of the judicial process. To this end, this section shall be
9 construed broadly.

10 (b)(1) A cause of action against a person arising from any act of that person in
11 furtherance of the person’s right of petition or free speech under the United States
12 Constitution or the California Constitution in connection with a public issue shall
13 be subject to a special motion to strike, unless the court determines that the plaintiff
14 has established that there is a probability that the plaintiff will prevail on the claim.

15 (2) In making its determination, the court shall consider the pleadings, and
16 supporting and opposing affidavits stating the facts upon which the liability or
17 defense is based.

18 (3) If the court determines that the plaintiff has established a probability that ~~he~~
19 ~~or she~~ the plaintiff will prevail on the claim, neither that determination nor the fact
20 of that determination shall be admissible in evidence at any later stage of the case,
21 or in any subsequent action, and no burden of proof or degree of proof otherwise
22 applicable shall be affected by that determination in any later stage of the case or in
23 any subsequent proceeding.

24 (c)(1) Except as provided in paragraph (2), in any action subject to subdivision
25 (b), a prevailing defendant on a special motion to strike shall be entitled to recover
26 ~~his or her~~ that defendant’s attorney’s fees and costs. If the court finds that a special
27 motion to strike is frivolous or is solely intended to cause unnecessary delay, the
28 court shall award costs and reasonable attorney’s fees to a plaintiff prevailing on the
29 motion, pursuant to Section 128.5.

30 (2) A defendant who prevails on a special motion to strike in an action subject to
31 paragraph (1) shall not be entitled to attorney’s fees and costs if that cause of action
32 is brought pursuant to Section ~~6259~~, 11130, 11130.3, 54960, or 54960.1 of the
33 Government Code, or pursuant to Chapter 2 (commencing with Section 7923.100)
34 of Part 4 of Division 10 of Title 1 of the Government Code. Nothing in this
35 paragraph shall be construed to prevent a prevailing defendant from recovering
36 attorney’s fees and costs pursuant to ~~subdivision (d) of Section 6259~~ or Section
37 7923.115, 11130.5, or 54960.5, of the Government Code.

38 (d) This section shall not apply to any enforcement action brought in the name of
39 the people of the State of California by the Attorney General, district attorney, or
40 city attorney, acting as a public prosecutor.

41 (e) As used in this section, “act in furtherance of a person’s right of petition or
42 free speech under the United States or California Constitution in connection with a
43 public issue” includes: (1) any written or oral statement or writing made before a

1 legislative, executive, or judicial proceeding, or any other official proceeding
2 authorized by law, (2) any written or oral statement or writing made in connection
3 with an issue under consideration or review by a legislative, executive, or judicial
4 body, or any other official proceeding authorized by law, (3) any written or oral
5 statement or writing made in a place open to the public or a public forum in
6 connection with an issue of public interest, or (4) any other conduct in furtherance
7 of the exercise of the constitutional right of petition or the constitutional right of
8 free speech in connection with a public issue or an issue of public interest.

9 (f) The special motion may be filed within 60 days of the service of the complaint
10 or, in the court’s discretion, at any later time upon terms it deems proper. The motion
11 shall be scheduled by the clerk of the court for a hearing not more than 30 days after
12 the service of the motion unless the docket conditions of the court require a later
13 hearing.

14 (g) All discovery proceedings in the action shall be stayed upon the filing of a
15 notice of motion made pursuant to this section. The stay of discovery shall remain
16 in effect until notice of entry of the order ruling on the motion. The court, on noticed
17 motion and for good cause shown, may order that specified discovery be conducted
18 notwithstanding this subdivision.

19 (h) For purposes of this section, “complaint” includes “cross-complaint” and
20 “petition,” “plaintiff” includes “cross-complainant” and “petitioner,” and
21 “defendant” includes “cross-defendant” and “respondent.”

22 (i) An order granting or denying a special motion to strike shall be appealable
23 under Section 904.1.

24 (j)(1) Any party who files a special motion to strike pursuant to this section, and
25 any party who files an opposition to a special motion to strike, shall, promptly upon
26 so filing, transmit to the Judicial Council, by e-mail or facsimile, a copy of the
27 endorsed, filed caption page of the motion or opposition, a copy of any related notice
28 of appeal or petition for a writ, and a conformed copy of any order issued pursuant
29 to this section, including any order granting or denying a special motion to strike,
30 discovery, or fees.

31 (2) The Judicial Council shall maintain a public record of information transmitted
32 pursuant to this subdivision for at least three years, and may store the information
33 on microfilm or other appropriate electronic media.

34 **Comment.** Section 425.16 is amended to reflect nonsubstantive recodification of the California
35 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
36 Reports __ (2019).

37 The section is also amended to eliminate gendered pronouns.

38 **§ 1985.4 (amended). Procedure for subpoena duces tecum for records maintained by state**
39 **or local agency that contain “personal information” exempt from public disclosure**

40 SEC. ____. Section 1985.4 of the Code of Civil Procedure is amended to read:

41 1985.4. The procedures set forth in Section 1985.3 are applicable to a subpoena
42 duces tecum for records containing “personal information,” as defined in Section

1 1798.3 of the Civil Code ~~which~~ that are otherwise exempt from public disclosure
2 under ~~Section 6254~~ a provision listed in Section 7920.505 of the Government Code
3 ~~which~~ that are maintained by a state or local agency as defined in Section ~~6252~~
4 7920.510 or 7920.540 of the Government Code. For the purposes of this section,
5 “witness” means a state or local agency as defined in Section ~~6252~~ 7920.510 or
6 7920.540 of the Government Code and “consumer” means any employee of any
7 state or local agency as defined in Section ~~6252~~ 7920.510 or 7920.540 of the
8 Government Code, or any other natural person. Nothing in this section shall pertain
9 to personnel records as defined in Section 832.8 of the Penal Code.

10 **Comment.** Section 1985.4 is amended to reflect nonsubstantive recodification of the California
11 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
12 Reports __ (2019).

13 The section is also amended to make grammatical corrections.

14 CORPORATIONS CODE

15 § **25247 (amended). Disclosure of information**

16 SEC. ____. Section 25247 of the Corporations Code is amended to read:

17 25247. (a) Upon written or oral request, the commissioner shall make available to
18 any person the information specified in Section ~~6254.12~~ 7929.005 of the
19 Government Code and made available through the Public Disclosure Program of the
20 Financial Industry Regulatory Authority with respect to any broker-dealer or agent
21 licensed or regulated under this part. The commissioner shall also make available
22 the current license status and the year of issuance of the license of a broker-dealer.
23 Any information disclosed pursuant to this subdivision shall constitute a public
24 record. Notwithstanding any other law, the commissioner may disclose either orally
25 or in writing that information pursuant to this subdivision. There shall be no liability
26 on the part of, and no cause of action of any nature shall arise against, the state, the
27 Department of Business Oversight, the Commissioner of Business Oversight, or any
28 officer, agent, or employee of the state or the Department of Business Oversight for
29 the release of any false or unauthorized information, unless the release of that
30 information was done with knowledge and malice.

31 (b) Any broker-dealer or agent licensed or regulated under this part shall, upon
32 request, deliver a written notice to any client when a new account is opened stating
33 that information about the license status or disciplinary record of a broker-dealer or
34 an agent may be obtained from the Division of Corporations, or from any other
35 source that provides substantially similar information.

36 (c) The notice provided under subdivision (b) shall contain the office location or
37 telephone number where the information may be obtained.

38 (d) A broker-dealer or agent is exempt from providing the notice required under
39 subdivision (b) if a person who does not have a financial relationship with the
40 broker-dealer or agent, requests only general operational information such as the
41 nature of the broker-dealer’s or agent’s business, office location, hours of operation,

1 basic services, and fees, but does not solicit advice regarding investments or other
2 services offered.

3 (e) Upon written or oral request, the commissioner shall make available to any
4 person the disciplinary records maintained on the Investment Adviser Registration
5 Depository and made available through the Investment Advisor Public Disclosure
6 Internet Web site as to any investment adviser, investment adviser representative,
7 or associated person of an investment adviser licensed or regulated under this part.
8 The commissioner shall also make available the current license status and the year
9 of issuance of the license of an investment adviser. Any information disclosed
10 pursuant to this subdivision shall constitute a public record. Notwithstanding any
11 other law, the commissioner may disclose that information either orally or in writing
12 pursuant to this subdivision. There shall be no liability on the part of, and no cause
13 of action of any nature shall arise against, the state, the Department of Business
14 Oversight, the Commissioner of Business Oversight, or any officer, agent, or
15 employee of the state or the Department of Business Oversight for the release of any
16 false or unauthorized information, unless the release of that information was done
17 with knowledge and malice.

18 (f) Section 461 of the Business and Professions Code shall not apply to the
19 Division of Corporations when using a national, uniform application adopted or
20 approved for use by the Securities and Exchange Commission, the North American
21 Securities Administrators Association, or the Financial Industry Regulatory
22 Authority that is required for participation in the Central Registration Depository or
23 the Investment Adviser Registration Depository.

24 (g) This section shall not require the disclosure of criminal history record
25 information maintained by the Federal Bureau of Investigation pursuant to Section
26 534 of Title 28 of the United States Code, and the rules thereunder, or information
27 not otherwise subject to disclosure under the Information Practices Act of 1977.

28 **Comment.** Section 25247 is amended to reflect nonsubstantive recodification of the California
29 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
30 Reports __ (2019).

31 **§ 28106 (amended). Effect of permitting inspection or copying of record**

32 SEC. ____. Section 28106 of the Corporations Code is amended to read:

33 28106. If the commissioner permits any licensee, any affiliate of the licensee, or
34 any governmental agency to inspect or make copies of any record relating to the
35 licensee or to any director, officer, employee, or affiliate of the licensee, or if the
36 commissioner provides the record, or a copy thereof, to any of those persons,
37 ~~Sections 6254 and 6255~~ Section 7922.000 of the Government Code, subdivision (a)
38 of Section 7922.540 of the Government Code, and each provision listed in Section
39 7920.505 of the Government Code shall continue to apply to the record to the extent
40 that these ~~sections~~ provisions applied to the record prior to that action by the
41 commissioner.

1 **Comment.** Section 28106 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 EDUCATION CODE

5 **§ 5091 (amended). Vacancy in governing board**

6 SEC. ____. Section 5091 of the Education Code is amended to read:

7 5091. (a)(1) If a vacancy occurs, or if a resignation has been filed with the county
8 superintendent of schools containing a deferred effective date, the school district or
9 community college district governing board shall, within 60 days of the vacancy or
10 the filing of the deferred resignation, either order an election or make a provisional
11 appointment to fill the vacancy. A governing board member may not defer the
12 effective date of ~~his or her~~ the member's resignation for more than 60 days after ~~he~~
13 ~~or she~~ the member files the resignation with the county superintendent of schools.

14 (2) In the event that a governing board fails to make a provisional appointment or
15 order an election within the prescribed 60-day period as required by this section, the
16 county superintendent of schools shall order an election to fill the vacancy.

17 (b) When an election is ordered, it shall be held on the next established election
18 date provided pursuant to Chapter 1 (commencing with Section 1000) of Division 1
19 of the Elections Code not less than 130 days after the order of the election.

20 (c)(1) If a provisional appointment is made within the 60-day period, the
21 registered voters of the district may, within 30 days from the date of the
22 appointment, petition for the conduct of a special election to fill the vacancy. A
23 petition shall be deemed to bear a sufficient number of signatures if signed by at
24 least the number of registered voters of the district equal to 1½ percent of the
25 number of registered voters of the district at the time of the last regular election for
26 governing board members, or 25 registered voters, whichever is greater. However,
27 in districts with less than 2,000 registered voters, a petition shall be deemed to bear
28 a sufficient number of signatures if signed by at least 5 percent of the number of
29 registered voters of the district at the time of the last regular election for governing
30 board members.

31 (2) The petition shall be submitted to the county superintendent of schools having
32 jurisdiction who shall have 30 days to verify the signatures. If the petition is
33 determined to be legally sufficient by the county superintendent of schools, the
34 provisional appointment is terminated, and the county superintendent of schools
35 shall order a special election to be conducted no later than the 130th day after the
36 determination. However, if an established election date, as defined in Section 1000
37 of the Elections Code, occurs between the 130th day and the 150th day following
38 the order of the election, the county superintendent of schools may order the special
39 election to be conducted on the established election date.

40 (3) For purposes of this section, “registered voters” means the following:

1 (A) If the district uses the at-large method of election, as defined in subdivision
2 (a) of Section 14026 of the Elections Code, registered voters of the entire school
3 district or community college district.

4 (B) If the district uses district-based elections, as defined in subdivision (b) of
5 Section 14026 of the Elections Code, registered voters of the election district.

6 (d) A provisional appointment made pursuant to subdivision (a) confers all
7 powers and duties of a governing board member upon the appointee immediately
8 following ~~his or her~~ that appointment.

9 (e) A person appointed to fill a vacancy shall hold office only until the next
10 regularly scheduled election for district governing board members that is scheduled
11 130 or more days after the effective date of the vacancy, whereupon an election shall
12 be held to fill the vacancy for the remainder of the unexpired term. A person elected
13 at an election to fill the vacancy shall hold office for the remainder of the term in
14 which the vacancy occurs or will occur.

15 (f)(1) If a petition calling for a special election is circulated, the petition shall meet
16 all of the following requirements:

17 (A) The petition shall contain the estimate of the elections official of the cost of
18 conducting the special election.

19 (B) The name and residence address of at least one, but not more than five, of the
20 proponents of the petition shall appear on the petition, each of which proponents
21 shall be a registered voter of the school district or community college district, as
22 applicable.

23 (C) None of the text or other language of the petition shall appear in less than six-
24 point type.

25 (D) The petition shall be prepared and circulated in conformity with Sections 100
26 and 104 of the Elections Code.

27 (2) If any of the requirements of this subdivision are not met as to any petition
28 calling for a special election, the county superintendent of schools shall not verify
29 the signatures, nor shall any further action be taken with respect to the petition.

30 (3) No person shall permit the list of names on petitions prescribed by this section
31 to be used for any purpose other than qualification of the petition for the purpose of
32 holding an election pursuant to this section.

33 (4) The petition filed with the county superintendent of schools shall be subject to
34 the restrictions in ~~Section 6253.5~~ Article 2 (commencing with Section 7924.100) of
35 Chapter 2 of Part 5 of Division 10 of the Government Code.

36 (g) Elections held pursuant to subdivisions (b) and (c) shall be conducted in as
37 nearly the same manner as practicable as other governing board member elections.

38 **Comment.** Section 5091 is amended to reflect nonsubstantive recodification of the California
39 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
40 Reports __ (2019).

41 The section is also amended to eliminate gendered pronouns.

1 **§ 17250.25 (amended). Procurement process for design-build projects**

2 SEC. _____. Section 17250.25 of the Education Code is amended to read:

3 17250.25. The procurement process for design-build projects shall progress as
4 follows:

5 (a)(1) The school district shall prepare a set of documents setting forth the scope
6 and estimated price of the project. The documents may include, but are not limited
7 to, the size, type, and desired design character of the project, performance
8 specifications covering the quality of materials, equipment, workmanship,
9 preliminary plans or building layouts, or any other information deemed necessary
10 to describe adequately the school district's needs. The performance specifications
11 and any plans shall be prepared by a design professional who is duly licensed and
12 registered in California.

13 (2) The documents shall not include a design-build-operate contract for a project.
14 The documents, however, may include operations during a training or transition
15 period, but shall not include long-term operations for a project.

16 (b) The school district shall prepare and issue a request for qualifications in order
17 to prequalify, or develop a short-list of, the design-build entities whose proposals
18 shall be evaluated for final selection. The request for qualifications shall include,
19 but is not limited to, all of the following elements:

20 (1) Identification of the basic scope and needs of the project or contract, the
21 expected cost range, the methodology that will be used by the school district to
22 evaluate proposals, the procedure for final selection of the design-build entity, and
23 any other information deemed necessary by the school district to inform interested
24 parties of the contracting opportunity.

25 (2) Significant factors that the school district reasonably expects to consider in
26 evaluating qualifications, including technical design and construction expertise,
27 acceptable safety record, and all other nonprice-related factors.

28 (3) A standard template request for statements of qualifications prepared by the
29 school district. In preparing the standard template, the school district may consult
30 with the construction industry, the building trades and surety industry, and other
31 school districts interested in using the authorization provided by this chapter. The
32 template shall require the following information:

33 (A) If the design-build entity is a privately held corporation, limited liability
34 company, partnership, or joint venture, a listing of all of the shareholders, partners,
35 or members known at the time of statement of qualification submission who will
36 perform work on the project.

37 (B) Evidence that the members of the design-build team have completed, or
38 demonstrated the experience, competency, capability, and capacity to complete,
39 projects of similar size, scope, or complexity, and that the proposed key personnel
40 have sufficient experience and training to competently manage and complete the
41 design and construction of the project, and a financial statement that ensures that
42 the design-build entity has the capacity to complete the project.

1 (C) The licenses, registration, and credentials required to design and construct the
2 project, including, but not limited to, information on the revocation or suspension
3 of any license, credential, or registration.

4 (D) Evidence that establishes that the design-build entity has the capacity to
5 obtain all required payment and performance bonding, liability insurance, and errors
6 and omissions insurance.

7 (E) Information concerning workers' compensation experience history and a
8 worker safety program.

9 (F) If the proposed design-build entity is a corporation, limited liability company,
10 partnership, joint venture, or other legal entity, a copy of the organizational
11 documents or agreement committing to form the organization.

12 (G) An acceptable safety record. A proposer's safety record shall be deemed
13 acceptable if its experience modification rate for the most recent three-year period
14 is an average of 1.00 or less, and its average total recordable injury or illness rate
15 and average lost work rate for the most recent three-year period does not exceed the
16 applicable statistical standards for its business category, or if the proposer is a party
17 to an alternative dispute resolution system, as provided for in Section 3201.5 of the
18 Labor Code.

19 (4)(A) The information required under this subdivision shall be certified under
20 penalty of perjury by the design-build entity and its general partners or joint venture
21 members.

22 (B) Information required under this subdivision that is not otherwise a public
23 record under the California Public Records Act (~~Chapter 3.5 (commencing with~~
24 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
25 Title 1 of the Government Code) shall not be open to public inspection.

26 (c)(1) A design-build entity shall not be prequalified or shortlisted unless the
27 entity provides an enforceable commitment to the school district that the entity and
28 its subcontractors at every tier will use a skilled and trained workforce to perform
29 all work on the project or contract that falls within an apprenticeable occupation in
30 the building and construction trades, in accordance with Chapter 2.9 (commencing
31 with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

32 (2) This subdivision shall not apply if any of the following requirements are met:

33 (A) The school district has entered into a project labor agreement that will bind
34 all contractors and subcontractors performing work on the project or contract to use
35 a skilled and trained workforce, and the entity agrees to be bound by that project
36 labor agreement.

37 (B) The project or contract is being performed under the extension or renewal of
38 a project labor agreement that was entered into by the school district prior to January
39 1, 2017.

40 (C) The entity has entered into a project labor agreement that will bind the entity
41 and all its subcontractors at every tier performing the project or contract to use a
42 skilled and trained workforce.

1 (3) For purposes of this subdivision, “project labor agreement” has the same
2 meaning as in paragraph (1) of subdivision (b) of Section 2500 of the Public
3 Contract Code.

4 (d) Based on the documents prepared as described in subdivision (a), the school
5 district shall prepare a request for proposals that invites prequalified or short-listed
6 entities to submit competitive sealed proposals in the manner prescribed by the
7 school district. The request for proposals shall include, but need not be limited to,
8 the following elements:

9 (1) Identification of the basic scope and needs of the project or contract, the
10 estimated cost of the project, the methodology that will be used by the school district
11 to evaluate proposals, whether the contract will be awarded on the basis of low bid
12 or best value, and any other information deemed necessary by the school district to
13 inform interested parties of the contracting opportunity.

14 (2) Significant factors that the school district reasonably expects to consider in
15 evaluating proposals, including, but not limited to, cost or price and all nonprice-
16 related factors.

17 (3) The relative importance or the weight assigned to each of the factors identified
18 in the request for proposals.

19 (4) Where a best value selection method is used, the school district may reserve
20 the right to request proposal revisions and hold discussions and negotiations with
21 responsive proposers, in which case the school district shall so specify in the request
22 for proposals and shall publish separately or incorporate into the request for
23 proposals applicable procedures to be observed by the school district to ensure that
24 any discussions or negotiations are conducted in good faith.

25 (e) For those projects utilizing low bid as the final selection method, the
26 competitive bidding process shall result in lump-sum bids by the prequalified or
27 short-listed design-build entities, and awards shall be made to the design-build
28 entity that is the lowest responsible bidder.

29 (f) For those projects utilizing best value as a selection method, the design-build
30 competition shall progress as follows:

31 (1) Competitive proposals shall be evaluated by using only the criteria and
32 selection procedures specifically identified in the request for proposals. The
33 following minimum factors, however, shall be weighted as deemed appropriate by
34 the school district:

35 (A) Price, unless a stipulated sum is specified.

36 (B) Technical design and construction expertise.

37 (C) Life-cycle costs over 15 or more years.

38 (2) Pursuant to subdivision (d), the school district may hold discussions or
39 negotiations with responsive proposers using the process articulated in the school
40 district’s request for proposals.

41 (3) When the evaluation is complete, the responsive proposers shall be ranked
42 based on a determination of value provided, provided that no more than three
43 proposers are required to be ranked.

1 (4) The award of the contract shall be made to the responsible design-build entity
2 whose proposal is determined by the school district to have offered the best value
3 to the public.

4 (5) Notwithstanding any other provision of law, upon issuance of a contract
5 award, the school district shall publicly announce its award, identifying the design-
6 build entity to which the award is made, along with a statement regarding the basis
7 of the award.

8 (6) The statement regarding the school district's contract award, described in
9 paragraph (5), and the contract file shall provide sufficient information to satisfy an
10 external audit.

11 **Comment.** Section 17250.25 is amended to reflect nonsubstantive recodification of the
12 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
13 Comm'n Reports __ (2019).

14 **§ 17611 (amended). Records of pesticide use at schoolsite**

15 SEC. _____. Section 17611 of the Education Code is amended to read:

16 17611. (a) Each schoolsite shall maintain records of all pesticide use at the
17 schoolsite for a period of four years, and shall make this information available to
18 the public, upon request, pursuant to the California Public Records Act (~~Chapter 3.5~~
19 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
20 Section 7920.000) of Title 1 of the Government Code). A schoolsite may meet the
21 requirements of this section by retaining a copy of the warning sign posted for each
22 application required pursuant to Section 17612, and recording on that copy the
23 amount of the pesticide used.

24 (b)(1) If a schoolsite chooses to use a pesticide not included within Section
25 17610.5, at the end of each calendar year, or more often at the discretion of a school
26 designee, the school designee shall submit to the Director of Pesticide Regulation a
27 copy of the records of all pesticide use at the schoolsite for the calendar year. The
28 records submitted to the Director of Pesticide Regulation shall be submitted using a
29 form prepared by the Department of Pesticide Regulation similar to that prepared
30 pursuant to subdivision (b) of Section 13186 of the Food and Agricultural Code,
31 and shall include all of the following:

32 (A) The name of a school designee for the schoolsite.

33 (B) The name and address of the schoolsite, or the department code or licensed
34 child day care facility number indicating if the site is an elementary or secondary
35 school facility, or a child day care facility.

36 (C) The product name, manufacturer's name, the United States Environmental
37 Protection Agency's product registration number, and the amount used, including
38 the unit of measurement.

39 (D) The date, time, and location of application.

40 (2) The report submitted pursuant to paragraph (1) shall not include pesticide use
41 reported pursuant to subdivision (c) of Section 13186 of the Food and Agricultural
42 Code.

1 **Comment.** Section 17611 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 **§ 24214.5 (amended). Postretirement matters**

5 SEC. ____. Section 24214.5 of the Education Code is amended to read:

6 24214.5. (a)(1) Notwithstanding subdivision (f) of Section 24214, the
7 postretirement compensation limitation that shall apply to the compensation paid in
8 cash to the retired member for performance of retired member activities, excluding
9 reimbursements paid by an employer for expenses incurred by the member in which
10 payment of the expenses by the member is substantiated, shall be zero dollars (\$0)
11 during the first 180 calendar days after the most recent retirement of a member
12 retired for service under this part.

13 (2) For written agreements pertaining to the performance of retired member
14 activities entered into, extended, renewed, or amended on or after January 1, 2014,
15 the limitation in paragraph (1) shall also apply to payments made for the
16 performance of retired member activities, including, but not limited to, those for
17 participation in a deferred compensation plan; to purchase an annuity contract, tax-
18 deferred retirement plan, or insurance program; and for contributions to a plan that
19 meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of
20 Title 26 of the United States Code when the cost is covered by an employer.

21 (b) If the retired member has attained normal retirement age at the time the
22 compensation is earned, subdivision (a) shall not apply and Section 24214 shall
23 apply if the appointment has been approved by the governing body of the employer
24 in a public meeting, as reflected in a resolution adopted by the governing body of
25 the employer prior to the performance of retired member activities, expressing its
26 intent to seek an exemption from the limitation specified in subdivision (a).
27 Approval of the appointment may not be placed on a consent calendar.
28 Notwithstanding any other provision of ~~Article 3.5 (commencing with Section~~
29 ~~6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of
30 the Government Code or any state or federal law incorporated by ~~subdivision (k) of~~
31 ~~Section 6254~~ Section 7927.705 of the Government Code, the resolution shall be
32 subject to disclosure by the entity adopting the resolution and the system. The
33 resolution shall include the following specific information and findings:

34 (1) The nature of the employment.

35 (2) A finding that the appointment is necessary to fill a critically needed position
36 before 180 calendar days have passed.

37 (3) A finding that the member is not ineligible for application of this subdivision
38 pursuant to subdivision (d).

39 (4) A finding that the termination of employment of the retired member with the
40 employer is not the basis for the need to acquire the services of the member.

1 (c) Subdivision (b) shall not apply to a retired member whose termination of
2 employment with the employer is the basis for the need to acquire the services of
3 the member.

4 (d) Subdivision (b) shall not apply if the retired member received additional
5 service credit pursuant to Section 22714 or 22715 or received from any public
6 employer any financial inducement to retire. For purposes of this section, “financial
7 inducement to retire” includes, but is not limited to, any form of compensation or
8 other payment that is paid directly or indirectly by a public employer to the member,
9 even if not in cash, either before or after retirement, if the participant retires for
10 service on or before a specific date or specific range of dates established by a public
11 employer on or before the date the inducement is offered. The system shall liberally
12 interpret this subdivision to further the Legislature’s intent to make subdivision (b)
13 inapplicable to members if the member received a financial incentive from any
14 public employer to retire or otherwise terminate employment with a public
15 employer.

16 (e) The Superintendent, the county superintendent of schools, or the chief
17 executive officer of a community college shall submit all documentation required
18 by the system to substantiate the eligibility of the retired member for application of
19 subdivision (b), including, but not limited to, the resolution adopted pursuant to that
20 subdivision.

21 (f) The documentation required by this section shall be received by the system
22 prior to the retired member’s performance of retired member activities.

23 (g) Within 30 calendar days after the receipt of all documentation required by the
24 system pursuant to this section, the system shall inform the entity seeking
25 application of the exemption specified in subdivision (b), and the retired member
26 whether the compensation paid to the member will be subject to the limitation
27 specified in subdivision (a).

28 (h) If a member retired for service under this part earns compensation for
29 performing retired member activities in excess of the limitation specified in
30 subdivision (a), the member’s retirement allowance shall be reduced by the amount
31 of the excess compensation. The amount of the reduction in an individual month
32 shall be no more than the monthly allowance payable in that month, and the total
33 amount of the reduction shall not exceed the amount of the allowance payable
34 during the first 180 calendar days, after a member retired for service under this part.

35 (i) The amendments to this section enacted during the first year of the 2013–14
36 Regular Session shall apply to compensation paid on or after January 1, 2014.

37 **Comment.** Section 24214.5 is amended to reflect nonsubstantive recodification of the California
38 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
39 Reports __ (2019).

40 **§ 26812 (amended). Retired participant activities**

41 SEC. _____. Section 26812 of the Education Code is amended to read:

1 26812. (a) A participant retired for service under this part may perform retired
2 participant activities, but the participant shall not make contributions to the plan or
3 accrue service credit under the Defined Benefit Program based on compensation
4 earned from that service. The employer shall maintain accurate records of the
5 earnings of the retired participant and report those earnings monthly to the system
6 and retired participant.

7 (b) If a participant is retired for service under this part, the annualized rate of pay
8 for retired participant activities performed by that participant shall not be less than
9 the minimum, nor exceed the maximum, paid by the employer to other employees
10 performing comparable duties.

11 (c) A participant retired for service under this part shall not be required to reinstate
12 for performing retired participant activities.

13 (d)(1) If all of the following apply to a participant retired for service under this
14 part, the participant's annuity shall be reduced by the amount of the compensation:

15 (A) The participant is receiving an annuity under the Cash Balance Benefit
16 Program.

17 (B) The participant is below normal retirement age or retired on or after January
18 1, 2014.

19 (C) The participant earns compensation paid in cash for performing retired
20 participant activities, excluding reimbursements paid by an employer for expenses
21 incurred by the participant in which payment of the expenses by the participant is
22 substantiated.

23 (2) The reduction in paragraph (1) shall only be made for compensation paid in
24 cash during the first 180 calendar days after a participant retired for service under
25 this part. The amount of the reduction in an individual month shall be no more than
26 the monthly annuity payable in that month, and the total amount of the reduction
27 shall not exceed the amount of the annuity payable during the first 180 calendar
28 days after a participant retired for service under this part. For written agreements
29 pertaining to the performance of retired participant activities entered into, extended,
30 renewed, or amended on or after January 1, 2014, the reduction in paragraph (1)
31 shall also be made for payments made for the performance of retired participant
32 activities, including, but not limited to, those for participation in a deferred
33 compensation plan; to purchase an annuity contract, tax-deferred retirement plan, or
34 insurance program; and for contributions to a plan that meets the requirements of
35 Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States
36 Code when the cost is covered by an employer.

37 (3) Subject to the limitation described in paragraph (4), if all of the following
38 apply to a participant retired for service under this part, the participant's application
39 for the retirement benefit shall automatically be canceled:

40 (A) The participant is anticipated to receive the retirement benefit in the form of
41 a lump-sum payment.

42 (B) The participant earns compensation for performing creditable service within
43 180 calendar days following the date of termination of employment.

1 (4) Paragraph (3) does not apply if the participant has reached that age at which
2 the Internal Revenue Code of 1986 requires a distribution of benefits. A participant
3 who has reached that age shall receive a distribution commencing on the earlier of
4 the date that the participant has met the conditions of subdivision (b) of Section
5 26806 or the conditions of subdivision (c) of Section 26004.

6 (e) If the participant has attained normal retirement age at the time the
7 compensation is earned, subdivision (d) shall not apply if the appointment has been
8 approved by the governing body of the employer in a public meeting, as reflected
9 in a resolution adopted by the governing body of the employer prior to the
10 performance of retired participant activities, expressing its intent to seek an
11 exemption from the limitation specified in subdivision (d). Approval of the
12 appointment shall not be placed on a consent calendar. Notwithstanding any other
13 provision of ~~Article 3.5 (commencing with Section 6250) of Division 7~~ Division 10
14 (commencing with Section 7920.000) of Title 1 of the Government Code or any
15 state or federal law incorporated by ~~subdivision (k) of Section 6254~~ Section
16 7927.705 of the Government Code, the resolution shall be subject to disclosure by
17 the entity adopting the resolution and the system. The resolution shall include the
18 following specific information and findings:

19 (1) The nature of the employment.

20 (2) A finding that the appointment is necessary to fill a critically needed position
21 before 180 calendar days have passed.

22 (3) A finding that the participant is not ineligible for application of this
23 subdivision pursuant to subdivision (g).

24 (4) A finding that the termination of employment of the retired participant with
25 the employer is not the basis for the need to acquire the services of the participant.

26 (f) Subdivision (e) shall not apply to a retired participant whose termination of
27 employment with the employer is the basis for the need to acquire the services of
28 the participant.

29 (g) Subdivision (e) shall not apply if the participant received additional service
30 credit pursuant to Section 22714 or 22715 or received from any public employer
31 any financial inducement to retire. For purposes of this section, “financial
32 inducement to retire” includes, but is not limited to, any form of compensation or
33 other payment that is paid directly or indirectly by a public employer to the
34 participant, even if not in cash, either before or after retirement, if the participant
35 retires for service on or before a specific date or specific range of dates established
36 by a public employer on or before the date the inducement is offered. The system
37 shall liberally interpret this subdivision to further the Legislature’s intent to make
38 subdivision (e) inapplicable to participants if the participant received a financial
39 incentive from any public employer to retire or otherwise terminate employment
40 with a public employer.

41 (h) The superintendent, the county superintendent of schools, or the chief
42 executive officer of a community college shall submit all documentation required
43 by the system to substantiate the eligibility of the retired participant for application

1 of subdivision (e), including, but not limited to, the resolution adopted pursuant to
2 that subdivision.

3 (i) The documentation required by this section shall be received by the system
4 prior to the retired participant's performance of retired participant activities.

5 (j) Within 30 calendar days of the receipt of all documentation required by the
6 system pursuant to this section, the system shall inform the entity seeking
7 application of the exemption specified in subdivision (e) and the retired participant
8 whether the compensation paid to the participant will be subject to the limitation
9 specified in subdivision (d).

10 **Comment.** Section 26812 is amended to reflect nonsubstantive recodification of the California
11 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
12 Reports __ (2019).

13 **§ 33133 (amended). Information to strengthen and promote opportunity for quality**
14 **involvement by parents and guardians in schoolsite councils**

15 SEC. ____. Section 33133 of the Education Code is amended to read:

16 33133. (a) The Superintendent of Public Instruction shall develop information,
17 and submit this information to the State Board of Education for its approval. This
18 information shall be for distribution to school districts and, to the extent feasible,
19 for posting on the State Department of Education Internet website, to strengthen and
20 promote the opportunity for quality involvement by parents and guardians in
21 schoolsite councils whose composition meets the requirements of Section 52012. In
22 developing the information, the Superintendent of Public Instruction may use
23 documents currently available from nonprofit organizations, such as Ed Source and
24 the California Parent Teacher Association, or state and local government agencies.

25 (b) The information shall be provided to each school district and county office of
26 education and may be made available for parents and guardians who are members
27 of schoolsite councils whose composition meets the requirements of Section 52012
28 and shall cover at least the following topics:

29 (1) Operation of schoolsite advisory bodies, including bylaws, group
30 responsibilities, and roles.

31 (2) Public meeting notice requirements.

32 (3) Information about the total budget of a school district and how funds are
33 distributed to schoolsite advisory bodies, including, but not limited to, the amount
34 of funds distributed to schoolsites.

35 (4) Information about the school district and state standards of expected pupil
36 achievement in core academic subjects for each grade level.

37 (5) Instruction on how to interpret data from the pupil performance measures
38 selected by the school district.

39 (6) A definition of "significant gains made by pupils" toward meeting the
40 standards of expected pupil achievement.

41 (7) Research-based information about curriculum and teaching strategies that will
42 improve pupil performance.

1 (8) The right to information under the Public Records Act set forth in ~~Chapter 3.5~~
2 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
3 Section 7920.000) of Title 1 of the Government Code.

4 (9) Information regarding the educational and training needs for pupils, as
5 identified and expressed by local employers, former pupils of the school district,
6 and postsecondary education institutions.

7 (c) In addition to the composition set forth in Section 52012, a schoolsite council
8 at the middle school level may, but is not required to, include pupil representation.

9 **Comment.** Section 33133 is amended to reflect nonsubstantive recodification of the California
10 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
11 Reports __ (2019).

12 **§ 33353 (amended). California Interscholastic Federation**

13 SEC. _____. Section 33353 of the Education Code is amended to read:

14 33353. (a) The California Interscholastic Federation is a voluntary organization
15 that consists of school and school-related personnel with responsibility for
16 administering interscholastic athletic activities in secondary schools. It is the intent
17 of the Legislature that the California Interscholastic Federation, in consultation with
18 the department, implement the following policies:

19 (1) Give the governing boards of school districts specific authority to select their
20 athletic league representatives.

21 (2) Require that all league, section, and state meetings affiliated with the
22 California Interscholastic Federation be subject to the notice and hearing
23 requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section
24 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

25 (3) Establish a neutral final appeals body to hear complaints related to
26 interscholastic athletic policies.

27 (4) Provide information to parents and pupils regarding the state and federal
28 complaint procedures for discrimination complaints arising out of interscholastic
29 athletic activities.

30 (5) Comply with the California Public Records Act (~~Chapter 3.5 (commencing~~
31 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
32 of Title 1 of the Government Code), and in doing so, as a third-party recipient of
33 pupil and school personnel information, be afforded the same public records
34 disclosure exemptions as are afforded to school districts, in order to protect the
35 confidentiality of pupil and school personnel records and information.

36 (b)(1) The California Interscholastic Federation shall report to the appropriate
37 policy committees of the Legislature and the Governor on its evaluation and
38 accountability activities undertaken pursuant to this section on or before January 1,
39 2023, and on or before January 1 every seven years thereafter. This report shall
40 include, but not be limited to, the goals and objectives of the California
41 Interscholastic Federation with regard to, and the status of, all of the following:

1 (A) The governing structure of the California Interscholastic Federation, and the
2 effectiveness of that governance structure in providing leadership for interscholastic
3 athletics in secondary schools.

4 (B) Methods to facilitate communication with agencies, organizations, and public
5 entities whose functions and interests interface with the California Interscholastic
6 Federation.

7 (C) The quality of coaching and officiating, including, but not limited to,
8 professional development for coaches and athletic administrators, and parent
9 education programs.

10 (D) Gender equity in interscholastic athletics, including, but not limited to, the
11 number of male and female pupils participating in interscholastic athletics in
12 secondary schools, and action taken by the California Interscholastic Federation in
13 order to ensure compliance with Title IX of the federal Education Amendments of
14 1972 (20 U.S.C. Sec. 1681 et seq.).

15 (E) Health and safety of pupils, coaches, officials, and spectators.

16 (F) The economic viability of interscholastic athletics in secondary schools,
17 including, but not limited to, the promotion and marketing of interscholastic
18 athletics.

19 (G) New and continuing programs available to pupil athletes.

20 (H) Awareness and understanding of emerging issues related to interscholastic
21 athletics in secondary schools.

22 (2) It is the intent of the Legislature that the California Interscholastic Federation
23 accomplish all of the following:

24 (A) During years in which the California Interscholastic Federation is not required
25 to report to the Legislature and the Governor pursuant to paragraph (1), it shall hold
26 a public comment period relating to that report at three regularly scheduled
27 federation council meetings per year.

28 (B) Annually allow public comment on the policies and practices of the California
29 Interscholastic Federation at a regularly scheduled federation council meeting.

30 (C) Require sections of the California Interscholastic Federation to allow public
31 comment on the policies and practices of the California Interscholastic Federation
32 and its sections, and the report required pursuant to paragraph (1), at each regularly
33 scheduled section meeting.

34 (D) Engage in a comprehensive outreach effort to promote the public hearings
35 described in subparagraphs (A) and (C).

36 (3) Upon receiving a report from the California Interscholastic Federation
37 pursuant to paragraph (1), the appropriate policy committees of the Legislature shall
38 hold a joint hearing at which the California Interscholastic Federation shall testify
39 and members of the public shall be encouraged to testify on information in the
40 report, including, but not limited to, the information required in paragraph (1).

41 **Comment.** Section 33353 is amended to reflect nonsubstantive recodification of the California
42 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
43 Reports __ (2019).

1 § 35147 (amended). Meeting of council or committee

2 SEC. _____. Section 35147 of the Education Code is amended to read:

3 35147. (a) Except as specified in this section, any meeting of the councils or
4 committees specified in subdivision (b) is exempt from the provisions of this article,
5 the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120)
6 of Chapter 1 of Division 3 of Title 2 of the Government Code), and the Ralph M.
7 Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of
8 the Government Code).

9 (b) The councils and schoolsite advisory committees established pursuant to
10 Sections 52063, 52069, 52176, and 52852, subdivision (b) of Section 54425,
11 Sections 54444.2 and 62002.5, and committees formed pursuant to Section 11503
12 are subject to this section.

13 (c)(1) Any meeting held by a council or committee specified in subdivision (b)
14 shall be open to the public, and any member of the public shall be able to address
15 the council or committee during the meeting on any item within the subject matter
16 jurisdiction of the council or committee. Notice of the meeting shall be posted at the
17 schoolsite, or other appropriate place accessible to the public, at least 72 hours
18 before the time set for the meeting. The notice shall specify the date, time, and
19 location of the meeting and contain an agenda describing each item of business to
20 be discussed or acted upon. The council or committee may not take any action on
21 any item of business unless that item appeared on the posted agenda or unless the
22 council or committee members present, by unanimous vote, find that there is a need
23 to take immediate action and that the need for action came to the attention of the
24 council or committee subsequent to the posting of the agenda.

25 (2) Questions or brief statements made at a meeting by members of the council,
26 committee, or public that do not have a significant effect on pupils or employees in
27 the school or school district, or that can be resolved solely by the provision of
28 information, need not be described on an agenda as items of business. If a council
29 or committee violates the procedural meeting requirements of this section, upon
30 demand of any person, the council or committee shall reconsider the item at its next
31 meeting, after allowing for public input on the item.

32 (d) Any materials provided to a schoolsite council shall be made available to any
33 member of the public who requests the materials pursuant to the California Public
34 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
35 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

36 **Comment.** Section 35147 is amended to reflect nonsubstantive recodification of the California
37 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
38 Reports __ (2019).

39 § 44438 (amended). Private admonition

40 SEC. _____. Section 44438 of the Education Code is amended to read:

41 44438. (a) “Private admonition,” as used in this article and in Article 3
42 (commencing with Section 44240) of Chapter 2, is a warning, in writing, to the

1 applicant or credential holder that states in ordinary and concise language the act or
2 omission of the applicant or credential holder and further states that repetition of
3 ~~such that~~ act or omission may result in denial, suspension, or revocation of the
4 credential.

5 (b) The private admonition shall be included in the applicant’s or credential
6 holder’s file, maintained by the commission.

7 (c) The applicant’s or credential holder’s employer at the time of admonition shall
8 receive a copy of the admonition and shall not make ~~such that~~ copy accessible or
9 disclose the contents thereof, unless the applicant or credential holder consents, in
10 writing, thereto.

11 (d) For purposes of ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
12 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
13 Code, the private admonition is deemed a personnel record within the meaning of
14 ~~subdivision (e) of Section 6254~~ Section 7927.700 of the Government Code.

15 (e) The commission and the applicant’s or credential holder’s employer shall
16 expunge all records pertaining to the private admonition maintained in ~~his or her~~ the
17 applicant’s or credential holder’s files pursuant to ~~subdivisons~~ subdivisions (b) and
18 (c) at the expiration of three years, so long as there is no recurrence of ~~such an~~ the
19 offense.

20 **Comment.** Section 44438 is amended to reflect nonsubstantive recodification of the California
21 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
22 Reports __ (2019).

23 The section is also amended to correct a spelling error and make other technical changes.

24 **§ 49006 (amended). Use of behavioral restraints and seclusion for pupils**

25 SEC. ____. Section 49006 of the Education Code is amended to read:

26 49006. (a) A local educational agency that meets the definition of a “local
27 educational agency” specified in Section 300.28 of Title 34 of the Code of Federal
28 Regulations shall collect and, no later than three months after the end of a school
29 year, report to the department annually on the use of behavioral restraints and
30 seclusion for pupils enrolled in or served by the local educational agency for all or
31 part of the prior school year.

32 (b) The report required pursuant to subdivision (a) shall include all of the
33 following information, disaggregated by race or ethnicity, and gender:

34 (1) The number of pupils subjected to mechanical restraint, with separate counts
35 for pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of
36 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and
37 pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation
38 Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

39 (2) The number of pupils subjected to physical restraint, with separate counts for
40 pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973
41 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils

1 who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of
2 1973 (29 U.S.C. Sec. 794) or an individualized education program.

3 (3) The number of pupils subjected to seclusion, with separate counts for pupils
4 with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29
5 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who
6 do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973
7 (29 U.S.C. Sec. 794) or an individualized education program.

8 (4) The number of times mechanical restraint was used on pupils, with separate
9 counts for the number of times mechanical restraint was used on pupils with a plan
10 pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec.
11 794), pupils with an individualized education program, and pupils who do not have
12 a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C.
13 Sec. 794) or an individualized education program.

14 (5) The number of times physical restraint was used on pupils, with separate
15 counts for the number of times physical restraint was used on pupils with a plan
16 pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec.
17 794), pupils with an individualized education program, and pupils who do not have
18 a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C.
19 Sec. 794) or an individualized education program.

20 (6) The number of times seclusion was used on pupils, with separate counts for
21 the number of times seclusion was used on pupils with a plan pursuant to Section
22 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an
23 individualized education program, and pupils who do not have a plan pursuant to
24 Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an
25 individualized education program.

26 (c) Notwithstanding any other law, the data collected and reported pursuant to this
27 section shall be available as a public record pursuant to ~~Chapter 3.5 (commencing~~
28 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
29 of Title 1 of the Government Code.

30 (d) No later than three months after the report is due to the department pursuant
31 to subdivision (a), the department shall post the data from the report annually on its
32 Internet Web site.

33 **Comment.** Section 49006 is amended to reflect nonsubstantive recodification of the California
34 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
35 Reports __ (2019).

36 **§ 49060 (amended). Confidentiality of pupil records**

37 SEC. _____. Section 49060 of the Education Code is amended to read:

38 49060. (a) It is the intent of the Legislature to resolve potential conflicts between
39 California law and the provisions of Public Law 93-380 regarding parental access
40 to, and the confidentiality of, pupil records in order to insure the continuance of
41 federal education funds to public educational institutions within the state, and to
42 revise generally and update the law relating to ~~such~~ those records.

1 (b) This chapter applies to public agencies that provide educationally related
2 services to pupils with disabilities pursuant to Chapter 26.5 (commencing with
3 Section 7570) of Division 7 of Title 1 of the Government Code and to public
4 agencies that educate pupils with disabilities in state hospitals or developmental
5 centers and in youth and adult facilities.

6 (c) This chapter shall have no effect regarding public community colleges, other
7 public or private institutions of higher education, other governmental or private
8 agencies ~~which~~ that receive federal education funds unless described herein, or,
9 except for Sections 49068 and 49069 and subdivision (b)(5) of Section 49076,
10 private schools.

11 (d) The provisions of this chapter shall prevail over the provisions of Section
12 12400 of this code and ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
13 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
14 Code to the extent that they may pertain to access to pupil records.

15 **Comment.** Section 49060 is amended to reflect nonsubstantive recodification of the California
16 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
17 Reports __ (2019).

18 The section is also amended to insert subdivision labels and make other technical changes.

19 **§ 49562 (amended). Participation in school meal program**

20 SEC. ____. Section 49562 of the Education Code is amended to read:

21 49562. (a) The department, in consultation with the State Department of Health
22 Care Services, shall develop and implement a process to use the participation data
23 from the Medi-Cal program administered pursuant to Chapter 7 (commencing with
24 Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, to verify
25 income as established in the federal Child Nutrition and WIC Reauthorization Act
26 of 2004 (Public Law 108-265) and, to the extent permitted under federal law,
27 directly certify children whose families meet the applicable income criteria into the
28 school meal program.

29 (b) The department shall share the participation data described in subdivision (a)
30 with local educational agencies. A local educational agency that participates in a
31 federal school meal program shall use the participation data described in subdivision
32 (a), commencing with the participation data of pupils in the 2017–18 school year,
33 to directly certify pupils eligible for free and reduced-price school meals, to the
34 extent permitted under federal law.

35 (c) In the operation of this process, the department shall limit the information
36 needed from the State Department of Health Care Services to identify families
37 whose income falls below the eligibility cutoff for free or reduced-price meals, and
38 utilize the least amount of information needed to facilitate a match of local school
39 records. The State Department of Health Care Services shall conduct the data match
40 of local school records and return a list to the department, including only the data
41 fields submitted by the department and an indicator of program eligibility, as
42 required by federal law.

1 (d) The department and the State Department of Health Care Services shall design
2 this process to maintain pupil privacy and the privacy of Medi-Cal recipients by
3 establishing privacy and confidentiality procedures consistent with all applicable
4 state and federal laws. Local educational agencies shall maintain pupil privacy and
5 the privacy of Medi-Cal recipients through privacy and confidentiality procedures
6 consistent with applicable state and federal laws. The department and local
7 educational agencies shall utilize appropriate technical and security safeguards to
8 ensure any Medi-Cal participation data is protected, consistent with applicable state
9 and federal laws. To the extent permitted by state and federal law, the department
10 and the State Department of Health Care Services may review the data only for the
11 purposes of improving the effectiveness of the data matches made pursuant to this
12 section and Section 49561.

13 (e)(1) The participation data described in subdivision (a) is exempt from the
14 disclosure requirements of the California Public Records Act (~~Chapter 3.5~~
15 ~~(commencing with Section 6250)~~ of ~~Division 7~~ Division 10 (commencing with
16 Section 7920.000) of Title 1 of the Government Code). The participation data
17 described in subdivision (a) shall be used only for the purposes of direct certification
18 pursuant to this section, shall not be open to the public for inspection, and shall not
19 be disclosed to any other party without the written consent of the parent or legal
20 guardian of the pupil, except for the purpose of directly certifying pupils for free
21 and reduced-price meals pursuant to this section or as otherwise required or
22 authorized by law or state or federal court order.

23 (2) This subdivision does not prohibit the disclosure of aggregate data that does
24 not reveal personally identifying information about a pupil or ~~his or her~~ a pupil's
25 family.

26 (f) The department specifically shall ensure that the process, and use and sharing
27 of participation data from the Medi-Cal program, conforms to the federal Health
28 Insurance Portability and Accountability Act of 1996 (Public Law 104-191), the
29 federal Health Information Technology for Economic and Clinical Health Act
30 (Public Law 111-5) and its implementing regulations, and the Information Practices
31 Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of
32 Division 3 of the Civil Code), by using strategies employed by other states'
33 Medicaid verification projects or by developing a new strategy that ensures
34 conformity. If applicable, Medi-Cal participation data shall also be subject to
35 Section 49602 and its implementing regulations.

36 (g) The department shall seek all necessary approvals to establish this process and
37 shall apply for available federal funds to support the work of this process.

38 (h) This section shall become operative upon the receipt of federal funds to assist
39 the state in implementing the provisions of this section.

40 **Comment.** Section 49562 is amended to reflect nonsubstantive recodification of the California
41 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
42 Reports __ (2019).

43 The statute is also amended to eliminate gendered pronouns.

1 **§ 54004.1 (amended). Allocation of funds**

2 SEC. _____. Section 54004.1 of the Education Code is amended to read:

3 54004.1. For fiscal year 1979–80 and each year thereafter, the Superintendent of
4 Public Instruction shall apportion funds available for programs in accord with
5 procedures specified in this chapter and rules and regulations established by the
6 State Board of Education. Funds shall be allocated to each district within its
7 entitlement based upon the following:

8 (a) A district allocation plan developed pursuant to Sections 54004.3, 54004.5,
9 and 54004.7, which shall be submitted to the Superintendent of Public Instruction
10 and approved by the State Board of Education.

11 (b) A school plan, including any modification for each school receiving funds
12 allocated pursuant to Sections 54004.5 and 54004.7, which has been approved by
13 the governing board of the school district and is retained at the school site and at the
14 school district office. This plan shall be available to the Superintendent of Public
15 Instruction upon demand and shall be made available to the public on a reasonable
16 basis pursuant to the provisions of the California Public Records Act, ~~Chapter 3.5~~
17 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
18 Section 7920.000) of Title 1 of the Government Code. The plan shall include, but
19 not be limited to:

20 (1) An explicit statement of what the school seeks to accomplish.

21 (2) A description of the program and activities designed to achieve these purposes.

22 (3) A planned program of annual evaluation, including a statement of criteria to
23 be used to measure the effectiveness of the program.

24 (c) Schools ~~which~~ that provide programs pursuant to subdivision (a) of Section
25 52165 shall include ~~such~~ those programs in the school plan.

26 **Comment.** Section 54004.1 is amended to reflect nonsubstantive recodification of the California
27 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
28 Reports __ (2019).

29 The section is also amended to make technical changes.

30 **§ 67380 (amended). Recordkeeping of noncriminal acts of hate violence and on-campus**
31 **crimes involving violence, hate violence, theft, destruction of property, illegal drugs, or**
32 **alcohol intoxication**

33 SEC. _____. Section 67380 of the Education Code is amended to read:

34 67380. (a) Except as provided in subparagraph (C) of paragraph (6), the governing
35 board of each community college district, the Trustees of the California State
36 University, the Board of Directors of the Hastings College of the Law, the Regents
37 of the University of California, and the governing board of any postsecondary
38 educational institution receiving public funds for student financial assistance shall
39 do all of the following:

40 (1) Require the appropriate officials at each campus within their respective
41 jurisdictions to compile records of both of the following:

42 (A) All occurrences reported to campus police, campus security personnel, or
43 campus safety authorities of, and arrests for, crimes that are committed on campus

1 and that involve violence, hate violence, theft, destruction of property, illegal drugs,
2 or alcohol intoxication.

3 (B) All occurrences of noncriminal acts of hate violence reported to, and for
4 which a written report is prepared by, designated campus authorities.

5 (2) Require any written record of a noncriminal act of hate violence to include,
6 but not be limited to, the following:

7 (A) A description of the act of hate violence.

8 (B) Victim characteristics.

9 (C) Offender characteristics, if known.

10 (3)(A) Make the information concerning the crimes compiled pursuant to
11 subparagraph (A) of paragraph (1) available within two business days following the
12 request of any student or employee of, or applicant for admission to, any campus
13 within their respective jurisdictions, or to the media, unless the information is the
14 type of information exempt from disclosure pursuant to ~~subdivision (f) of Section~~
15 6254 Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of
16 Division 10 of Title 1 of the Government Code, in which case the information is not
17 required to be disclosed. Notwithstanding ~~subdivision (f) of Section 6254 Article 1~~
18 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title
19 1 of the Government Code, the name or any other personally identifying information
20 of a victim of any crime defined by Section 243.4, 261, 262, 264, 264.1, 273a, 273d,
21 273.5, 286, 287, 288, 289, 422.6, 422.7, or 422.75 of, or former Section 288a of, the
22 Penal Code shall not be disclosed without the permission of the victim, or the
23 victim's parent or guardian if the victim is a minor.

24 (B) For purposes of this paragraph and subparagraph (A) of paragraph (1), the
25 campus police, campus security personnel, and campus safety authorities described
26 in subparagraph (A) of paragraph (1) shall be included within the meaning of "state
27 or local police agency" and "state and local law enforcement agency," as those terms
28 are used in ~~subdivision (f) of Section 6254 Article 1 (commencing with Section~~
29 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.

30 (4) Require the appropriate officials at each campus within their respective
31 jurisdictions to prepare, prominently post, and copy for distribution on request, a
32 campus safety plan that sets forth all of the following: the availability and location
33 of security personnel, methods for summoning assistance of security personnel, any
34 special safeguards that have been established for particular facilities or activities,
35 any actions taken in the preceding 18 months to increase safety, and any changes in
36 safety precautions expected to be made during the next 24 months. For purposes of
37 this section, posting and distribution may be accomplished by including relevant
38 safety information in a student handbook or brochure that is made generally
39 available to students.

40 (5) Require the appropriate officials at each campus within their respective
41 jurisdictions to report information compiled pursuant to paragraph (1) relating to
42 hate violence to the governing board, trustees, board of directors, or regents, as the
43 case may be. The governing board, trustees, board of directors, or regents, as the

1 case may be, shall, upon collection of that information from all of the campuses
2 within their jurisdiction, make a report containing a compilation of that information
3 available to the general public on the Internet Web site of each respective institution.
4 It is the intent of the Legislature that the governing board of each community college
5 district, the Trustees of the California State University, the Board of Directors of the
6 Hastings College of the Law, the Regents of the University of California, and the
7 governing board of any postsecondary educational institution receiving public funds
8 for student financial assistance establish guidelines for identifying and reporting
9 occurrences of hate violence. It is the intent of the Legislature that the guidelines
10 established by these institutions of higher education be as consistent with each other
11 as possible. These guidelines shall be developed in consultation with the
12 Department of Fair Employment and Housing and the California Association of
13 Human Relations Organizations.

14 (6)(A) Notwithstanding ~~subdivision (f) of Section 6254~~ Article 1 (commencing
15 with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the
16 Government Code, require any report made by a victim or an employee pursuant to
17 Section 67383 of a Part 1 violent crime, sexual assault, or hate crime, as described
18 in Section 422.55 of the Penal Code, received by a campus security authority and
19 made by the victim for purposes of notifying the institution or law enforcement, to
20 be immediately, or as soon as practicably possible, disclosed to the local law
21 enforcement agency with which the institution has a written agreement pursuant to
22 Section 67381 without identifying the victim, unless the victim consents to being
23 identified after the victim has been informed of ~~his or her~~ the victim's right to have
24 ~~his or her~~ the victim's personally identifying information withheld. If the victim
25 does not consent to being identified, the alleged assailant shall not be identified in
26 the information disclosed to the local law enforcement agency, unless the institution
27 determines both of the following, in which case the institution shall disclose the
28 identity of the alleged assailant to the local law enforcement agency and shall
29 immediately inform the victim of that disclosure:

30 (i) The alleged assailant represents a serious or ongoing threat to the safety of
31 students, employees, or the institution.

32 (ii) The immediate assistance of the local law enforcement agency is necessary to
33 contact or detain the assailant.

34 (B) The requirements of this paragraph shall not constitute a waiver of, or
35 exception to, any law providing for the confidentiality of information.

36 (C) This paragraph applies only as a condition for participation in the Cal Grant
37 Program established pursuant to Chapter 1.7 (commencing with Section 69430) of
38 Part 42.

39 (b) Any person who is refused information required to be made available pursuant
40 to subparagraph (A) of paragraph (1) of subdivision (a) may maintain a civil action
41 for damages against any institution that refuses to provide the information, and the
42 court shall award that person an amount not to exceed one thousand dollars (\$1,000)
43 if the court finds that the institution refused to provide the information.

1 (c) For purposes of this section:

2 (1) “Hate violence” means any act of physical intimidation or physical
3 harassment, physical force or physical violence, or the threat of physical force or
4 physical violence, that is directed against any person or group of persons, or the
5 property of any person or group of persons because of the ethnicity, race, national
6 origin, religion, sex, sexual orientation, gender identity, gender expression,
7 disability, or political or religious beliefs of that person or group.

8 (2) “Part 1 violent crime” means willful homicide, forcible rape, robbery, or
9 aggravated assault, as defined in the Uniform Crime Reporting Handbook of the
10 Federal Bureau of Investigation.

11 (3) “Sexual assault” includes, but is not limited to, rape, forced sodomy, forced
12 oral copulation, rape by a foreign object, sexual battery, or the threat of any of these.

13 (d) This section does not apply to the governing board of a private postsecondary
14 educational institution receiving funds for student financial assistance with a full-
15 time enrollment of less than 1,000 students.

16 (e) This section shall apply to a campus of one of the public postsecondary
17 educational systems identified in subdivision (a) only if that campus has a full-time
18 equivalent enrollment of more than 1,000 students.

19 (f) Notwithstanding any other provision of this section, this section shall not apply
20 to the California Community Colleges unless and until the Legislature makes funds
21 available to the California Community Colleges for the purposes of this section.

22 **Comment.** Section 67380 is amended to reflect nonsubstantive recodification of the California
23 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
24 Reports __ (2019).

25 The section is also amended to eliminate gendered pronouns.

26 **§ 67383 (amended). Forwarding report of violent crime, sexual assault, or hate crime to law**
27 **enforcement agency**

28 SEC. ____. Section 67383 of the Education Code is amended to read:

29 67383. (a) As a condition for participation in the Cal Grant Program established
30 pursuant to Chapter 1.7 (commencing with Section 96430) of Part 42, the governing
31 board of each community college district, the Trustees of the California State
32 University, the Regents of the University of California, and the governing board of
33 each private and independent postsecondary institution shall, on or before July 1,
34 2015, adopt and implement written policies and procedures to ensure that any report
35 of a Part 1 violent crime, sexual assault, or hate crime, committed on or off campus,
36 received by a campus security authority, as defined pursuant to Section 668.46 of
37 Title 34 of the Code of Federal Regulations, as that section existed on May 15, 2014,
38 and made by the victim for purposes of notifying the institution or law enforcement,
39 is immediately, or as soon as practicably possible, forwarded to the appropriate law
40 enforcement agency.

41 (b) Notwithstanding ~~subdivision (f) of Section 6254~~ Article 1 (commencing with
42 Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government

1 Code, the report shall be forwarded to the appropriate law enforcement agency
2 without identifying the victim, unless the victim consents to being identified after
3 the victim has been informed of ~~his or her~~ the victim's right to have ~~his or her~~ the
4 victim's personally identifying information withheld.

5 (c) For purposes of this section, the appropriate law enforcement agency shall be
6 a campus law enforcement agency if one has been established on the campus where
7 the report was made. If no campus law enforcement agency has been established,
8 the report shall be immediately, or as soon as practicably possible, forwarded to a
9 local law enforcement agency.

10 (d) For purposes of this section:

11 (1) "Hate crime" means any offense as described in Section 422.55 of the Penal
12 Code.

13 (2) "Local law enforcement agency" means a city or county law enforcement
14 agency with operational responsibilities for police services in the community in
15 which a campus is located.

16 (3) "On or off campus" means the campus and any noncampus building or
17 property as defined in Section 668.46 of Title 34 of the Code of Federal Regulations,
18 as that section existed on May 15, 2014.

19 (4) "Part 1 violent crime" means willful homicide, forcible rape, robbery, or
20 aggravated assault, as defined in the Uniform Crime Reporting Handbook of the
21 Federal Bureau of Investigation.

22 (5) "Sexual assault" includes, but is not limited to, rape, forced sodomy, forced
23 oral copulation, rape by a foreign object, sexual battery, or the threat of any of these.

24 (e) The requirements of this section shall not constitute a waiver of, or exception
25 to, any law providing for the confidentiality of information.

26 **Comment.** Section 67383 is amended to reflect nonsubstantive recodification of the California
27 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
28 Reports __ (2019).

29 The section is also amended to eliminate gendered pronouns.

30 **§ 72695 (amended). Auxiliary organization not required to disclose exempt information**

31 SEC. ____. Section 72695 of the Education Code is amended to read:

32 72695. Nothing in this article shall require an auxiliary organization to disclose
33 information that is exempt from disclosure pursuant to ~~the exemptions set forth~~
34 ~~under Sections 6254 to 6255, inclusive; an exemption set forth in Section 7922.000~~
35 ~~of the Government Code or in any provision listed in Section 7920.505~~ of the
36 Government Code.

37 **Comment.** Section 72695 is amended to reflect nonsubstantive recodification of the California
38 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
39 Reports __ (2019).

40 **§ 72696 (amended). Confidential records of auxiliary organization**

41 SEC. ____. Section 72696 of the Education Code is amended to read:

1 72696. (a) Notwithstanding any other law, the following records maintained by
2 an auxiliary organization shall not be subject to disclosure:

3 (1) Information that would disclose the identity of a donor, prospective donor, or
4 volunteer.

5 (2) Personal financial information, estate planning information, and gift planning
6 information of a donor, prospective donor, or volunteer.

7 (3) Personal information related to a donor's private trusts or a donor's private
8 annuities administered by an auxiliary organization.

9 (4) Information related to fundraising plans, fundraising research, and solicitation
10 strategies to the extent that these activities are not already protected under Section
11 99040, Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil
12 Code, Section 1060 of the Evidence Code, or ~~subdivision (k) of Section 6254~~
13 Section 7927.705 of the Government Code.

14 (5) The identity of students and alumni to the extent that this information is
15 already protected under state and federal statutes applicable to the California
16 Community Colleges. This paragraph shall not apply to a part-time or full-time
17 employee of the auxiliary organization, or to a student who participates in a
18 legislative body of a student body organization that operates on a campus of a
19 California Community College.

20 (b) Subdivision (a) shall not be construed to exempt from disclosure records that
21 contain information regarding any of the following:

22 (1) The amount and date of a donation.

23 (2) Any donor-designated use or purpose of a donation.

24 (3) Any other donor-imposed restrictions on the use of a donation.

25 (4)(A) The identity of a donor who, in any fiscal year, makes a gift or gifts, in a
26 quid pro quo arrangement, where either the value of the benefit received is in excess
27 of two thousand five hundred dollars (\$2,500) or the benefit would be impermissible
28 under state or federal law. In these circumstances, records pertaining to the gift or
29 gifts maintained by an auxiliary organization that would otherwise be exempt from
30 disclosure under subdivision (a) shall be disclosed.

31 (B) Annually, on January 1, the monetary threshold set forth in subparagraph (A)
32 shall be adjusted upward or downward to reflect the percentage change in the
33 Consumer Price Index, as calculated by the United States Bureau of Labor Statistics,
34 rounded off to the nearest one thousand dollars (\$1,000).

35 (5) Self-dealing transactions, including, but not limited to, loans of money or
36 property, or material financial interests of or between auxiliary officers or directors
37 and an auxiliary organization, as set forth in Sections 5233 and 5236 of the
38 Corporations Code. In these circumstances, records pertaining to the self-dealing
39 transactions maintained by an auxiliary organization that would otherwise be
40 exempt from disclosure under subdivision (a) shall be disclosed.

41 (6) Any instance in which a volunteer or donor of a gift is awarded, within five
42 years of the date of the service or gift, a contract from the university or auxiliary
43 organization that was not subject to competitive bidding. In these circumstances,

1 records pertaining to the service or gift maintained by an auxiliary organization that
2 would otherwise be exempt from disclosure under paragraph (1) of subdivision (a)
3 shall be disclosed.

4 **Comment.** Section 72696 is amended to reflect nonsubstantive recodification of the California
5 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
6 Reports __ (2019).

7 **§ 72701 (amended). Article inapplicable to records subject to CPRA request**

8 SEC. ____. Section 72701 of the Education Code is amended to read:

9 72701. This article shall not apply to any records subject to a request made
10 pursuant to the California Public Records Act, as set forth in ~~Chapter 3.5~~
11 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
12 Section 7920.000) of Title 1 of the Government Code.

13 **Comment.** Section 72701 is amended to reflect nonsubstantive recodification of the California
14 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
15 Reports __ (2019).

16 **§ 76060.5 (amended). Student representation fee**

17 SEC. ____. Section 76060.5 of the Education Code is amended to read:

18 76060.5. (a) If a student body association has been established at a community
19 college as authorized by Section 76060, the governing body of the association may
20 order that an election be held for the purpose of establishing a student representation
21 fee of two dollars (\$2) per semester. The election shall be held in compliance with
22 regulations of the Board of Governors of the California Community Colleges and
23 shall be open to all regularly enrolled students of the community college. The
24 affirmative vote of a majority of the students voting in the election shall be sufficient
25 to establish the fee. However, the election shall not be sufficient to establish the fee
26 unless the number of students who vote in the election equals or exceeds the average
27 of the number of students who voted in the previous three student body association
28 elections.

29 (b) The student representation fee authorized by this section shall be collected by
30 the officials of the community college, together with all other fees, at the time of
31 registration or before registration and shall be deposited in a separate fiduciary fund
32 established per the California Community Colleges Budget and Accounting Manual
33 for student representation fees. The money collected pursuant to this section shall
34 be expended to provide support for governmental affairs representatives of local or
35 statewide student body organizations who may be stating their positions and
36 viewpoints before city, county, and district governments, and before offices and
37 agencies of state government.

38 (c)(1) One dollar (\$1) of every two-dollar (\$2) fee collected shall be expended to
39 establish and support the operations of a statewide community college student
40 organization, recognized by the Board of Governors of the California Community
41 Colleges, with effective student representation and participation in state-level
42 community college shared governance and with governmental affairs

1 representatives to advocate before the Legislature and other state and local
2 governmental entities. This subdivision shall only apply to student representation
3 fees adopted on or after January 1, 2014.

4 (2) The underlying goals of a statewide community college student organization
5 shall include, but are not limited to, all of the following:

6 (A) Establishing a sustainable foundation for statewide community college
7 student representation and advocacy.

8 (B) Promoting institutional and organizational memory.

9 (C) Ensuring and maintaining responsible community college student
10 organizational oversight and decisionmaking.

11 (D) Strengthening regional approaches for community college student
12 representation and coordination.

13 (E) Promoting and enhancing student opportunities for engagement in community
14 college student issues and affairs.

15 (F) Providing for open and public transparency and accountability.

16 (d) Fees collected pursuant to subdivision (c) shall be annually distributed to the
17 Board of Governors before February 1. The Board of Governors shall have custody
18 of the moneys and shall, each year by April 15, distribute the moneys to the
19 recognized statewide community college student organization if the recognized
20 statewide community college student organization satisfies all of the following:

21 (1) Is established as a legal entity registered with the Secretary of State.

22 (2) Demonstrates compliance with all applicable state and federal laws and
23 reporting requirements.

24 (3) Exercises prudent fiscal management by establishing generally accepted
25 accounting controls and procedures.

26 (4)(A) Commencing after the first year it receives funding pursuant to this
27 subdivision, completes an annual independent financial audit, the results of which
28 shall be annually provided to the Board of Governors for review.

29 (B)(i) Except as provided in clause (ii) and after the first year funding is received,
30 it shall be a condition for funding pursuant to this subdivision that the results of the
31 annual audit identify no significant audit findings.

32 (ii) In no event shall funds be withheld from the statewide community college
33 student organization unless the statewide community college student organization
34 fails to address and correct any identified exceptions, concerns, errors, or
35 deficiencies contained in the annual audit after being given a reasonable opportunity
36 to do so.

37 (5) Meets the obligations and addresses the goals described in subdivision (c).

38 (e) Meetings of the recognized statewide community college student organization
39 shall be open to the public and shall comply with the requirements of the California
40 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
41 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
42 Code) and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950)
43 of Part 1 of Division 2 of Title 5 of the Government Code).

1 (f) Notwithstanding subdivision (c), a student body association that adopted a
2 student representation fee before January 1, 2014, shall retain the authority to
3 continue to receive the one-dollar (\$1) fee as authorized pursuant to this section as
4 it read before January 1, 2014. The student body association may conduct an
5 election pursuant to subdivision (a) to adopt a revised student representation fee. If
6 an election conducted pursuant to subdivision (a) establishes the revised student
7 representation fee, then one dollar (\$1) of every two-dollar (\$2) fee collected shall
8 be expended as described in subdivision (c).

9 (g)(1) The chief fiscal officer of the community college shall have custody of the
10 money collected pursuant to this section, except as provided in subdivision (d), and
11 the money shall be disbursed for the purposes described in subdivision (b) upon the
12 order of the governing body of the student body association.

13 (2) The community college district shall annually prepare a summary of all
14 revenue collected from the student representation fee and the expenditures of the
15 proceeds of the student representation fee. The summary shall include the amount
16 distributed to the Board of Governors of the California Community Colleges each
17 year. The summary shall be presented at the community college district board
18 meeting each year and posted to the community college district Internet Web site.

19 (3) The community college district may retain a portion of the fees collected and
20 deposited pursuant to this section that is equal to the actual cost of administering
21 these fees up to, but not more than, 7 percent.

22 (h) The student representation fee authorized by this section may be terminated
23 by a majority vote of the students voting in an election held for that purpose. The
24 election shall be called and held in compliance with regulations of the Board of
25 Governors of the California Community Colleges and shall be open to all regularly
26 enrolled students of the community college.

27 (i) A student may, for religious, political, financial, or moral reasons, refuse to
28 pay the student representation fee established under this section. The refusal shall
29 be submitted in writing to the community college officials at the time the student
30 pays other fees collected by the community college officials. The refusal shall be
31 submitted on the same form that is used for collection of fees as provided by the
32 community college, which, as determined by the community college, shall be as
33 nearly as practical in the same form as a model form prescribed by regulations of
34 the Board of Governors of the California Community Colleges.

35 (j) Any costs incurred by the Office of the Chancellor of the California
36 Community Colleges to implement subdivisions (c) and (d) shall be reimbursed by
37 the statewide community college student organization.

38 (k) If no statewide community college student organization that qualifies for
39 funding in accordance with this section is recognized by the Board of Governors,
40 the funds collected pursuant to this section shall be held by the Office of the
41 Chancellor of the California Community Colleges until a qualifying statewide
42 community college student organization is recognized, or shall be returned to the
43 source of funds.

1 **Comment.** Section 76060.5 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 **§ 87102 (amended). Equal employment opportunity plan and affirmation of compliance of**
5 **participating community college district**

6 SEC. ____. Section 87102 of the Education Code is amended to read:

7 87102. (a) As a condition for the receipt of funds pursuant to Section 87107, the
8 governing board of community college district that opts to participate under the
9 article shall periodically submit to the board of governors an affirmation of
10 compliance with this article. Each participating district's equal employment
11 opportunity program shall ensure participation in, and commitment to, the program
12 by district personnel. Each participating district's equal employment opportunity
13 plan shall include steps that the district will take in eliminating improper
14 discrimination or preferences in its hiring and employment practices. Each plan
15 shall address how the district will make progress in achieving the ratio of full-time
16 to part-time faculty hiring, as indicated in Section 87482.6, while still ensuring equal
17 employment opportunity.

18 (b) Each participating district's equal employment opportunity plan is a public
19 record within the meaning of the California Public Records Act (~~Chapter 3.5~~
20 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
21 Section 7920.000) of Title 1 of the Government Code).

22 **Comment.** Section 87102 is amended to reflect nonsubstantive recodification of the California
23 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
24 Reports __ (2019).

25 **§ 89307 (amended). Closed session of legislative body**

26 SEC. ____. Section 89307 of the Education Code is amended to read:

27 89307. (a) Any legislative body may hold a closed session under any of the
28 following circumstances:

29 (1) A closed session with its negotiator prior to the purchase, sale, exchange, or
30 lease of real property by or for the student body organization to grant authority to
31 its negotiator regarding the price and terms of payment for the purchase, sale,
32 exchange, or lease. Prior to the closed session, the legislative body shall hold an
33 open and public session in which it identifies its negotiators, the real property or
34 real properties that the negotiations may concern, and the person or persons with
35 whom its negotiators may negotiate.

36 (2) For purposes of this subdivision:

37 (A) A negotiator may be a member of the legislative body.

38 (B) "Lease" includes renewal or renegotiation of a lease.

39 (b)(1) Based on advice of its legal counsel, holding a closed session to confer
40 with, or receive advice from, its legal counsel regarding a liability claim or pending
41 litigation when discussion in open session concerning the matter would prejudice
42 the position of the student body organization in the litigation.

1 (2) For purposes of this subdivision, all applications of the lawyer-client privilege
2 other than those provided in this section are hereby abrogated. This section is the
3 exclusive expression of the lawyer-client privilege for purposes of conducting
4 closed-session meetings pursuant to this article.

5 (3) For purposes of this subdivision, “litigation” means any adjudicatory
6 proceeding, including, but not limited to, eminent domain, court proceeding, or a
7 proceeding of an administrative body exercising its adjudicatory authority, hearing
8 officer, or arbitrator.

9 (4) For purposes of this subdivision, litigation shall be considered pending when
10 any of the following circumstances exist:

11 (A) Litigation, to which the student body organization is a party, has been initiated
12 formally.

13 (B) A point has been reached where, in the opinion of the legislative body on the
14 advice of its legal counsel, based on existing facts and circumstances, there is a
15 significant exposure to litigation against the student body organization.

16 (C) Based on existing facts and circumstances, the legislative body is meeting
17 only to decide whether a closed session is authorized pursuant to subparagraph (B).

18 (D) Based on existing facts and circumstances, the legislative body has decided
19 to initiate, or is deciding whether to initiate, litigation.

20 (5) For purposes of subparagraphs (B), (C), and (D) of paragraph (4), “existing
21 facts and circumstances” shall consist only of one of the following:

22 (A) Facts and circumstances that might result in litigation against the student body
23 organization, but which the organization believes are not yet known to a potential
24 plaintiff or plaintiffs, which facts and circumstances need not be disclosed.

25 (B) Facts and circumstances, including, but not necessarily limited to, an accident,
26 disaster, incident, or transactional occurrence, that might result in litigation against
27 the student body organization and that are known to a potential plaintiff or plaintiffs,
28 which facts or circumstances shall be publicly stated on the agenda or announced.

29 (C) The receipt of a claim pursuant to the Government Claims Act (Division 3.6
30 commencing with Section 810) of Title 1 of the Government Code) or some other
31 written communication from a potential plaintiff threatening litigation.

32 (D) A statement made by a person in an open and public meeting threatening
33 litigation on a specific matter within the responsibility of the legislative body.

34 (E) A statement threatening litigation made by a person outside an open and
35 public meeting on a specific matter within the responsibility of the legislative body,
36 so long as the official or employee of the student body organization receiving
37 knowledge of the threat makes a contemporaneous or other record of the statement
38 prior to the meeting. The records so created need not identify the alleged victim of
39 unlawful or tortious sexual conduct or anyone making the threat on their behalf, or
40 identify a public employee who is the alleged perpetrator of any unlawful or tortious
41 conduct upon which a threat of litigation is based, unless the identity of the person
42 has been publicly disclosed.

1 (6) Nothing in this section shall require disclosure of written communications that
2 are privileged and not subject to disclosure pursuant to the California Public
3 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
4 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

5 (7) Prior to holding a closed session pursuant to this section, the legislative body
6 shall state on the agenda or publicly announce and identify the provision of this
7 section that authorizes the closed session. If the session is closed pursuant to
8 paragraph (1), the legislative body shall state the title of or otherwise specifically
9 identify the litigation to be discussed, unless the legislative body states that to do so
10 would jeopardize the ability of the student body organization to effectuate service
11 of process upon one or more unserved parties, or that to do so would jeopardize its
12 ability to conclude existing settlement negotiations to its advantage.

13 (8) For purposes of this subdivision, a student body organization shall be
14 considered to be a “party” or to have a “significant exposure to litigation” if an
15 officer or employee of the student body organization is a party or has significant
16 exposure to litigation concerning prior or prospective activities or alleged activities
17 during the course and scope of that office or employment, including litigation in
18 which it is an issue whether an activity is outside the course and scope of the office
19 or employment.

20 (c)(1) Nothing contained in this section shall be construed to prevent a legislative
21 body from holding closed sessions with the Attorney General, district attorney,
22 sheriff, or chief of police, or their respective deputies, on matters posing a threat to
23 the security of public buildings or a threat to the public’s right of access to public
24 services or public facilities, or from holding closed sessions during a regular or
25 special meeting to consider the appointment, employment, evaluation of
26 performance, discipline, or dismissal of an employee of the student body
27 organization or to hear complaints or charges brought against the employee by
28 another person or employee unless the employee requests a public session.

29 (2) As a condition to holding a closed session on specific complaints or charges
30 brought against an employee by another person or employee, the employee shall be
31 given written notice of ~~his or her~~ the employee’s right to have the complaints or
32 charges heard in an open session rather than a closed session, which notice shall be
33 delivered to the employee personally or by mail at least 24 hours before the time for
34 holding the session. If notice is not given, any disciplinary or other action taken by
35 the legislative body against the employee based on the specific complaints or
36 charges in the closed session shall be null and void.

37 (3) A legislative body also may exclude from the public or closed meeting, during
38 the examination of a witness, any or all other witnesses in the matter being
39 investigated by the legislative body.

40 (4) For the purposes of this subdivision, the term “employee” shall include an
41 officer or an independent contractor who functions as an officer or an employee of
42 the student body organization, but shall not include any elected official, member of
43 a legislative body, or other independent contractor. Closed sessions held pursuant

1 to this section shall not include discussion or action on proposed compensation
2 except for a reduction of compensation that results from the imposition of discipline.

3 (d)(1) A legislative body shall publicly report any action taken in closed session
4 and the vote or abstention of every member present thereon, as follows:

5 (A) Approval of an agreement concluding real property negotiations pursuant to
6 subdivision (a) shall be reported after the agreement is final, as follows:

7 (i) If its own approval renders the agreement final, the legislative body board or
8 subboard shall report that approval and the substance of the agreement in open
9 session at the public meeting during which the closed session is held.

10 (ii) If final approval rests with the other party to the negotiations, the legislative
11 body shall disclose the fact of that approval and the substance of the agreement upon
12 inquiry by any person, as soon as the other party or its agent has informed the
13 legislative body of its approval.

14 (B) Approval given to its legal counsel to defend, or seek or refrain from seeking
15 appellate review or relief, or to enter as an amicus curiae in any form of litigation,
16 as the result of a consultation under subdivision (b) shall be reported in open session
17 at the public meeting during which the closed session is held. The report shall
18 identify, if known, the adverse party or parties and the substance of the litigation. In
19 the case of approval given to initiate or intervene in an action, the announcement
20 need not identify the action, the defendants, or other particulars, but shall specify
21 that the direction to initiate or intervene in an action has been given and that the
22 action, the defendants, and the other particulars shall, once formally commenced,
23 be disclosed to any person upon inquiry, unless to do so would jeopardize the ability
24 of the student body organization to effectuate service of process on one or more
25 unserved parties, or that to do so would jeopardize its ability to conclude existing
26 settlement negotiations to its advantage.

27 (C) Approval given to its legal counsel of a settlement of pending litigation, as
28 defined in subdivision (b), at any stage prior to or during a judicial or quasi-judicial
29 proceeding shall be reported after the settlement is final, as follows:

30 (i) If a legislative body accepts a settlement offer signed by the opposing party,
31 the legislative body shall report its acceptance and identify the substance of the
32 agreement in open session at the public meeting during which the closed session is
33 held.

34 (ii) If final approval rests with some other party to the litigation or with the court,
35 then, as soon as the settlement becomes final, and upon inquiry by any person, the
36 legislative body shall disclose the fact of that approval and identify the substance of
37 the agreement.

38 (D) Action taken to appoint, employ, dismiss, accept the resignation of, or
39 otherwise affect the employment status of an employee of the employee
40 organization in closed session pursuant to subdivision (c) shall be reported at the
41 public meeting during which the closed session is held. Any report required by this
42 subparagraph shall identify the title of the employee's position. Notwithstanding the
43 general requirement of this subparagraph, the report of a dismissal or of the

1 nonrenewal of an employment contract shall be deferred until the first public
2 meeting following the exhaustion of administrative remedies, if any.

3 (E) Approval of an agreement concluding labor negotiations with represented
4 employees pursuant to subdivision (e) shall be reported after the agreement is final
5 and has been accepted or ratified by the other party. The report shall identify the
6 item approved and the other party or parties to the negotiation.

7 (2) Reports that are required to be made pursuant to this subdivision may be made
8 orally or in writing. A legislative body shall provide to any person who has
9 submitted a written request to the legislative body within 24 hours of the posting of
10 the agenda, or to any person who has made a standing request for all documentation
11 as part of a request for notice of meetings pursuant to Section 89306.5, if the
12 requester is present at the time the closed session ends, copies of any contracts,
13 settlement agreements, or other documents that were finally approved or adopted in
14 the closed session. If the action taken results in one or more substantive amendments
15 to the related documents requiring retyping, the documents need not be released
16 until the retyping is completed during normal business hours, provided that the
17 presiding officer of the legislative body, or ~~his or her~~ the presiding officer's
18 designee, orally summarizes the substance of the amendments for the benefit of the
19 document requester or any other person present and requesting the information.

20 (3) The documentation referred to in paragraph (2) shall be available to any person
21 on the next business day following the meeting in which the action referred to is
22 taken or, in the case of substantial amendments, when any necessary retyping is
23 complete.

24 (4) Nothing in this subdivision shall be construed to require that a legislative body
25 approve actions not otherwise subject to the approval of that legislative body.

26 (5) No action for injury to a reputational, liberty, or other personal interest may
27 be commenced by or on behalf of any employee or former employee with respect
28 to whom a disclosure is made by a legislative body in an effort to comply with this
29 subdivision.

30 (e)(1) Notwithstanding any other provision of law, a legislative body may hold
31 closed sessions with the designated representative of the student body organization
32 regarding the salaries, salary schedules, or compensation paid in the form of fringe
33 benefits of its represented and unrepresented employees, and, for represented
34 employees, any other matter within the statutorily provided scope of representation.
35 However, prior to the closed session, the legislative body shall hold an open and
36 public session in which it identifies its designated representatives.

37 (2)(A) Closed sessions of a legislative body, as permitted in this subdivision, shall
38 be for the purpose of reviewing its position and instructing the designated
39 representative of the student body organization.

40 (B) Closed sessions, as permitted in this subdivision, may take place prior to and
41 during consultations and discussions with representatives of employee
42 organizations and unrepresented employees.

1 (C) Closed sessions with the designated representative of the student body
2 organization regarding the salaries, salary schedules, or compensation paid in the
3 form of fringe benefits may include discussion of the available funds and funding
4 priorities of the student body organization, but only insofar as these discussions
5 relate to providing instructions to the designated representative of the student body
6 organization.

7 (D) Closed sessions held pursuant to this subdivision shall not include final action
8 on the proposed compensation of one or more unrepresented employees.

9 (E) For the purposes enumerated in this subdivision, a legislative body may also
10 meet with a state conciliator who has intervened in the proceedings.

11 (3) For the purposes of this subdivision, the term “employee” includes an officer
12 or an independent contractor who functions as an officer or an employee of the
13 student body organization, but shall not include any elected official, member of a
14 legislative body, or other independent contractors.

15 (f)(1) Prior to holding any closed session, the legislative body shall disclose, in an
16 open meeting, the item or items to be discussed in the closed session. The disclosure
17 may take the form of a reference to the item or items as they are listed by number
18 or letter on the agenda. In the closed session, the legislative body may consider only
19 those matters covered in its statement. Nothing in this subdivision shall require or
20 authorize a disclosure of information prohibited by state or federal law.

21 (2) After any closed session, the legislative body shall reconvene into open
22 session prior to adjournment, and shall make any disclosures required by
23 subdivision (d) of action taken in the closed session.

24 (3) The disclosure required to be made in open session pursuant to this subdivision
25 may be made at the location announced in the agenda for the closed session, as long
26 as the public is allowed to be present at that location for the purpose of hearing the
27 announcements.

28 **Comment.** Section 89307 is amended to reflect nonsubstantive recodification of the California
29 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
30 Reports __ (2019).

31 The section is also amended to eliminate gendered pronouns.

32 **§ 89573 (amended). Investigation of reported improper governmental activities**

33 SEC. ____. Section 89573 of the Education Code is amended to read:

34 89573. (a) Upon receiving a protected disclosure in writing, the administrator
35 designated in accordance with established procedures of the California State
36 University shall acknowledge receipt of the written disclosure to the complainant.
37 The administrator may conduct or cause to be conducted an investigative audit of
38 the matter, and determine what action, if any, is necessary.

39 (b) The administrator shall issue a formal response to the complainant that
40 contains a summary of the allegations, a summary of the investigation, whether the
41 allegations were substantiated, and what actions, if any, were taken in response to
42 the complaint. This response shall be issued in a timely fashion and in a manner that

1 is consistent with the privacy interests of each person who is involved in the
2 situation addressed by the response. This response shall be subject to disclosure in
3 accordance with ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
4 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
5 Code.

6 (c) The identity of the person providing the protected disclosure shall not be
7 disclosed without the written permission of that person unless the disclosure is to a
8 law enforcement agency that is conducting a criminal investigation or to the State
9 Auditor.

10 **Comment.** Section 89573 is amended to reflect nonsubstantive recodification of the California
11 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
12 Reports __ (2019).

13 **§ 89574 (amended). Confidentiality of investigative audit**

14 SEC. ____. Section 89574 of the Education Code is amended to read:

15 89574. (a) Notwithstanding ~~Chapter 3.5 (commencing with Section 6250) of~~
16 Division 7 Division 10 (commencing with Section 7920.000) of Title 1 of the
17 Government Code, every investigative audit undertaken under this article shall be
18 kept confidential, except that the California State University may issue any report
19 of an investigation that has substantiated an allegation made by the complainant,
20 keeping confidential the identity of the individual or individuals involved, or release
21 any findings resulting from an investigation conducted pursuant to Section 89045
22 that the trustees deem necessary to serve the interests of the state.

23 (b) This article shall not be construed to limit any authority conferred by law upon
24 the Attorney General or any other department or agency of government to
25 investigate any matter.

26 **Comment.** Section 89574 is amended to reflect nonsubstantive recodification of the California
27 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
28 Reports __ (2019).

29 **§ 89915.5 (amended). Effect of article**

30 SEC. ____. Section 89915.5 of the Education Code is amended to read:

31 89915.5. Nothing in this article shall require an auxiliary organization to disclose
32 information that is exempt from disclosure pursuant to ~~the exemptions set forth~~
33 under Sections 6254 to 6255, inclusive, an exemption set forth in Section 7922.000
34 of the Government Code or in any provision listed in Section 7920.505 of the
35 Government Code.

36 **Comment.** Section 89915.5 is amended to reflect nonsubstantive recodification of the California
37 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
38 Reports __ (2019).

39 **§ 89916 (amended). Confidential records of auxiliary organization**

40 SEC. ____. Section 89916 of the Education Code is amended to read:

1 89916. (a) Notwithstanding any other law, the following records maintained by
2 an auxiliary organization shall not be subject to disclosure:

3 (1) Information that would disclose the identity of a donor, prospective donor, or
4 volunteer.

5 (2) Personal financial information, estate planning information, and gift planning
6 information of a donor, prospective donor, or volunteer.

7 (3) Personal information related to a donor's private trusts or a donor's private
8 annuities administered by an auxiliary organization.

9 (4) Information related to fundraising plans, fundraising research, and solicitation
10 strategies to the extent that these activities are not already protected under Section
11 99040, Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil
12 Code, Section 1060 of the Evidence Code, or ~~subdivision (k) of Section 6254~~
13 Section 7927.705 of the Government Code.

14 (5) The identity of students and alumni to the extent that this information is
15 already protected under state and federal statutes applicable to the California State
16 University. This paragraph shall not apply to a part-time or full-time employee of
17 the auxiliary organization, or to a student who participates in a legislative body of a
18 student body organization as defined in Section 89305.1.

19 (b) Subdivision (a) shall not be construed to exempt from disclosure records that
20 contain information regarding any of the following:

21 (1) The amount and date of a donation.

22 (2) Any donor-designated use or purpose of a donation.

23 (3) Any other donor-imposed restrictions on the use of a donation.

24 (4)(A) The identity of a donor who, in any fiscal year, makes a gift or gifts, in a
25 quid pro quo arrangement, where either the value of the benefit received is in excess
26 of two thousand five hundred dollars (\$2,500) or the benefit would be impermissible
27 under state or federal law. In these circumstances, records pertaining to the gift or
28 gifts maintained by an auxiliary organization that would otherwise be exempt from
29 disclosure under subdivision (a) shall be disclosed.

30 (B) Annually, on January 1, the monetary threshold set forth in subparagraph (A)
31 shall be adjusted upward or downward to reflect the percentage change in the
32 Consumer Price Index, as calculated by the United States Bureau of Labor Statistics,
33 rounded off to the nearest one thousand dollars (\$1,000).

34 (5) Self-dealing transactions, including, but not limited to, loans of money or
35 property, or material financial interests of or between auxiliary officers or directors
36 and an auxiliary organization, as set forth in Sections 5233 and 5236 of the
37 Corporations Code. In these circumstances, records pertaining to the self-dealing
38 transactions maintained by an auxiliary organization that would otherwise be
39 exempt from disclosure under subdivision (a) shall be disclosed.

40 (6) Any instance in which a volunteer or donor of a gift is awarded, within five
41 years of the date of the service or gift, a contract from the university or auxiliary
42 organization that was not subject to competitive bidding. In these circumstances,
43 records pertaining to the service or gift maintained by an auxiliary organization that

1 would otherwise be exempt from disclosure under paragraph (1) of subdivision (a)
2 shall be disclosed.

3 **Comment.** Section 89916 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
5 Reports __ (2019).

6 **§ 89919 (amended). Article inapplicable to records subject to CPRA request**

7 SEC. ____. Section 89919 of the Education Code is amended to read:

8 89919. This article shall not apply to any records subject to a request made
9 pursuant to the California Public Records Act, as set forth in ~~Chapter 3.5~~
10 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
11 Section 7920.000) of Title 1 of the Government Code.

12 **Comment.** Section 89919 is amended to reflect nonsubstantive recodification of the California
13 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
14 Reports __ (2019).

15 **§ 92955 (amended). UC campus foundation not required to disclose exempt information**

16 SEC. ____. Section 92955 of the Education Code is amended to read:

17 92955. Nothing in this chapter shall require a UC campus foundation to disclose
18 information that is exempt from disclosure pursuant to ~~the specific exemptions set~~
19 ~~forth under Sections 6254 to 6255, inclusive;~~ an exemption set forth in Section
20 7922.000 of the Government Code or in any provision listed in Section 7920.505
21 of the Government Code.

22 **Comment.** Section 92955 is amended to reflect nonsubstantive recodification of the California
23 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
24 Reports __ (2019).

25 **§ 92956 (amended). Confidential records of UC campus foundation**

26 SEC. ____. Section 92956 of the Education Code is amended to read:

27 92956. (a) Notwithstanding any other law, the following records maintained by a
28 UC campus foundation shall not be subject to disclosure:

29 (1) Information that would disclose the identity of a donor, prospective donor, or
30 volunteer.

31 (2) Personal financial information, estate planning information, and gift planning
32 information of a donor, prospective donor, or volunteer.

33 (3) Personal information related to any of a donor's private trusts or a donor's
34 private annuities administered by a UC campus foundation.

35 (4) Information related to fundraising plans, fundraising research, and solicitation
36 strategies to the extent that these activities are not already protected under Section
37 99040, Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil
38 Code, Section 1060 of the Evidence Code, or ~~subdivision (k) of Section 6254~~
39 Section 7927.705 of the Government Code.

40 (5) The identity of students and alumni to the extent that this information is
41 already protected under state and federal statutes applicable to the University of

1 California. This paragraph shall not apply to a part-time or full-time employee of
2 the UC campus foundation, or to a student who participates in a legislative body of
3 a student body organization on a University of California campus.

4 (b) Subdivision (a) shall not be construed to exempt from disclosure records that
5 contain information regarding any of the following:

6 (1) The amount and date of a donation.

7 (2) Any donor-designated use or purpose of a donation.

8 (3) Any other donor-imposed restrictions on the use of a donation.

9 (4)(A) The identity of a donor who, in any fiscal year, makes a gift or gifts, in a
10 quid pro quo arrangement, where either the value of the benefit received is in excess
11 of two thousand five hundred dollars (\$2,500) or the benefit would be impermissible
12 under state or federal law. In these circumstances, records pertaining to the gift or
13 gifts maintained by a UC campus foundation that would otherwise be exempt from
14 disclosure under subdivision (a) shall be disclosed.

15 (B) Annually, on January 1, the monetary threshold set forth in subparagraph (A)
16 shall be adjusted upward or downward to reflect the percentage change in the
17 Consumer Price Index, as calculated by the United States Bureau of Labor Statistics,
18 rounded off to the nearest one thousand dollars (\$1,000).

19 (5) Self-dealing transactions, including, but not limited to, loans of money or
20 property, or material financial interests of or between foundation officers or
21 directors and a UC campus foundation, as set forth in Sections 5233 and 5236 of the
22 Corporations Code. In these circumstances, records pertaining to the self-dealing
23 transactions maintained by a UC campus foundation that would otherwise be
24 exempt from disclosure under subdivision (a) shall be disclosed.

25 (6) Any instance in which a volunteer or donor of a gift is awarded, within five
26 years of the date of the service or gift, a contract from the university or UC campus
27 foundation that was not subject to competitive bidding. In these circumstances,
28 records pertaining to the service or gift maintained by the UC campus foundation
29 that would otherwise be exempt from disclosure under paragraph (1) of subdivision
30 (a) shall be disclosed.

31 **Comment.** Section 92956 is amended to reflect nonsubstantive recodification of the California
32 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
33 Reports __ (2019).

34 **§ 92961 (amended). Chapter inapplicable to records subject to CPRA request**

35 SEC. _____. Section 92961 of the Education Code is amended to read:

36 92961. This chapter shall not apply to records subject to any request made
37 pursuant to the California Public Records Act, as set forth in ~~Chapter 3.5~~
38 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
39 Section 7920.000) of Title 1 of the Government Code.

40 **Comment.** Section 92961 is amended to reflect nonsubstantive recodification of the California
41 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
42 Reports __ (2019).

1 § 99162 (amended). Disclosure of information or report

2 SEC. _____. Section 99162 of the Education Code is amended to read:

3 99162. Any information or report required to be submitted to the appropriate state
4 agency or made publicly available on the test sponsor’s Internet Web site pursuant
5 to this chapter shall be public record subject to disclosure under the provisions of
6 ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
7 (commencing with Section 7920.000) of Title 1 of the Government Code.

8 Nothing in this section shall be construed to diminish or authorize the
9 infringement of any rights protected by law relating to copyright, to the protection
10 of trade secrets, or other proprietary rights.

11 **Comment.** Section 99162 is amended to reflect nonsubstantive recodification of the California
12 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
13 Reports __ (2019).

14 ELECTIONS CODE

15 § 2166.7 (amended). Confidentiality of public safety officer’s residence address, telephone
16 number, and email address

17 SEC. _____. Section 2166.7 of the Elections Code is amended to read:

18 2166.7. (a) If authorized by ~~his or her~~ the county board of supervisors, a county
19 elections official shall, upon application of a public safety officer, make confidential
20 that officer’s residence address, telephone number, and email address appearing on
21 the affidavit of registration, in accordance with the terms and conditions of this
22 section.

23 (b) The application by the public safety officer shall contain a statement, signed
24 under penalty of perjury, that the person is a public safety officer as defined in
25 subdivision (f) and that a life-threatening circumstance exists to the officer or a
26 member of the officer’s family. The application shall be a public record.

27 (c) The confidentiality granted pursuant to subdivision (a) shall terminate no more
28 than two years after commencement, as determined by the county elections official.
29 The officer may submit a new application for confidentiality pursuant to subdivision
30 (a), and the new request may be granted for an additional period of not more than
31 two years.

32 (d) Any person granted confidential voter status under subdivision (a) shall:

33 (1) Provide a valid mailing address and be considered a vote by mail voter for all
34 subsequent elections or until the county elections official is notified otherwise by
35 the Secretary of State or in writing by the voter. A voter requesting termination of
36 vote by mail status thereby consents to placement of ~~his or her~~ the voter’s residence
37 address, telephone number, and email address in the roster of voters.

38 (2) The elections official, in producing any list, roster, or index, shall exclude
39 voters with a confidential voter status.

40 (3) Within 60 days of moving to a new county, if available in the new county,
41 apply for confidential voter status pursuant to subdivision (a). The elections official

1 of the new county, upon notice of the confidential voter moving into the county,
2 shall do all of the following:

3 (A) Contact the confidential voter and provide information regarding the
4 application for confidential voter status in the new county.

5 (B) Honor the confidential voter status from the former county for 60-days from
6 the date of notice.

7 (C) Pursuant to paragraph (2) of subdivision (b), exclude the confidential voter in
8 any list, roster, or index during the 60-day period.

9 (D) Remove the confidential voter status if the new voter has not obtained or
10 cannot obtain confidential voter status pursuant to this section in the new county
11 during the 60-day period.

12 (e) No action in negligence may be maintained against any government entity or
13 officer or employee thereof as a result of the disclosure of the information that is the
14 subject of this section unless by a showing of gross negligence or willfulness.

15 (f) “A public safety officer” has the same meaning as defined in subdivision (a),
16 (d), (e), (f), or (j) of Section ~~6254.24~~ 7920.535 of the Government Code.

17 **Comment.** Section 2166.7 is amended to reflect nonsubstantive recodification of the California
18 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
19 Reports __ (2019).

20 The section is also amended to eliminate gendered pronouns.

21 **§ 2194 (amended). Affidavit of voter registration**

22 SEC. ____ . Section 2194 of the Elections Code is amended to read:

23 2194. (a) Except as provided in Section 2194.1, the affidavit of voter registration
24 information identified in Section ~~6254.4~~ 7924.000 of the Government Code:

25 (1) Shall be confidential and shall not appear on any computer terminal, list,
26 affidavit, duplicate affidavit, or other medium routinely available to the public at
27 the county elections official’s office.

28 (2) Shall not be used for any personal, private, or commercial purpose, including,
29 but not limited to:

30 (A) The harassment of any voter or voter’s household.

31 (B) The advertising, solicitation, sale, or marketing of products or services to any
32 voter or voter’s household.

33 (C) Reproduction in print, broadcast visual or audio, or display on the Internet or
34 any computer terminal unless pursuant to paragraph (3).

35 (3) Shall be provided with respect to any voter, subject to the provisions of
36 Sections 2166, 2166.5, 2166.7, and 2188, to any candidate for federal, state, or local
37 office, to any committee for or against any initiative or referendum measure for
38 which legal publication is made, and to any person for election, scholarly,
39 journalistic, or political purposes, or for governmental purposes, as determined by
40 the Secretary of State.

41 (4) May be used by the Secretary of State for the purpose of educating voters
42 pursuant to Section 12173 of the Government Code.

1 (b)(1) Notwithstanding any other law, the California driver’s license number, the
2 California identification card number, the social security number, and any other
3 unique identifier used by the State of California for purposes of voter identification
4 shown on the affidavit of voter registration of a registered voter, or added to voter
5 registration records to comply with the requirements of the federal Help America
6 Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.), are confidential and shall not be
7 disclosed to any person.

8 (2) Notwithstanding any other law, the signature of the voter shown on the
9 affidavit of voter registration or an image thereof is confidential and shall not be
10 disclosed to any person, except as provided in subdivision (c).

11 (c)(1) The home address or signature of any voter shall be released whenever the
12 person’s vote is challenged pursuant to Sections 15105 to 15108, inclusive, or
13 Article 3 (commencing with Section 14240) of Chapter 3 of Division 14. The
14 address or signature shall be released only to the challenger, to elections officials,
15 and to other persons as necessary to make, defend against, or adjudicate the
16 challenge.

17 (2) An elections official shall permit a person to view the signature of a voter for
18 the purpose of determining whether the signature matches a signature on an affidavit
19 of registration or an image thereof or a petition, but shall not permit a signature to
20 be copied.

21 (d) A governmental entity, or officer or employee thereof, shall not be held civilly
22 liable as a result of disclosure of the information referred to in this section, unless
23 by a showing of gross negligence or willfulness.

24 (e) For the purposes of this section, “voter’s household” is defined as the voter’s
25 place of residence or mailing address or any persons who reside at the place of
26 residence or use the mailing address as supplied on the affidavit of registration
27 pursuant to paragraphs (3) and (4) of subdivision (a) of Section 2150.

28 **Comment.** Section 2194 is amended to reflect nonsubstantive recodification of the California
29 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
30 Reports __ (2019).

31 **§ 2194.1 (amended). Affidavit of registration at least 100 years old**

32 SEC. ____. Section 2194.1 of the Elections Code is amended to read:

33 2194.1. Any affidavit of registration information identified in
34 Section ~~6254.4~~ 7924.000 of the Government Code in existence 100 years after the
35 creation of the record shall be available to the public. If records are contained in the
36 great registers of voters and the bound register contains information covering more
37 than one year, the records shall not be available to the public until the entire contents
38 of the register have been recorded for at least 100 years.

39 **Comment.** Section 2194.1 is amended to reflect nonsubstantive recodification of the California
40 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
41 Reports __ (2019).

1 § 2227 (amended). Checking voter addresses

2 SEC. _____. Section 2227 of the Elections Code is amended to read:

3 2227. (a) In lieu of mailing a residency confirmation postcard, as prescribed in
4 subdivision (a) of Section 2220, the county elections official may contract with a
5 consumer credit reporting agency or its licensees to obtain use of change-of-address
6 data in accordance with this section.

7 (b) If the county elections official contracts with a consumer credit reporting
8 agency or its licensees pursuant to subdivision (a), all of the following shall occur:

9 (1) For each registered voter in the county, the county elections official shall
10 initiate a search for change-of-address data with the consumer credit reporting
11 agency or its licensees by providing the name and residence address of each
12 registered voter in the county to the consumer credit reporting agency or its
13 licensees.

14 (2) The consumer credit reporting agency or its licensees shall search their
15 databases for each name and address provided by the county elections official and
16 shall report to the county elections official any information indicating that the
17 registered voter changed ~~his or her~~ the voter's residence address.

18 (c)(1) Notwithstanding Section 2194 of this code or Section ~~6254.4~~ 7924.000 of
19 the Government Code, and except as provided in paragraph (2), a county elections
20 official may disclose a registered voter's name and residence address to a consumer
21 credit reporting agency or its licensees pursuant to, and in accordance with, this
22 section.

23 (2) A county elections official shall not disclose to a consumer credit reporting
24 agency or its licensees the name and residence address of a registered voter if that
25 information is deemed confidential pursuant to Section 2166, 2166.5, or 2166.7 of
26 this code, or Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1
27 of the Government Code.

28 (d) A consumer credit reporting agency or its licensees shall use the information
29 provided by a county elections official only pursuant to paragraph (2) of subdivision
30 (b), and shall not retain any information received from the county elections official
31 pursuant to this section.

32 (e) Based on change-of-address data received from a consumer credit reporting
33 agency or its licensees, the county elections official shall send a forwardable notice,
34 including a postage-paid and preaddressed return form, which may be in the form
35 of a postcard, to the registered voter to enable the voter to verify or correct address
36 information. The forwardable notice shall be in substantially the following form:

37
38 “We have received notification that you have moved to a new residence address
39 in _____ County. You will remain registered to vote at your old address unless you
40 notify our office that the address to which this card was mailed is a change of your
41 permanent residence. Please notify our office in writing by returning the attached
42 postage-paid postcard. If this is not a permanent residence, and you do not wish to
43 change your address for voting purposes, please disregard this notice.”

1
2 (f) The county elections official shall take all of the following actions as
3 appropriate:

4 (1) If a voter responds to the forwardable notice sent pursuant to subdivision (e)
5 or otherwise verifies in a signed writing that ~~he or she~~ the voter has moved to a new
6 residence address in California, the county elections official shall verify the
7 signature on the response by comparing it to the signature on file for the voter and,
8 if appropriate, immediately update the voter's registration with the new residence
9 address.

10 (2) If a voter does not respond to the forwardable notice sent pursuant to
11 subdivision (e) and does not otherwise verify in a signed writing that ~~he or she~~ the
12 voter has moved to a new residence address, the elections official shall not place the
13 voter's name on the inactive file of registered voters or cancel the voter registration.

14 (g) For purposes of this section, "consumer credit reporting agency" has the same
15 meaning as set forth in subdivision (d) of Section 1785.3 of the Civil Code.

16 **Comment.** Section 2227 is amended to reflect nonsubstantive recodification of the California
17 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
18 Reports __ (2019).

19 The section is also amended to eliminate gendered pronouns.

20 **§ 2267 (amended). Confidentiality of voter registration or preregistration information**

21 SEC. ____. Section 2267 of the Elections Code is amended to read:

22 2267. This chapter does not affect the confidentiality of a person's voter
23 registration or preregistration information, which remains confidential pursuant to
24 Section 2194 of this code and Section ~~6254.4~~ 7924.000 of the Government Code
25 and for all of the following persons:

26 (a) A victim of domestic violence, sexual assault, or stalking pursuant to Section
27 2166.5.

28 (b) A reproductive health care service provider, employee, volunteer, or patient
29 pursuant to Section 2166.5.

30 (c) A public safety officer pursuant to Section 2166.7.

31 (d) A person with a life-threatening circumstance upon court order pursuant to
32 Section 2166.

33 **Comment.** Section 2267 is amended to reflect nonsubstantive recodification of the California
34 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
35 Reports __ (2019).

36 **§ 9002 (amended). Circulating title and summary for proposed initiative measure**

37 SEC. ____. Section 9002 of the Elections Code is amended to read:

38 9002. (a) Upon receipt of a request from the proponents of a proposed initiative
39 measure for a circulating title and summary, the Attorney General shall initiate a
40 public review process for a period of 30 days by doing all of the following:

41 (1) Posting the text of the proposed initiative measure on the Attorney General's
42 Internet Web site.

1 (2) Inviting, and providing for the submission of, written public comments on the
2 proposed initiative measure on the Attorney General’s Internet Web site. The site
3 shall accept written public comments for the duration of the public review period.
4 The written public comments shall be public records, available for inspection upon
5 request pursuant to ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
6 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
7 Code, but shall not be displayed to the public on the Attorney General’s Internet
8 Web site during the public review period. The Attorney General shall transmit any
9 written public comments received during the public review period to the proponents
10 of the proposed initiative measure.

11 (b) During the public review period, the proponents of the proposed initiative
12 measure may submit amendments to the measure that are reasonably germane to the
13 theme, purpose, or subject of the initiative measure as originally proposed.
14 However, amendments shall not be submitted if the initiative measure as originally
15 proposed would not effect a substantive change in law.

16 (1) An amendment shall be submitted with a signed request by all the proponents
17 to prepare a circulating title and summary using the amended language.

18 (2) An amendment shall be submitted to the Attorney General’s Initiative
19 Coordinator located in the Attorney General’s Sacramento Office via United States
20 Postal Service, alternative mail service, or personal delivery. Only printed
21 documents shall be accepted; facsimile or email delivery shall not be accepted.

22 (3) The submission of an amendment shall not extend the period to prepare the
23 estimate required by Section 9005.

24 (4) An amendment shall not be accepted more than five days after the public
25 review period is concluded. However, a proponent shall not be prohibited from
26 proposing a new initiative measure and requesting that a circulating title and
27 summary be prepared for that measure pursuant to Section 9001.

28 **Comment.** Section 9002 is amended to reflect nonsubstantive recodification of the California
29 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
30 Reports __ (2019).

31 **§ 11301 (amended). Examination of petition signatures**

32 SEC. ____. Section 11301 of the Elections Code is amended to read:

33 11301. If a petition is found insufficient by the elections official or, in the case of
34 the recall of a state officer, the Secretary of State, the petition signatures may be
35 examined in accordance with ~~Section 6253.5 Article 2 (commencing with Section~~
36 7924.100) of Chapter 2 of Part 5 of Division 10 of Title 1 of the Government Code.

37 **Comment.** Section 11301 is amended to reflect nonsubstantive recodification of the California
38 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
39 Reports __ (2019).

40 **§ 13300.7 (amended). Option to opt out of receiving election materials by mail**

41 SEC. ____. Section 13300.7 of the Elections Code is amended to read:

1 13300.7. Notwithstanding any other law, county and city elections officials may
2 establish procedures designed to permit a voter to opt out of receiving ~~his or her~~ the
3 county voter information guide, state voter information guide, notice of polling
4 place, and associated materials by mail, and instead obtain them electronically via
5 email or by accessing them on the county's or city's Internet Web site, if all of the
6 following conditions are met:

7 (a) The procedures establish a method of providing notice of and an opportunity
8 by which a voter can notify elections officials of ~~his or her~~ the voter's desire to
9 obtain ballot materials electronically in lieu of receiving them by mail.

10 (b) The voter email address or any other information provided by the voter under
11 this section remains confidential pursuant to Section ~~6254.4~~ 7924.000 of the
12 Government Code and Section 2194 of this code.

13 (c) The procedures provide notice and opportunity for a voter who has opted out
14 of receiving a county voter information guide and other materials by mail to opt
15 back into receiving them by mail.

16 (d) The procedures establish a process by which a voter can apply electronically
17 to become a vote by mail voter.

18 (e) A voter may only opt out of, or opt back into, receiving ~~his or her~~ the county
19 voter information guide and other ballot materials by mail if the elections official
20 receives the request and can process it before the statutory deadline for the mailing
21 of those materials for the next election, pursuant to Section 13303. If a voter misses
22 this deadline, the request shall take effect the following election.

23 (f) The procedures shall include a verification process to confirm the voter's
24 identity, either in writing with a signature card that can be matched to the one on
25 file with the elections official, or if the request is submitted electronically, it shall
26 contain the voter's California driver's license number, California identification
27 number, or a partial social security number.

28 (g) Information made available over the Internet pursuant to this section shall
29 meet or exceed the most current, ratified standards under Section 508 of the federal
30 Rehabilitation Act of 1973 (29 U.S.C. Sec. 794d), as amended, and the Web Content
31 Accessibility Guidelines 2.0 adopted by the World Wide Web Consortium for
32 accessibility. Election officials may also implement recommendations of the Voting
33 Accessibility Advisory Committee made pursuant to paragraph (4) of subdivision
34 (b) of Section 2053, and of any local Voting Accessibility Advisory Committee
35 created pursuant to the guidelines promulgated by the Secretary of State related to
36 the accessibility of polling places by the physically handicapped.

37 **Comment.** Section 13300.7 is amended to reflect nonsubstantive recodification of the California
38 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
39 Reports __ (2019).

40 The section is also amended to eliminate gendered pronouns.

41 **§ 13311 (amended). Confidentiality of candidate statements**

42 SEC. _____. Section 13311 of the Elections Code is amended to read:

1 13311. Notwithstanding the California Public Records Act (~~Chapter 3.5~~
2 ~~(commencing with Section 6250)~~ of ~~Division 7~~ Division 10 (commencing with
3 Section 7920.000) of Title 1 of the Government Code), the statements filed pursuant
4 to Section 13307 shall remain confidential until the expiration of the filing deadline.

5 **Comment.** Section 13311 is amended to reflect nonsubstantive recodification of the California
6 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
7 Reports __ (2019).

8 **§ 17200 (amended). Preservation and destruction of petition**

9 SEC. _____. Section 17200 of the Elections Code is amended to read:

10 17200. (a) Except as provided in subdivision (b), elections officials required by
11 law to receive or file in their offices any initiative or referendum petition shall
12 preserve the petition until eight months after the certification of the results of the
13 election for which the petition qualified or, if the measure, for any reason, is not
14 submitted to the voters, eight months after the final examination of the petition by
15 the elections official.

16 (b) Thereafter, the petition shall be destroyed as soon as practicable unless any of
17 the following conditions is satisfied:

18 (1) The petition is in evidence in some action or proceeding then pending.

19 (2) The elections official has received a written request from the Attorney
20 General, the Secretary of State, the Fair Political Practices Commission, a district
21 attorney, a grand jury, or the governing body of a county, city and county, or district,
22 including a school district, that the petition be preserved for use in a pending or
23 ongoing investigation into election irregularities, the subject of which relates to the
24 petition's qualification or disqualification for placement on the ballot, or in a
25 pending or ongoing investigation into a violation of the Political Reform Act of
26 1974 (Title 9 (commencing with Section 81000) of the Government Code).

27 (3) The proponents of the petition have commenced an examination pursuant to
28 Section 6253.5 Article 2 (commencing with Section 7924.100) of Chapter 2 of Part
29 5 of Division 10 of Title 1 of the Government Code, in which case the petition shall
30 be preserved until one year from the date that the proponents last examined the
31 petition.

32 (c) If a petition subject to paragraph (3) of subdivision (b) is circulated in multiple
33 counties, a county that performs an examination pursuant to this section shall inform
34 the other counties in which the petition is circulated of the examination to facilitate
35 compliance with that paragraph. If the petition is circulated statewide, the Secretary
36 of State shall ensure compliance.

37 (d) Public access to ~~any such~~ the petition shall be restricted in accordance with
38 Section 6253.5 Article 2 (commencing with Section 7924.100) of Chapter 2 of Part
39 5 of Division 10 of Title 1 of the Government Code.

40 (e) This section applies to the following petitions:

41 (1) Statewide initiative and referendum petitions.

42 (2) County initiative and referendum petitions.

1 (3) Municipal initiative and referendum petitions.

2 (4) Municipal city charter amendment petitions.

3 (5) District initiative and referendum petitions.

4 **Comment.** Section 17200 is amended to reflect nonsubstantive recodification of the California
5 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
6 Reports __ (2019).

7 The section is also amended to make a technical change.

8 **§ 17400 (amended). Preservation and destruction of recall petition**

9 SEC. ____. Section 17400 of the Elections Code is amended to read:

10 17400. (a) The elections official or, in the case of the recall of a state officer, the
11 Secretary of State, shall preserve in ~~his or her~~ that person's office all recall petitions
12 filed for eight months after the results of the election for which the petition qualified
13 or, if no election is held, eight months after the elections official's final examination
14 of the petition.

15 (b) Thereafter, the petition shall be destroyed as soon as practicable, unless it is
16 in evidence in some action or proceeding then pending or unless the elections
17 official has received a written request from the Attorney General, the Secretary of
18 State, the Fair Political Practices Commission, a district attorney, a grand jury, or
19 the governing body of a county, city and county, city, or district, including a school
20 district, that the petition be preserved for use in a pending or ongoing investigation
21 into election irregularities, or in a pending or ongoing investigation into a violation
22 of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of
23 the Government Code).

24 (c) Public access to ~~any such~~ the petition shall be restricted in accordance with
25 Section 6253.5 Article 2 (commencing with Section 7924.100) of Chapter 2 of Part
26 5 of Division 10 of Title 1 of the Government Code.

27 **Comment.** Section 17400 is amended to reflect nonsubstantive recodification of the California
28 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
29 Reports __ (2019).

30 The section is also amended to eliminate gendered pronouns and make a technical change.

31 **§ 18109 (amended). Misdemeanors**

32 SEC. ____. Section 18109 of the Elections Code is amended to read:

33 18109. (a) It is a misdemeanor for a person in possession of information identified
34 in Section 2138.5, or obtained pursuant to Article 5 (commencing with Section
35 2183) of Chapter 2 of Division 2 of this code or ~~Section 6254.4~~ 7924.000 of the
36 Government Code, knowingly to use or permit the use of all or any part of that
37 information for any purpose other than as permitted by law.

38 (b) It is a misdemeanor for a person knowingly to acquire possession or use of
39 voter registration information from the Secretary of State or a county elections
40 official without first complying with Section 2188.

1 **Comment.** Section 18109 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 **§ 18650 (amended). Using signature list for improper purpose**

5 SEC. ____. Section 18650 of the Elections Code is amended to read:

6 18650. No one shall knowingly or willfully permit the list of signatures on an
7 initiative, referendum, or recall petition to be used for any purpose other than
8 qualification of the initiative or referendum measure or recall question for the ballot,
9 except as provided in ~~Section 6253.5~~ Article 2 (commencing with Section 7924.100)
10 of Chapter 2 of Part 5 of Division 10 of Title 1 of the Government Code. Violation
11 of this section is a misdemeanor.

12 **Comment.** Section 18650 is amended to reflect nonsubstantive recodification of the California
13 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
14 Reports __ (2019).

15 **§ 23003 (amended). Hybrid redistricting commissions and independent redistricting**
16 **commissions**

17 SEC. ____. Section 23003 of the Elections Code is amended to read:

18 23003. (a) This section applies to hybrid redistricting commissions and
19 independent redistricting commissions.

20 (b) Notwithstanding any other law, the local jurisdiction may prescribe the
21 manner in which members are appointed to the commission, provided that the
22 jurisdiction uses an application process open to all eligible residents and provided
23 that the commissioners are not directly appointed by the legislative body or an
24 elected official of the local jurisdiction.

25 (c) A person shall not be appointed to serve on the commission if the person or
26 any family member of the person has been elected or appointed to, or been a
27 candidate for, an elective office of the local jurisdiction in the eight years preceding
28 the person's application.

29 (d) A person shall not be appointed to serve on the commission if either of the
30 following applies:

31 (1) The person or ~~his or her~~ the person's spouse has done any of the following in
32 the eight years preceding the person's application:

33 (A) Served as an officer of, employee of, or paid consultant to, a campaign
34 committee or a candidate for elective office of the local jurisdiction.

35 (B) Served as an officer of, employee of, or paid consultant to, a political party or
36 as an elected or appointed member of a political party central committee.

37 (C) Served as a staff member or a consultant to, or who has contracted with, a
38 currently serving elected officer of the local jurisdiction.

39 (D) Been registered to lobby the local jurisdiction.

40 (E) Contributed five hundred dollars (\$500) or more in a year to any candidate for
41 an elective office of the local jurisdiction. The local jurisdiction may adjust this

1 amount by the cumulative change in the California Consumer Price Index, or its
2 successor, in every year ending in zero.

3 (2) A family member of the person, other than ~~his or her~~ the person's spouse, has
4 done any of the following in the four years preceding the person's application:

5 (A) Served as an officer of, employee of, or paid consultant to, a campaign
6 committee or a candidate for elective office of the local jurisdiction.

7 (B) Served as an officer of, employee of, or paid consultant to, a political party or
8 as an elected or appointed member of a political party central committee.

9 (C) Served as a staff member of or consultant to, or has contracted with, a
10 currently serving elected officer of the local jurisdiction.

11 (D) Been registered to lobby the local jurisdiction.

12 (E) Contributed five hundred dollars (\$500) or more in a year to any candidate for
13 an elective office of the local jurisdiction. The local jurisdiction may adjust this
14 amount by the cumulative change in the California Consumer Price Index, or its
15 successor, in every year ending in zero.

16 (e) A member of the commission shall not do any of the following:

17 (1) While serving on the commission, endorse, work for, volunteer for, or make a
18 campaign contribution to, a candidate for an elective office of the local jurisdiction.

19 (2) Be a candidate for an elective office of the local jurisdiction if any of the
20 following is true:

21 (A) Less than five years has elapsed since the date of the member's appointment
22 to the commission.

23 (B) The election for that office will be conducted using district boundaries that
24 were adopted by the commission on which the member served, and those district
25 boundaries have not been subsequently readopted by a commission after the end of
26 the member's term on the commission.

27 (C) The election for that office will be conducted using district boundaries that
28 were adopted by a legislative body pursuant to a recommendation by the
29 commission on which the member served, and those district boundaries have not
30 been subsequently readopted by a legislative body pursuant to a recommendation
31 by a commission after the end of the member's term on the commission.

32 (3) For four years commencing with the date of ~~his or her~~ the person's
33 appointment to the commission:

34 (A) Accept employment as a staff member of, or consultant to, an elected official
35 or candidate for elective office of the local jurisdiction.

36 (B) Receive a noncompetitively bid contract with the local jurisdiction.

37 (C) Register as a lobbyist for the local jurisdiction.

38 (4) For two years commencing with the date of ~~his or her~~ the person's
39 appointment to the commission, accept an appointment to an office of the local
40 jurisdiction.

41 (f) The commission shall not be comprised entirely of members who are
42 registered to vote with the same political party preference.

1 (g) Each member of the commission shall be a designated employee in the conflict
2 of interest code for the commission pursuant to Article 3 (commencing with Section
3 87300) of Chapter 7 of Title 9 of the Government Code.

4 (h) The commission is subject to the Ralph M. Brown Act (Chapter 9
5 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the
6 Government Code) and the California Public Records Act (~~Chapter 3.5~~
7 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
8 Section 7920.000) of Title 1 of the Government Code).

9 (i) The commission shall be subject to the same redistricting deadlines,
10 requirements, and restrictions that would otherwise apply to a legislative body. A
11 local jurisdiction may also impose additional requirements and restrictions on the
12 commission, on members of the commission, or on applicants to the commission in
13 excess of those prescribed by this section.

14 (j) The commission shall publish a map of the proposed new district boundaries
15 and make that map available to the public for at least seven days before that map
16 may be adopted. The commission shall hold at least three public hearings preceding
17 the hearing at which the new boundaries are adopted.

18 (k) The commission shall not draw districts for the purpose of favoring or
19 discriminating against a political party or an incumbent or political candidate.

20 (l) District boundaries adopted by an independent redistricting commission or
21 adopted by a legislative body from recommendations provided by a hybrid
22 redistricting commission, shall not be altered by the legislative body or the
23 commission until after the next federal decennial census occurs, unless those
24 boundaries have been invalidated by a final judgment or order of a court of
25 competent jurisdiction.

26 (m) For the purposes of subdivisions (c) and (d), “local jurisdiction” does not
27 include a local jurisdiction that contracts with a county independent redistricting
28 commission pursuant to Section 23004.

29 **Comment.** Section 23003 is amended to reflect nonsubstantive recodification of the California
30 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
31 Reports __ (2019).

32 The section is also amended to eliminate gendered pronouns.

33 EVIDENCE CODE

34 **§ 1157.7 (amended). Application to committee established by local governmental agency to**
35 **monitor, evaluate, and report on necessity, quality, and level of specialty health services**

36 SEC. ____. Section 1157.7 of the Evidence Code is amended to read:

37 1157.7. The prohibition relating to discovery or testimony provided in Section
38 1157 shall be applicable to proceedings and records of any committee established
39 by a local governmental agency to monitor, evaluate, and report on the necessity,
40 quality, and level of specialty health services, including, but not limited to, trauma
41 care services, provided by a general acute care hospital ~~which~~ that has been

1 designated or recognized by that governmental agency as qualified to render
2 specialty health care services. The provisions of ~~Chapter 3.5 (commencing with~~
3 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
4 Title 1 of the Government Code and Chapter 9 (commencing with Section 54950)
5 of Division 2 of Title 5 of the Government Code shall not be applicable to the
6 committee records and proceedings.

7 **Comment.** Section 1157.7 is amended to reflect nonsubstantive recodification of the California
8 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
9 Reports __ (2019).

10 The section is also amended to make a grammatical correction.

11 FAMILY CODE

12 **§ 17212 (amended). Confidentiality of support enforcement and child abduction records**

13 SEC. _____. Section 17212 of the Family Code is amended to read:

14 17212. (a) It is the intent of the Legislature to protect individual rights of privacy,
15 and to facilitate and enhance the effectiveness of the child and spousal support
16 enforcement program, by ensuring the confidentiality of support enforcement and
17 child abduction records, and to thereby encourage the full and frank disclosure of
18 information relevant to all of the following:

19 (1) The establishment or maintenance of parent and child relationships and
20 support obligations.

21 (2) The enforcement of the child support liability of absent parents.

22 (3) The enforcement of spousal support liability of the spouse or former spouse to
23 the extent required by the state plan under Section 17604 and Part 6 (commencing
24 with Section 5700.101) of Division 9.

25 (4) The location of absent parents.

26 (5) The location of parents and children abducted, concealed, or detained by them.

27 (b)(1) Except as provided in subdivision (c), all files, applications, papers,
28 documents, and records established or maintained by any public entity pursuant to
29 the administration and implementation of the child and spousal support enforcement
30 program established pursuant to Part D (commencing with Section 651) of
31 Subchapter IV of Chapter 7 of Title 42 of the United States Code and this division,
32 shall be confidential, and shall not be open to examination or released for disclosure
33 for any purpose not directly connected with the administration of the child and
34 spousal support enforcement program. No public entity shall disclose any file,
35 application, paper, document, or record, or the information contained therein, except
36 as expressly authorized by this section.

37 (2) In no case shall information be released or the whereabouts of one party or the
38 child disclosed to another party, or to the attorney of any other party, if a protective
39 order has been issued by a court or administrative agency with respect to the party,
40 a good cause claim under Section 11477.04 of the Welfare and Institutions Code
41 has been approved or is pending, or the public agency responsible for establishing

1 paternity or enforcing support has reason to believe that the release of the
2 information may result in physical or emotional harm to the party or the child. When
3 a local child support agency is prohibited from releasing information pursuant to
4 this subdivision, the information shall be omitted from any pleading or document to
5 be submitted to the court and this subdivision shall be cited in the pleading or other
6 document as the authority for the omission. The information shall be released only
7 upon an order of the court pursuant to paragraph (6) of subdivision (c).

8 (3) Notwithstanding any other law, a proof of service filed by the local child
9 support agency shall not disclose the address where service of process was
10 accomplished. Instead, the local child support agency shall keep the address in its
11 own records. The proof of service shall specify that the address is on record at the
12 local child support agency and that the address may be released only upon an order
13 from the court pursuant to paragraph (6) of subdivision (c). The local child support
14 agency shall, upon request by a party served, release to that person the address where
15 service was effected.

16 (c) Disclosure of the information described in subdivision (b) is authorized as
17 follows:

18 (1) All files, applications, papers, documents, and records as described in
19 subdivision (b) shall be available and may be used by a public entity for all
20 administrative, civil, or criminal investigations, actions, proceedings, or
21 prosecutions conducted in connection with the administration of the child and
22 spousal support enforcement program approved under Part D (commencing with
23 Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code
24 and to the county welfare department responsible for administering a program
25 operated under a state plan pursuant to Part A, Subpart 1 or 2 of Part B, or Part E of
26 Subchapter IV of Chapter 7 of Title 42 of the United States Code.

27 (2) A document requested by a person who wrote, prepared, or furnished the
28 document may be examined by or disclosed to that person or ~~his or her~~ that person's
29 designee.

30 (3) The payment history of an obligor pursuant to a support order may be
31 examined by or released to the court, the obligor, or the person on whose behalf
32 enforcement actions are being taken or that person's designee.

33 (4) An income and expense declaration of either parent may be released to the
34 other parent for the purpose of establishing or modifying a support order.

35 (5) Public records subject to disclosure under the California Public Records Act
36 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
37 (commencing with Section 7920.000) of Title 1 of the Government Code) may be
38 released.

39 (6) After a noticed motion and a finding by the court, in a case in which
40 establishment or enforcement actions are being taken, that release or disclosure to
41 the obligor or obligee is required by due process of law, the court may order a public
42 entity that possesses an application, paper, document, or record as described in
43 subdivision (b) to make that item available to the obligor or obligee for examination

1 or copying, or to disclose to the obligor or obligee the contents of that item. Article
2 9 (commencing with Section 1040) of Chapter 4 of Division 8 of the Evidence Code
3 shall not be applicable to proceedings under this part. At any hearing of a motion
4 filed pursuant to this section, the court shall inquire of the local child support agency
5 and the parties appearing at the hearing if there is reason to believe that release of
6 the requested information may result in physical or emotional harm to a party. If the
7 court determines that harm may occur, the court shall issue any protective orders or
8 injunctive orders restricting the use and disclosure of the information as are
9 necessary to protect the individuals.

10 (7) To the extent not prohibited by federal law or regulation, information
11 indicating the existence or imminent threat of a crime against a child, or location of
12 a concealed, detained, or abducted child or the location of the concealing, detaining,
13 or abducting person, may be disclosed to any district attorney, any appropriate law
14 enforcement agency, or to any state or county child protective agency, or may be
15 used in any judicial proceedings to prosecute that crime or to protect the child.

16 (8) The social security number, most recent address, and the place of employment
17 of the absent parent may be released to an authorized person as defined in Section
18 653(c) of Title 42 of the United States Code, only if the authorized person has filed
19 a request for the information, and only if the information has been provided to the
20 California Parent Locator Service by the federal Parent Locator Service pursuant to
21 Section 653 of Title 42 of the United States Code.

22 (9) A parent's or relative's name, social security number, most recent address,
23 telephone number, place of employment, or other contact information may be
24 released to a county child welfare agency or county probation department pursuant
25 to subdivision (c) of Section 17506.

26 (d)(1) "Administration and implementation of the child and spousal support
27 enforcement program," as used in this division, means the carrying out of the state
28 and local plans for establishing, modifying, and enforcing child support obligations,
29 enforcing spousal support orders, and determining paternity pursuant to Part D
30 (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the
31 United States Code and this article.

32 (2) For purposes of this division, "obligor" means any person owing a duty of
33 support.

34 (3) As used in this division, "putative parent" shall refer to any person reasonably
35 believed to be the parent of a child for whom the local child support agency is
36 attempting to establish paternity or establish, modify, or enforce support pursuant
37 to Section 17400.

38 (e) Any person who willfully, knowingly, and intentionally violates this section
39 is guilty of a misdemeanor.

40 (f) Nothing in this section shall be construed to compel the disclosure of
41 information relating to a deserting parent who is a recipient of aid under a public
42 assistance program for which federal aid is paid to this state, if that information is

1 required to be kept confidential by the federal law or regulations relating to the
2 program.

3 **Comment.** Section 17212 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
5 Reports __ (2019).

6 The section is also amended to eliminate gendered pronouns.

7 **§ 17514 (amended). Child abduction records**

8 SEC. _____. Section 17514 of the Family Code is amended to read:

9 17514. (a) It is the intent of the Legislature to protect individual rights of privacy,
10 and to facilitate and enhance the effectiveness of the child abduction and recovery
11 programs, by ensuring the confidentiality of child abduction records, and to thereby
12 encourage the full and frank disclosure of information relevant to all of the
13 following:

14 (1) The establishment or maintenance of parent and child relationships and
15 support obligations.

16 (2) The enforcement of the child support liability of absent parents.

17 (3) The enforcement of spousal support liability of the spouse or former spouse to
18 the extent required by the state plan under Section 17400, and Chapter 6
19 (commencing with Section 4800) of Part 5 of Division 9.

20 (4) The location of absent parents.

21 (5) The location of parents and children abducted, concealed, or detained by them.

22 (b)(1) Except as provided in this subdivision, all files, applications, papers,
23 documents, and records, established or maintained by any public entity for the
24 purpose of locating an abducted child, locating a person who has abducted a child,
25 or prosecution of a person who has abducted a child shall be confidential, and shall
26 not be open to examination or released for disclosure for any purpose not directly
27 connected with locating or recovering the abducted child or abducting person or
28 prosecution of the abducting person.

29 (2) Except as provided in subdivision (c), no public entity shall disclose any file,
30 application, paper document, or record described in this section, or the information
31 contained therein.

32 (c)(1) All files, applications, papers, documents, and records as described in
33 subdivision (b) shall be available and may be used by a public entity for all
34 administrative, civil, or criminal investigations, actions, proceedings, or prosecution
35 conducted in connection with the child abduction or prosecution of the abducting
36 person.

37 (2) A document requested by a person who wrote, prepared, or furnished the
38 document may be examined by or disclosed to that person or ~~his or her~~ that person's
39 designee.

40 (3) Public records subject to disclosure under ~~Chapter 3.5 (commencing with~~
41 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
42 Title 1 of the Government Code may be released.

1 (4) After a noticed motion and a finding by the court, in a case in which child
2 recovery or abduction prosecution actions are being taken, that release or disclosure
3 is required by due process of law, the court may order a public entity that possesses
4 an application, paper, document, or record described in this subdivision to make that
5 item available to the defendant or other party for examination or copying, or to
6 disclose to an appropriate person the contents of that item. Article 9 (commencing
7 with Section 1040) of Chapter 4 of Division 8 of the Evidence Code shall not be
8 applicable to proceedings under this part.

9 (5) To the extent not prohibited by federal law or regulation, information
10 indicating the existence or imminent threat of a crime against a minor child, or
11 location of a concealed or abducted child or the location of the concealing or
12 abducting person, may be disclosed to any appropriate law enforcement agency, or
13 to any state or county child protective agency, or may be used in any judicial
14 proceedings to prosecute that crime or to protect the child.

15 (6) Information may be released to any state or local agency for the purposes
16 connected with establishing, modifying, and enforcing child support obligations,
17 enforcing spousal support orders, and determining paternity as required by Part D
18 (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the
19 United States Code and this article.

20 **Comment.** Section 17514 is amended to reflect nonsubstantive recodification of the California
21 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
22 Reports __ (2019).

23 The section is also amended to eliminate gendered pronouns.

24 FINANCIAL CODE

25 § 12104 (amended). Criteria for exemption of nonprofit community service organization

26 SEC. ____. Section 12104 of the Financial Code is amended to read:

27 12104. A nonprofit community service organization that meets all of the
28 following criteria shall be exempt from any requirements imposed on proraters
29 pursuant to this division:

30 (a) The nonprofit community service organization incorporates in this state or any
31 other state as a nonprofit corporation and operates pursuant to either the Nonprofit
32 Public Benefit Corporation Law, Part 2 (commencing with Section 5110) of
33 Division 2 of Title 1 of the Corporations Code or the Nonprofit Mutual Benefit
34 Corporation Law, Part 3 (commencing with Section 7110) of Division 2 of Title 1
35 of the Corporations Code.

36 (b) The nonprofit community service organization limits its membership to
37 retailers, lenders in the consumer credit field, educators, attorneys, social service
38 organizations, employer and employee organizations, and related groups that serve
39 educational, benevolent, fraternal, religious, charitable, social, or reformatory
40 purposes.

1 (c) The nonprofit community service organization has as its principal functions
2 the following:

3 (1) Consumer credit education.

4 (2) Counseling on consumer credit problems and family budgets.

5 (3) Arranging or administering debt management plans. “Debt management plan”
6 means a method of paying debtor’s obligations in installments on a monthly basis.

7 (4) Arranging or administering debt settlement plans. “Debt settlement plans”
8 means a method of paying debtor’s obligations in a negotiated amount to each
9 creditor on a one-time basis.

10 (d) The nonprofit community service organization receives from a debtor no more
11 than the following maximum amounts to offset the organization’s actual and
12 necessary expenses for the services described in subdivision (c): a one-time sum not
13 to exceed fifty dollars (\$50) for education and counseling combined in connection
14 with debt management or debt settlement services; and for debt management plans,
15 a sum not to exceed 8 percent of the money disbursed monthly, or thirty-five dollars
16 (\$35) per month, whichever is less, and for debt settlement plans a sum not to exceed
17 15 percent of the amount of the debt forgiven for negotiated debt settlement plans.
18 Nonprofit community service organizations shall not require any upfront payments
19 or deposits on debt settlement plans and may only require payment of fees once the
20 debt has been successfully settled. For purposes of this subdivision, a household
21 shall be considered one debtor. The fees allowed pursuant to this subdivision shall
22 be the only fees that may be charged by a nonprofit community service organization
23 for any services related to a debt management plan or a debt settlement plan.

24 (e) The nonprofit community service organization maintains and keeps current
25 and accurate books, records, and accounts relating to its business in accordance with
26 generally accepted accounting principles, and stores them in a readily accessible
27 place for a period of no less than five years from the end of the fiscal year in which
28 any transactions occurred.

29 (f) The nonprofit community service organization deposits any money received
30 from a debtor for the services described in subdivision (c) in a noninterest-bearing
31 trust account in a federally insured state or federal bank, savings bank, savings and
32 loan association, or credit union, which account is maintained specifically for
33 purposes of administering a debt management plan or debt settlement plan. The
34 nonprofit community service organization shall provide the commissioner the
35 following prior to engaging in business in this state and claiming this exemption:

36 (1) A written notice with the name, address, and telephone number of the bank,
37 savings bank, savings and loan association, or credit union where the trust account
38 is maintained, and the name of the account and the account number. The account
39 information required in this paragraph shall be kept confidential pursuant to the laws
40 governing disclosure of public records, including the California Public Records Act,
41 ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
42 (commencing with Section 7920.000) of Title 1 of the Government Code, and the
43 rules adopted thereunder.

1 (2) An irrevocable written consent providing that upon the commissioner taking
2 possession of the property and business of the nonprofit community service
3 organization, all books, records, property, and business, including trust accounts and
4 any other accounts holding debtors' funds, shall be immediately turned over to the
5 commissioner or receiver appointed pursuant to this division. The consent shall be
6 signed by the nonprofit community service organization and the bank, savings bank,
7 savings and loan association, or credit union where the trust account is maintained.
8 The consent shall be binding upon the nonprofit community service organization
9 and the bank, savings bank, savings and loan association, or credit union, and any
10 objection to it must be raised pursuant to the laws of the State of California and only
11 in the forum in which the proceeding to take possession or appointment of the
12 receiver has been filed. The nonprofit community service organization and the bank,
13 savings bank, savings and loan association, or credit union shall further consent to
14 the jurisdiction of the commissioner for the purpose of any investigation or
15 proceeding under Sections 12105 and 12106 or any other provision of this division.
16 The consent required by this paragraph shall include the name, title, and signature
17 of an official of the bank, savings bank, savings and loan association, or credit union
18 holding the authority to consent on behalf of that institution, and the name, title, and
19 signature of the chief executive officer or president of the nonprofit community
20 service organization.

21 (g) The nonprofit community service organization maintains at all times a surety
22 bond in the amount of twenty-five thousand dollars (\$25,000), issued by an insurer
23 licensed in this state. The bond shall be conditioned upon the obligor faithfully
24 conforming to and abiding by the provisions of Section 12104 of the Financial Code,
25 honestly and faithfully applying all funds received, honestly and faithfully
26 performing all obligations and undertakings required under this section, and paying
27 to the state and to any person all money that becomes due and owing to the state or
28 to any person owed by the obligor of the bond.

29 (h) The nonprofit community service organization reports all of the following to
30 the debtor at least once every three months, or upon the debtor's request, for any
31 debt management plan or debt settlement plan:

32 (1) Total amount received from the debtor.

33 (2) Total amount paid to each creditor.

34 (3) Total amount any creditor has agreed to accept as payment in full on any debt
35 owed by the debtor.

36 (4) Any amount paid to the organization by the debtor.

37 (5) Any amount held in reserve.

38 (i) The nonprofit community service organization submits to the commissioner,
39 at the organization's expense, an audit report containing audited financial statements
40 covering the calendar year or, if the organization has an established fiscal year, then
41 for that fiscal year, within 120 days after the close of the calendar or fiscal year.

42 (j) The nonprofit community service organization submits with the annual
43 financial statements required under subdivision (i) a declaration that conforms to

1 Section 2015.5 of the Code of Civil Procedure, is executed by an official authorized
2 by the board of the organization, and that states that the organization complies with
3 this section. The annual financial statements shall also include a separate written
4 statement that identifies the name, address, contact person, and telephone number
5 of the organization.

6 (k) The nonprofit community service organization maintains accreditation by an
7 independent accrediting organization, including either the Council on Accreditation
8 or the International Standards Organization, with sector certification.

9 (l) The nonprofit community service organization does not engage in any act or
10 practice in violation of Section 17200 or 17500 of the Business and Professions
11 Code.

12 (m) The nonprofit community service organization inserts the following
13 statement, in not less than 10-point type, in its debt management plan and debt
14 settlement plan agreements: “Complaints related to this agreement may be directed
15 to the California Department of Business Oversight. This nonprofit community
16 service organization has adopted best practices for debt management plans and debt
17 settlement plans, and a copy will be provided upon request.”

18 (n) The nonprofit community service organization adopts and implements on a
19 continuous basis policies or procedures of best practices that are designed to prevent
20 improper debt management or debt settlement practices and prevent theft and
21 misappropriation of funds. Failure to do the following shall constitute improper debt
22 management or debt settlement practices, as applicable:

23 (1) Obtain counselor certification conducted by a nationally recognized third-
24 party certification program that certifies that all of the agency’s counselors receive
25 proper training and are qualified to provide financial assistance prior to performing
26 counseling services in this state.

27 (2) Disburse funds no later than 15 days after receipt of valid funds, or by a
28 scheduled disbursement date, whichever is the greater amount of time.

29 (3) Transmit funds utilizing electronic payment processing when available.

30 (4) Implement an inception date policy, which shall include an agreement that a
31 consumer’s first disbursement pursuant to a debt management plan shall be received
32 within 90 days of agreeing to the debt management plan service. The debt
33 management plan shall include all items described in subdivision (h) and shall be
34 provided to the consumer at the inception date of the plan. A description of best
35 practices of the agency and of the consumer complaint resources shall be issued no
36 later than the first payment date.

37 (5) Respond to and research any complaint initiated by a consumer within five
38 business days of receipt of the complaint.

39 (6) Prohibit a policy requiring debt management plan consumers from being
40 required to utilize additional ancillary services.

41 (7) Provide consumer access to debt management plan services regardless of the
42 consumer’s ability to pay fees related to the debt management plan, lack of creditor
43 participation, or the amount of the consumer’s outstanding debt.

1 (8) Implement policies that specifically prohibit credit counselors from receiving
2 financial incentives or additional compensation based on the outcome of the
3 counseling process.

4 (9) Prohibit the practice of paying referral fees to consumers or other third parties
5 who refer new clients to the agency.

6 (10) Disclose in all written contracts with consumers the portion of funding for
7 the agency that is provided by creditors.

8 (11) Disclose in all written contracts for debt management plans or debt
9 settlement plans that these plans are not suitable for all consumers and that
10 consumers may request information on other options, including, but not limited to,
11 bankruptcy.

12 (12) Fully disclose all services to be provided by the agency and any initial and
13 ongoing fees to be charged by the agency for services, including, but not limited to,
14 contributions to the agency.

15 (13) Prohibit the agency or any affiliate of the agency from purchasing debt from
16 a consumer.

17 (14) Prohibit the agency from offering loans to consumers involving the charging
18 of interest.

19 (15) Prominently disclose in written contracts with consumers of any financial
20 arrangement between the agency and any lender or any provider of financial
21 services if the agency receives any form of compensation for referring consumers
22 to that lender or provider of financial services.

23 (16) Provide professional liability insurance coverage.

24 (17) Provide the debtor a written individualized evaluation of his or her financial
25 status and an initial debt management plan for the debtor's debts with specific
26 recommendations regarding actions the debtor should take.

27 (18) Provide the debtor enrolling in a debt management plan a written reliable
28 estimate of the length of time it will take to complete the plan and identifies the total
29 debt owed to each creditor included in the plan, the proposed payment to each
30 creditor, and any fees that would be charged for administering the plan. The estimate
31 shall be provided prior to receipt of the debtor's first deposit.

32 (o) The nonprofit community service organization provides a copy of the best
33 practices described in subdivision (n) to its debtor, upon request.

34 (p) The nonprofit community service organization resolves in a prompt and
35 reasonable manner complaints from debtors relating to the organization's debt
36 management plans or debt settlement plans.

37 (q) The nonprofit community service organization provides written notice to the
38 commissioner within 30 days of dissolution or termination of engaging in the
39 activities of a prorater, as defined in Section 12002.1.

40 (r) This section shall become inoperative upon the enactment of a statute requiring
41 the licensure and regulation of nonprofit community service organizations
42 providing consumer credit counseling.

1 **Comment.** Section 12104 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 **§ 14257 (amended). Disclosure of investigation and examination reports**

5 SEC. ____. Section 14257 of the Financial Code is amended to read:

6 14257. Investigation and examination reports prepared by the commissioner's
7 duly designated representatives shall not be public records. The reports may be
8 disclosed to the officers, directors, members of the supervisory committee, members
9 of the credit committee, and key management personnel of the credit union that is
10 the subject of a report for the purpose of corrective action by those persons. The
11 examination report may also be disclosed to internal and external auditors and
12 attorneys that are retained by the subject credit union, but only to the extent
13 necessary for the auditors and attorneys to perform work related to issues addressed
14 in the examination report. The disclosure shall not operate as a waiver of the
15 exemption specified in ~~subdivision (d) of Section 6254~~ Section 7929.000 of the
16 Government Code.

17 **Comment.** Section 14257 is amended to reflect nonsubstantive recodification of the California
18 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
19 Reports __ (2019).

20 **§ 18394 (amended). Disclosure of investigation and examination reports to officers and**
21 **directors of company for purposes of corrective action**

22 SEC. ____. Section 18394 of the Financial Code is amended to read:

23 18394. Investigation and examination reports prepared by the commissioner's
24 duly designated representatives shall not be public records. Those reports may be
25 disclosed to the officers and directors of a company ~~which~~ that is the subject of a
26 report for the purpose of corrective action by those officers or directors. ~~Any such~~
27 That type of disclosure shall not operate as a waiver of the exemption specified in
28 ~~subdivision (d) of Section 6254~~ Section 7929.000 of the Government Code.

29 **Comment.** Section 18394 is amended to reflect nonsubstantive recodification of the California
30 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
31 Reports __ (2019).

32 The section is also amended to make technical changes.

33 **§ 22067 (amended). Report on exemptions**

34 SEC. ____. Section 22067 of the Financial Code is amended to read:

35 22067. (a) On or before July 1 of each year, the commissioner shall post a report
36 on the department's Internet Web site summarizing the information described in
37 subdivision (b). The information disclosed to the commissioner for the
38 commissioner's use in preparing the report described in this section is exempted
39 from any requirement of public disclosure by ~~paragraph (2) of subdivision (d) of~~
40 ~~Section 6254~~ subdivision (b) of Section 7929.000 of the Government Code.

1 (b) The report required by this section shall specify the time period to which the
2 report corresponds, and shall include, but not be limited to, the following for that
3 time period:

4 (1) The number of organizations that applied for exemptions pursuant to
5 subdivision (c) of Section 22066, and the number of organizations that entered into
6 partnerships with exempt organizations in accordance with subdivision (d) of
7 Section 22066.

8 (2) The number of organizations granted exemptions and the types of exemptions
9 granted.

10 (3) The reason or reasons for denying applications for exemptions, if applicable.
11 This information shall be provided in a manner that does not identify the entity or
12 entities denied.

13 (4) The number of borrowers who applied for loans through exempt or partnering
14 organizations, the number of borrowers granted loans facilitated by exempt or
15 partnering organizations, the total amount loaned, and the distribution of loan
16 lengths upon origination.

17 (5) The number of borrowers who obtained more than one loan through an exempt
18 or partnering organization and the distribution of the number of loans per borrower.

19 (6) Of the number of borrowers who obtained more than one loan facilitated by
20 an exempt or a partnering organization, the percentage of those borrowers whose
21 credit scores increased between successive loans, based on information from at least
22 one major credit bureau, and the average size of the increase.

23 (7) The income distribution of borrowers upon loan origination, including the
24 number of borrowers who obtained at least one loan and who resided in a low-to-
25 moderate-income census tract at the time of their loan application.

26 (8) The number of borrowers who obtained loans facilitated by an exempt or a
27 partnering organization for the following purposes, based on borrower responses at
28 the time of their loan applications indicating the primary purpose for which the loan
29 was obtained:

30 (A) Medical.

31 (B) Other emergency.

32 (C) Vehicle repair.

33 (D) Vehicle purchase.

34 (E) To pay bills.

35 (F) To consolidate debt.

36 (G) To build or repair credit history.

37 (H) To finance a purchase of goods or services other than a vehicle.

38 (I) For other than personal, family, or household purposes.

39 (J) Other.

40 (9) The number of borrowers who self-report that they had a bank account at the
41 time of their loan application, the number of borrowers who self-report that they had
42 a bank account and used check-cashing services, and the number of borrowers who
43 self-report that they did not have a bank account at the time of their loan application.

1 (10) The performance of loans under Section 22066, as reflected by all of the
2 following:

3 (A) The number and percentage of borrowers who experienced at least one late
4 payment lasting between 7 and 29 days and who subsequently brought ~~his or her~~ the
5 loan current, and the distribution of principal loan amounts corresponding to those
6 late payments.

7 (B) The number and percentage of borrowers who experienced at least one late
8 payment lasting between 30 and 59 days and who subsequently brought ~~his or her~~
9 the loan current, and the distribution of principal loan amounts corresponding to
10 those late payments.

11 (C) The number and percentage of borrowers who experienced at least one late
12 payment lasting 60 days or more and who subsequently brought ~~his or her~~ the loan
13 current, and the distribution of principal loan amounts corresponding to those late
14 payments.

15 (D) The number and percentage of borrowers who experienced at least one late
16 payment of greater than seven days and who did not subsequently bring ~~his or her~~
17 the loan current.

18 (E) Among loans that were ever late for seven days or more, the average number
19 of times borrowers experienced a late payment of seven days or more.

20 (11) The number and types of violations of Section 22066 by exempt
21 organizations, which were documented by the commissioner.

22 (12) The number and types of violations of Section 22066 by partnering
23 organizations, which were documented by the commissioner.

24 (13) The number of times the commissioner suspended or revoked an exemption
25 granted to an exempt organization pursuant to paragraph (4) of subdivision (c) of
26 Section 22066 and the number of times a partnering organization was sanctioned by
27 the commissioner pursuant to paragraph (5) of subdivision (d) of Section 22066.

28 (14) The number of complaints received by the commissioner about an exempt
29 organization or a partnering organization, and the nature of those complaints.

30 (15) Recommendations, if any, for improving the program.

31 **Comment.** Section 22067 is amended to reflect nonsubstantive recodification of the California
32 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
33 Reports __ (2019).

34 The section is also amended to eliminate gendered pronouns.

35 **§ 22375 (amended). Licensee that utilizes service of finder**

36 SEC. _____. Section 22375 of the Financial Code is amended to read:

37 22375. A licensee that utilizes the service of a finder shall do all of the following:

38 (a) Notify the commissioner within 15 days of entering into a contract with a
39 finder, on a form acceptable to the commissioner, regarding all of the following:

40 (1) The name, business address, and licensing details of the finder and all
41 locations at which the finder will perform services under this article.

1 (2) The name and contact information for an employee of the finder who is
2 knowledgeable about, and has the authority to execute, the contract governing the
3 business relationship between the finder and the licensee.

4 (3) The name and contact information for one or more employees of the finder
5 who are responsible for that finder's finding activities on behalf of the licensee.

6 (4) A list of the activities the finder shall perform on behalf of the licensee.

7 (5) Any other information requested by the commissioner.

8 (b) Pay an annual finder registration fee to the commissioner in an amount to be
9 established by the commissioner by regulation for each finder utilized by the
10 licensee.

11 (c) Submit an annual report to the commissioner including, for each finder, the
12 information listed in paragraph (12) and subparagraph (A) of paragraph (13) of
13 subdivision (d) of Section 22380, and any other information pertaining to each
14 finder and the licensee's relationship and business arrangements with each finder as
15 the commissioner may by regulation require. The information disclosed to the
16 commissioner for the report described in this subdivision is exempted from any
17 requirement of public disclosure by ~~paragraph (2) of subdivision (d) of Section 6254~~
18 subdivision (b) of Section 7929.000 of the Government Code.

19 **Comment.** Section 22375 is amended to reflect nonsubstantive recodification of the California
20 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
21 Reports __ (2019).

22 **§ 22380 (amended). Utilization summaries**

23 SEC. _____. Section 22380 of the Financial Code is amended to read:

24 22380. (a) On or before July 1, 2015, and annually on or before July 1, 2017, to
25 July 1, 2021, inclusive, the commissioner shall post a report on ~~his or her~~ the
26 commissioner's Internet Web site summarizing utilization of the Pilot Program for
27 Increased Access to Responsible Small Dollar Loans. The report required to be
28 submitted on or before July 1, 2015, shall additionally include the information
29 required by former Section 22361, summarizing utilization of the Pilot Program for
30 Affordable Credit-Building Opportunities, which was created by Chapter 640 of the
31 Statutes of 2010.

32 (b) The information disclosed to the commissioner for the commissioner's use in
33 preparing the reports described in this section is exempted from any requirement of
34 public disclosure by ~~paragraph (2) of subdivision (d) of Section 6254~~ subdivision
35 (b) of Section 7929.000 of the Government Code.

36 (c) If there is more than one licensee approved to participate in the program under
37 this article, the reports required pursuant to subdivision (a) shall state information
38 in aggregate so as not to identify data by specific licensee. The information stated
39 in these reports pursuant to paragraphs (4) and (6) of subdivision (d) shall also be
40 set forth for each specific finder whose services were used by a licensee in
41 connection with the loans or loan applications, along with the specific finder's
42 identity.

1 (d) Each report required pursuant to this section shall specify the time period to
2 which the report corresponds, and shall include, but not be limited to, the following
3 for that time period:

4 (1) The number of entities that applied to participate in the program.

5 (2) The number of entities accepted to participate in the program.

6 (3) The reason or reasons for rejecting applications for participation, if applicable.
7 This information shall be provided in a manner that does not identify the entity or
8 entities rejected.

9 (4) The number of program loan applications received by lenders participating in
10 the program, the number of loans made pursuant to the program, the total amount
11 loaned, the distribution of loan lengths upon origination, and the distribution of
12 interest rates and principal amounts upon origination among those loans.

13 (5) The number of borrowers who obtained more than one program loan and the
14 distribution of the number of loans per borrower.

15 (6) Of the number of borrowers who obtained more than one program loan, the
16 percentage of those borrowers whose credit scores increased between successive
17 loans, based on information from at least one major credit bureau, and the average
18 size of the increase.

19 (7) The income distribution of borrowers upon loan origination, including the
20 number of borrowers who obtained at least one program loan and who resided in a
21 low-to-moderate-income census tract at the time of their loan application.

22 (8) The number of borrowers who obtained loans for the following purposes,
23 based on borrower responses at the time of their loan applications indicating the
24 primary purpose for which the loan was obtained:

25 (A) Medical.

26 (B) Other emergency.

27 (C) Vehicle repair.

28 (D) Vehicle purchase.

29 (E) To pay bills.

30 (F) To consolidate debt.

31 (G) To build or repair credit history.

32 (H) To finance a purchase of goods or services other than a vehicle.

33 (I) For other than personal, family, or household purposes.

34 (J) Other.

35 (9) The number of borrowers who self-report that they had a bank account at the
36 time of their loan application, the number of borrowers who self-report that they had
37 a bank account and used check-cashing services, and the number of borrowers who
38 self-report that they did not have a bank account at the time of their loan application.

39 (10) With respect to refinance loans, each report shall specifically include the
40 following information:

41 (A) The number and percentage of borrowers who applied for a refinance loan.

42 (B) Of those borrowers who applied for a refinance loan, the number and
43 percentage of borrowers who obtained a refinance loan.

1 (C) Of those borrowers who obtained a refinance loan:

2 (i) The percentage of borrowers who refinanced once.

3 (ii) The percentage of borrowers who refinanced twice.

4 (iii) The percentage of borrowers who refinanced more than twice.

5 (D) Of those borrowers who obtained a refinance loan, the average percentage of
6 principal paid down before obtaining a refinance loan.

7 (E) Of those borrowers who obtained a refinance loan, the average amount of
8 additional principal extended.

9 (F) Of those borrowers who obtained a refinance loan, the average number of late
10 payments made on the loan that was refinanced.

11 (11) The number and type of finders used by licensees and the relative
12 performance of loans consummated by finders compared to the performance of
13 loans consummated without a finder.

14 (12) The number and percentage of borrowers who obtained one or more program
15 loans on which late fees were assessed, the total amount of late fees assessed, and
16 the average late fee assessed by dollar amount and as a percentage of the principal
17 amount loaned.

18 (13)(A) The performance of loans under this article, as reflected by all of the
19 following:

20 (i) The number and percentage of program borrowers who experienced at least
21 one delinquency lasting between 7 and 29 days, and the distribution of principal
22 loan amounts corresponding to those delinquencies.

23 (ii) The number and percentage of program borrowers who experienced at least
24 one delinquency lasting between 30 and 59 days, and the distribution of principal
25 loan amounts corresponding to those delinquencies.

26 (iii) The number and percentage of program borrowers who experienced at least
27 one delinquency lasting 60 days or more, and the distribution of principal loan
28 amounts corresponding to those delinquencies.

29 (iv) The number and percentage of program borrowers who experienced at least
30 one delinquency of greater than 7 days and who did not subsequently bring their
31 loan current.

32 (v) Among loans that were ever delinquent for 7 days or more, the average number
33 of times borrowers experienced a delinquency of 7 days or more.

34 (B) To the extent data are readily available to the commissioner, the commissioner
35 shall include in each report comparable delinquency data for unsecured loans made
36 by persons licensed under Chapter 2 (commencing with Section 22365) of Division
37 9 in principal amounts between two thousand five hundred dollars (\$2,500) and four
38 thousand nine hundred ninety-nine dollars (\$4,999), and in principal amounts
39 between five thousand dollars (\$5,000) and nine thousand nine hundred ninety-nine
40 dollars (\$9,999), and for unsecured extensions of credit made by state-chartered
41 banks and credit unions under the commissioner's jurisdiction, in principal amounts
42 between two thousand five hundred dollars (\$2,500) and four thousand nine hundred

1 ninety-nine dollars (\$4,999), and in principal amounts between five thousand dollars
2 (\$5,000) and nine thousand nine hundred ninety-nine dollars (\$9,999).

3 (14) The number and types of violations of this article by finders, which were
4 documented by the commissioner.

5 (15) The number and types of violations of this article by licensees, which were
6 documented by the commissioner.

7 (16) The number of times that the commissioner disqualified a finder from
8 performing services, barred a finder from performing services at one or more
9 specific locations of the finder, terminated a written agreement between a finder and
10 a licensee, or imposed an administrative penalty.

11 (17) The number of complaints received by the commissioner about a licensee or
12 a finder, and the nature of those complaints.

13 (18) Recommendations for improving the program.

14 (19) Recommendations regarding whether the program should be continued after
15 January 1, 2023.

16 **Comment.** Section 22380 is amended to reflect nonsubstantive recodification of the California
17 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
18 Reports __ (2019).

19 The section is also amended to eliminate gendered pronouns.

20 **§ 23049 (amended). Certification of record to prosecuting official**

21 SEC. ____. Section 23049 of the Financial Code is amended to read:

22 23049. After an examination, investigation, or hearing under this division, if the
23 commissioner deems it of public interest or advantage, the commissioner may
24 certify a record to the proper prosecuting official of the city, county, or city and
25 county in which the act complained of, examined, or investigated occurred. The data
26 and records shall be kept confidential pursuant to ~~Chapter 3.5 (commencing with~~
27 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
28 Title 1 of the Government Code and any regulations adopted thereunder.

29 **Comment.** Section 23049 is amended to reflect nonsubstantive recodification of the California
30 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
31 Reports __ (2019).

32 **§ 31111 (amended). Effect of permitting inspection or copying**

33 SEC. ____. Section 31111 of the Financial Code is amended to read:

34 31111. Notwithstanding the fact that the commissioner permits any licensee, any
35 affiliate of ~~such a~~ licensee, or any governmental agency to inspect or make copies
36 of any record relating to ~~such a~~ licensee or to any director, officer, employee, or
37 affiliate of ~~such a~~ licensee, or that the commissioner provides any ~~such~~ record of
38 this type, or a copy thereof, to any ~~such~~ person described above, any provision of
39 Section ~~6254 or 6255~~ 7922.000 of the Government Code and any provision listed
40 in Section 7920.505 of the Government Code ~~which that~~ would, but for ~~such that~~
41 fact, apply to ~~such that~~ that record, shall continue to apply to ~~such the~~ the record.

1 **Comment.** Section 31111 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 The section is also amended to make technical changes.

5 **§ 50314 (amended). Records of residential mortgage lender or residential mortgage loan**
6 **servicer**

7 SEC. ____. Section 50314 of the Financial Code is amended to read:

8 50314. (a) Every person subject to this division shall keep documents and records
9 that will properly enable the commissioner to determine whether the residential
10 mortgage lending or residential mortgage loan servicing functions performed by that
11 person comply with the provisions of this division and with all rules and orders
12 made by the commissioner under this division. Upon request of the commissioner,
13 residential mortgage lenders and residential mortgage loan servicers shall file an
14 authorization for disclosure to the commissioner of financial records of the licensed
15 business pursuant to Section 7473 of the Government Code.

16 (b)(1) The business documents and records of every residential mortgage lender
17 or residential mortgage loan servicer, whether required to be licensed under this
18 division or not, are subject to inspection and examination by the commissioner at
19 any time without prior notice. The provisions of this subdivision shall not apply to
20 persons specified in subdivision (g) of Section 50003.

21 (2) Any person subject to this division shall, upon request and within the time
22 specified in the request, allow inspection and copying of any documents and records
23 by the commissioner or ~~his or her~~ the commissioner's authorized representative.

24 (c)(1) The cost of every inspection and examination of a licensee or other person
25 subject to this division shall be paid to the commissioner by the licensee or person
26 examined, and the commissioner may maintain an action for the recovery of these
27 costs in any court of competent jurisdiction. In determining the cost of any
28 inspection or examination, the commissioner may use the estimated average hourly
29 cost, including overhead, for all persons performing inspections or examinations of
30 licensees or other persons subject to this division for the fiscal year.

31 (2) For the purpose of this subdivision only, no person other than a licensee shall
32 be deemed to be a person subject to this division unless and until the person is
33 determined to be a person subject to this division by an administrative hearing in
34 accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division
35 3 of Title 2 of the Government Code, or by a judicial hearing in any court of
36 competent jurisdiction.

37 (d) Investigation and examination reports prepared by the commissioner's duly
38 designated representatives are not public reports. Those reports may be disclosed to
39 the officers or directors of a licensee that is the subject of the report for the purpose
40 of corrective action by the officers or directors. ~~Such a~~ That type of disclosure shall
41 not operate as a waiver of the exemption specified in ~~subdivision (d) of Section 6254~~
42 Section 7929.000 of the Government Code.

1 **Comment.** Section 50314 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 The section is also amended to insert paragraph labels, eliminate gendered pronouns, and make
5 another technical change.

6 FISH AND GAME CODE

7 **§ 2584 (amended). Remedy for actionable violation**

8 SEC. ____. Section 2584 of the Fish and Game Code is amended to read:

9 2584. (a) Upon an actionable violation, the department shall consult, as to the
10 appropriate civil or criminal remedy, with the district attorney in the jurisdiction
11 where the violation was alleged to have occurred. Before proceeding with a civil
12 action, the department shall seek the concurrence of the Attorney General.

13 (b) The director shall appoint a qualified referee or hearing board, composed of
14 one or any combination of the following persons:

15 (1) A qualified hearing officer, as defined in subdivision (a) of Section 2580.

16 (2) A retired judge of the Superior Court who is knowledgeable in fish and
17 wildlife law.

18 (3) A qualified neutral referee, appointed upon petition to the Superior Court in
19 which the violation was alleged to have occurred.

20 (c) The director, after investigation of the facts and circumstances, may issue a
21 complaint to any person on whom a civil penalty may be imposed pursuant to
22 Section 2582 or 2583. The complaint shall allege the acts or failures to act that
23 constitute a basis for a civil penalty and the amount of the proposed civil penalty.
24 The complaint shall be served by personal service or certified mail and shall inform
25 the person so served that a hearing shall be conducted within 60 days after the person
26 has been served, unless the person waives the right to a hearing. If the person waives
27 the right to a hearing, the department shall issue an order setting liability in the
28 amount proposed in the complaint. If the person has waived the right to a hearing or
29 if the department and the person have entered into a settlement agreement, the order
30 shall be final.

31 (d) Any hearing required under this section shall be conducted by a referee or
32 hearing board according to the procedures specified in Sections 11507 to 11517,
33 inclusive, of the Government Code, except as otherwise provided in this section. In
34 making a determination, the hearing officer may consider the records of the
35 department in the matter, the complaint, and any new facts brought to ~~his or her~~ the
36 officer's attention by that person. The hearing officer shall be the sole trier of fact
37 as to the existence of a basis for liability under Section 2582 or 2583. The hearing
38 officer shall make the determination of the facts of the case and shall prepare and
39 submit the proposed decision, including recommended penalty assessment, to the
40 director for ~~his or her~~ the director's review and assistance in the penalty assessment
41 process.

1 (e) The director may assess the civil penalty, and may reduce the amount, or not
2 impose any assessment, of civil penalties based upon the nature, circumstances,
3 extent, and gravity of the prohibited acts alleged, and the degree of culpability of
4 the violator; or the director may enter into a settlement agreement with the person
5 in the best interests of the state or confirm the amount of civil penalties contained
6 in the complaint. If the director reduces the amount of the civil penalty, does not
7 impose the civil penalty, or enters into a settlement agreement, the director shall
8 seek the recommendation of the hearing officer and enter into the records of the case
9 the reasons for that action, including the hearing officer’s recommendation. The
10 decision of the director assessing the civil penalty is final. The proposed decision is
11 a public record and shall be served upon the person. The director may approve the
12 proposed decision in its entirety, or the director may reduce the proposed penalty
13 and adopt the balance of the proposed decision.

14 (f) Upon the final assessment of the civil penalty, the department shall issue an
15 order setting the amount of the civil penalty to be imposed. An order setting civil
16 liability under this section becomes effective and final upon the issuance thereof,
17 and payment shall be made within 30 days of issuance. Copies of the order shall be
18 served by personal service or by certified mail upon the person served with the
19 complaint and upon other persons who appeared before the director and requested
20 a copy. Copies of the order shall be provided to any person within 10 days of receipt
21 of a written request from that person.

22 (g) Within 30 days after service of a copy of an order setting the amount of the
23 civil penalty, any person so served may file with the superior court a petition for a
24 writ of mandate for review of the order. In all proceedings pursuant to this
25 subdivision, the court shall exercise its independent judgment on the evidence in the
26 whole record. The filing of a petition for a writ of mandate shall not stay any other
27 civil or criminal action.

28 (h) The records of the case, after all appeals are final, are public records, as
29 defined in ~~subdivision (d) of Section 6252~~ Section 7920.530 of the Government
30 Code.

31 **Comment.** Section 2584 is amended to reflect nonsubstantive recodification of the California
32 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
33 Reports __ (2019).

34 The amendment also eliminates gendered pronouns and corrects a cross-reference to subdivision
35 (d) of former Government Code Section 6252, which became obsolete when subdivision (d) was
36 relabeled as subdivision (e). *Compare* 1988 Cal. Stat. ch. 1059, § 4 (original version of Section
37 2584, which cross-refers to “public records, as defined in subdivision (d) of Section 6252 of the
38 Government Code”) *with* 1981 Cal. Stat. ch. 968, § 1 (version of former Gov’t Code § 6252 in
39 place when Section 2584 was added to the codes); see also 1998 Cal. Stat. ch. 620, § 2 (relabeling
40 definition of “public records” as subdivision (e)); 2015 Cal. Stat. ch. 537, § 20 (version of former
41 Gov’t Code § 6252 repealed by CPRA Recodification Act of 2020); Section 7920.530 (continuing
42 former Gov’t Code § 6252(e)’s definition of “public records”).

43 **§ 9002.5 (amended). Retrieval of lost or abandoned commercial Dungeness crab traps**

44 SEC. ____ . Section 9002.5 of the Fish and Game Code is amended to read:

1 9002.5. (a) Notwithstanding Section 9002, the department, in consultation with
2 the Dungeness crab task force, shall establish a retrieval program to provide for the
3 retrieval of lost or abandoned commercial Dungeness crab traps by June 30, 2019.

4 (b) The retrieval program developed pursuant to subdivision (a) shall be
5 consistent with all of the following:

6 (1) The department shall establish a retrieval permit that grants a person who
7 obtains a retrieval permit the authority to retrieve Dungeness crab traps located in
8 ocean waters belonging to another person without written permission from that
9 person during the closed season of the Dungeness crab commercial fishery, as
10 described in Section 8276. The department may establish any qualifications it deems
11 necessary for a person to obtain a retrieval permit. The department shall require a
12 permit fee in an amount necessary to fully recover, but not exceed, all reasonable
13 administrative and implementation costs to the department of the retrieval program.

14 (2) Notwithstanding Chapter 4 (commencing with Section 2080) of Title 6 of Part
15 4 of Division 3 of the Civil Code or any other law, any Dungeness crab trap retrieved
16 under the authority of a retrieval permit shall become the property of the retrieval
17 permitholder.

18 (3) The department shall require a retrieval permitholder to notify the former trap
19 owner of the retrieval of a Dungeness crab trap and shall offer to sell the trap to the
20 former owner for a reasonable recovery fee, as determined by the retrieval
21 permitholder, based on the cost of trap retrieval and storage of the trap. The
22 department shall impose per-trap fees on any former trap owner who refuses to pay
23 the recovery fee to the retrieval permitholder. The department shall set the rate of
24 these per-trap fees at a level sufficient to recover any costs to the department from
25 handling noncompliance with the gear retrieval program and to reimburse the
26 retrieval permitholder for the reasonable cost of trap retrieval, storage, and disposal
27 of crab traps belonging to a former owner who refuses to pay the recovery fees for
28 those traps and, upon appropriation by the Legislature, shall use the proceeds of the
29 per-trap fees for these purposes. The department shall annually adjust the per-trap
30 fees pursuant to Section 713.

31 (4) Notwithstanding Section 8022, the department may release contact
32 information to a retrieval permitholder for purposes of the retrieval program under
33 terms and conditions as the department deems necessary to preserve the
34 confidentiality of the information released. Any release of information pursuant to
35 this section shall not constitute a waiver of any applicable exemptions from
36 disclosure under the California Public Records Act (~~Chapter 3.5 (commencing with~~
37 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
38 Title 1 of the Government Code).

39 (5) The department may deny an application for renewal or transfer of a
40 Dungeness crab vessel permit until the applicant pays any fees imposed pursuant to
41 paragraph (3).

42 (6) The department shall submit the proposed retrieval program developed
43 pursuant to this section to the Dungeness crab task force for review, and shall not

1 implement the retrieval program until the task force has had 60 days or more to
2 review the proposed retrieval program and recommend any proposed changes. The
3 director may implement the retrieval program earlier than 60 days after it is
4 submitted to the Dungeness crab task force for review, if recommended by the task
5 force.

6 (c) This section shall become inoperative on April 1, 2029, and, as of January 1,
7 2030, is repealed, unless a later enacted statute, that becomes operative on or before
8 January 1, 2030, deletes or extends the dates on which it becomes inoperative and
9 is repealed.

10 **Comment.** Section 9002.5 is amended to reflect nonsubstantive recodification of the California
11 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
12 Reports __ (2019).

13 FOOD AND AGRICULTURAL CODE

14 **§ 4061 (amended). Written report of district agricultural association**

15 SEC. ____. Section 4061 of the Food and Agricultural Code is amended to read:

16 4061. (a) Notwithstanding any other law, a district agricultural association shall
17 not be required to prepare or submit any written report to the Governor, the
18 Legislature, or a state agency except as follows:

19 (1) The report is required by a court or under federal law.

20 (2) The report is required in the Budget Act.

21 (3) The report is required by the secretary.

22 (4) The Legislature expressly requires a district agricultural association to prepare
23 and submit a report.

24 (5) The annual reporting of real property information required pursuant to Section
25 11011.15 of the Government Code.

26 (b) This section shall not be construed and is not intended to extend or limit the
27 provisions of the California Public Records Act (~~Chapter 3.5 (commencing with~~
28 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
29 Title 1 of the Government Code).

30 **Comment.** Section 4061 is amended to reflect nonsubstantive recodification of the California
31 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
32 Reports __ (2019).

33 **§ 9269 (amended). Confidentiality of records relating to commercial blood banks for**
34 **animals and biologics**

35 SEC. ____. Section 9269 of the Food and Agricultural Code is amended to read:

36 9269. (a) Except as provided in subdivision (b), all records held by the department
37 relating to this chapter, including, but not limited to, records relating to applications,
38 fees, or inspections required by this chapter, shall be confidential and not subject to
39 disclosure under the California Public Records Act contained in ~~Chapter 3.5~~
40 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
41 Section 7920.000) of Title 1 of the Government Code.

1 (b) Notwithstanding subdivision (a), records held by the department relating to
2 this chapter shall be accessible to law enforcement officers with jurisdiction over
3 any matter covered by this chapter.

4 **Comment.** Section 9269 is amended to reflect nonsubstantive recodification of the California
5 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
6 Reports __ (2019).

7 **§ 13134 (amended). Assessment of dietary risks from foods treated with pesticides**

8 SEC. ____. Section 13134 of the Food and Agricultural Code is amended to read:

9 13134. (a) The department, in cooperation with the State Department of Health
10 Services, shall conduct an assessment of dietary risks associated with the
11 consumption of produce and processed foods treated with pesticides. This
12 assessment shall integrate adequate data on acute effects and the mandatory health
13 effects studies specified in subdivision (c) of Section 13123, appropriate dietary
14 consumption estimates, and relevant residue data based on the department's and the
15 State Department of Health Services' monitoring data and appropriate field
16 experimental and food technology information to quantify consumer risk.
17 Differences in age, sex, ethnic, and regional consumption patterns shall be
18 considered. The department shall submit each risk assessment to the State
19 Department of Health Services, with necessary supporting documentation, for peer
20 review, which shall consider the adequacy of public health protection. The State
21 Department of Health Services may provide comments to the department. The
22 department shall formally respond to all of the comments made by the State
23 Department of Health Services. The department shall modify the risk assessment to
24 incorporate the comments as deemed appropriate by the director. All
25 correspondence between the department and the State Department of Health
26 Services in this matter shall be made available to any person, upon request, pursuant
27 to the California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~
28 of Division 7 Division 10 (commencing with Section 7920.000) of Title 1 of the
29 Government Code).

30 (b) The department shall consider those pesticides designated for priority food
31 monitoring pursuant to Section 12535 and the results of the department's or the State
32 Department of Health Services' monitoring in establishing priorities for the dietary
33 risk assessments.

34 (c)(1) If the department lacks adequate data on the acute effects of pesticide active
35 ingredients or mandatory health effects studies specified in subdivision (c) of
36 Section 13123 necessary to accurately estimate dietary risk, the department shall
37 require the appropriate data to be submitted by the registrant of products whose
38 labels include food uses. This subdivision shall not be construed to affect the
39 timeframes established pursuant to Section 13127.

40 (2) No applicant for registration, or current registrant, of a pesticide who proposes
41 to purchase or purchases a registered pesticide from another producer in order to
42 formulate the purchased pesticide into an end use product shall be required to submit

1 or cite data pursuant to this section or offer to pay reasonable compensation for the
2 use of ~~any such~~ that type of data if the producer is engaged in fulfilling the data
3 requirements of this section.

4 (d)(1) If a registrant fails to submit the data requested by the director pursuant to
5 this section within the time specified by the director, the director shall issue a notice
6 of intent to suspend the registration of that pesticide. The director may include in
7 the notice of intent to suspend any provisions that are deemed appropriate
8 concerning the continued sale and use of existing stocks of that pesticide. Any
9 proposed suspension shall become final and effective 30 days from the receipt by
10 the registrant of the notice of intent to suspend, unless during that time a request for
11 hearing is made by a person adversely affected by the notice or the registrant has
12 satisfied the director that the registrant has complied fully with the requirements that
13 served as a basis for the notice of intent to suspend. If a hearing is requested, a
14 hearing shall be conducted pursuant to Chapter 5 (commencing with Section 11500)
15 of Part 1 of Division 3 of Title 2 of the Government Code. The only matter for
16 resolution at the hearing shall be whether the registrant has failed to take the action
17 that served as the basis for the notice of intent to suspend the registration of the
18 pesticide for which additional data is required and whether the director's
19 determination with respect to the disposition of existing stocks is consistent with
20 this subdivision.

21 (2) A hearing shall be held and a determination made within 75 days after receipt
22 of a request for a hearing. The decision rendered after completion of the hearing
23 shall be final. Any registration suspended shall be reinstated by the director if the
24 director determines that the registrant has complied fully with the requirements that
25 served as a basis for the suspension of the registration.

26 (e) If the department finds that any pesticide use represents a dietary risk that is
27 deleterious to the health of humans, the department shall prohibit or take action to
28 modify that use or modify the tolerance pursuant to Section 12561, or both, as
29 necessary to protect the public.

30 **Comment.** Section 13134 is amended to reflect nonsubstantive recodification of the California
31 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
32 Reports __ (2019).

33 The section is also amended to make a technical change.

34 **§ 14022 (amended). Evaluation of health effects of pesticide**

35 SEC. ____. Section 14022 of the Food and Agricultural Code is amended to read:

36 14022. (a) In consultation with the Office of Environmental Health Hazard
37 Assessment and the State Air Resources Board, the director shall evaluate the health
38 effects of pesticides that may be or are emitted into the ambient air of California and
39 that may be determined to be a toxic air contaminant that poses a present or potential
40 hazard to human health. Upon request of the State Air Resources Board, the director
41 shall include a pesticide for evaluation.

1 (b) The director shall complete the evaluation of a pesticide within 90 days after
2 receiving the scientific data specified in subdivision (c) from the Office of
3 Environmental Health Hazard Assessment and the State Air Resources Board. The
4 director may extend the 90-day deadline for a period not to exceed 30 days if the
5 director transmits to the Assembly Committee on Rules and the Senate Committee
6 on Rules, for transmittal to the appropriate standing, select, or joint committee of
7 the Legislature, a statement of reasons for extension of the deadline.

8 (c) In conducting this evaluation, the director shall consider all available scientific
9 data, including, but not limited to, relevant data provided by the Office of
10 Environmental Health Hazard Assessment, the Occupational Safety and Health
11 Division of the Department of Industrial Relations, international and federal health
12 agencies, private industry, academic researchers, and public health and
13 environmental organizations. At the request of the director, the State Air Resources
14 Board shall document the level of airborne emissions and the Office of
15 Environmental Health Hazard Assessment shall provide an assessment of related
16 health effects of pesticides that may be determined to pose a present or potential
17 hazard and each agency shall provide technical assistance to the department as it
18 conducts its evaluation.

19 (d) The director may request, and any person shall provide, information on any
20 substance that is or may be under evaluation and that is manufactured, distributed,
21 or used by the person to whom the request is made, in order to carry out ~~his or her~~
22 the director's responsibilities pursuant to this chapter. Any person providing
23 information pursuant to this subdivision shall identify, at the request of the director,
24 that portion of the information submitted to the department that is a trade secret and,
25 upon the request of the director, shall provide documentation to support the claim
26 of the trade secret. Information supplied that is a trade secret, as specified in ~~Section~~
27 ~~6254.7~~ 7924.510 of the Government Code, and that is so marked at the time of
28 submission shall not be released to the public by the director, except in accordance
29 with Section 1060 of the Evidence Code and Section 21160 of the Public Resources
30 Code.

31 (e) The director shall give priority to the evaluation and regulation of substances
32 based on factors related to the risk of harm to public health, amount or potential
33 amount of emissions, manner of usage of the pesticide in California, persistence in
34 the atmosphere, and ambient concentrations in the community.

35 **Comment.** Section 14022 is amended to reflect nonsubstantive recodification of the California
36 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
37 Reports __ (2019).

38 The section is also amended to eliminate gendered pronouns.

39 **§ 14407 (amended). Information on antimicrobial drugs and medicated feed**

40 SEC. _____. Section 14407 of the Food and Agricultural Code is amended to read:
41 14407. Notwithstanding the California Public Records Act (~~Chapter 3.5~~
42 ~~(commencing with Section 6250)~~ of ~~Division 7~~ Division 10 (commencing with

1 Section 7920.000) of Title 1 of the Government Code), any information provided
2 pursuant to this chapter and Section 14902.5; ~~if that section is added by Senate Bill~~
3 ~~770 of the 2015–16 Regular Session of the Legislature~~, shall be held confidential,
4 and shall not be disclosed to any person or governmental agency, other than the
5 department or the Veterinary Medical Board, for the purposes of enforcing the
6 Veterinary Medicine Practice Act (Chapter 11 (commencing with Section 4800) of
7 Division 2 of the Business and Professions Code), unless the data is aggregated to
8 prevent the identification of an individual farm or business. Information may be
9 shared with federal agencies so long as it is protected by the federal Confidential
10 Information Protection and Statistical Efficiency Act of 2002 (Public Law 107-347).

11 **Comment.** Section 14407 is amended to reflect nonsubstantive recodification of the California
12 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
13 Reports __ (2019).

14 The section is also amended to delete surplusage. See 2015 Cal. Stat. ch. 806, § 2 (adding Section
15 14902.5 to the codes).

16 **§ 15205 (amended). Structural pest control records and inspections**

17 SEC. _____. Section 15205 of the Food and Agricultural Code is amended to read:

18 15205. (a) Each registered structural pest control company shall make all existing
19 records pertaining to pesticide and device use available to the director, the Structural
20 Pest Control Board, or commissioner upon demand at the headquarters of the
21 business during normal business hours. A registered structural pest control company
22 or licensee may not prohibit onsite inspection for compliance with the Business and
23 Professions Code and this division regarding pesticides and structural pest control
24 devices and regulations adopted pursuant thereto. Except as provided in Section
25 8505.5 of the Business and Professions Code, nothing in this section shall be
26 construed as requiring a registered structural pest control company or licensee to
27 provide advance notice of the date, time, location of the application, type of device
28 or pesticide application, or any other related information unless the information is
29 contained in existing records available to the registered company or licensee, in
30 which case the director, the Structural Pest Control Board, or commissioner may
31 require that this information be produced at the company’s place of business.

32 (b) Information and documents gathered by the director, the Structural Pest
33 Control Board, or the commissioner pursuant to this section that are protected from
34 disclosure under the California Public Records Act (~~Chapter 3.5 (commencing with~~
35 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)) of
36 Title 1 of the Government Code) shall remain confidential while in the director’s,
37 the board’s, or the commissioner’s possession.

38 (c)(1) “Device,” for purposes of this section, means any method, instrument, or
39 contrivance intended to be used to prevent, eliminate, destroy, repel, attract, or
40 mitigate any wood destroying pest, but does not include firearms, pesticides as
41 defined in Section 12753, or equipment used for the application of pesticides when
42 sold separately from a pesticide.

1 (2) “Wood destroying pest,” for purposes of this section, includes, but is not
2 limited to, insects such as wood borers and termites. “Wood destroying pest” does
3 not include wood-decaying fungi, general household pests such as cockroaches, or
4 vertebrate pests such as rats and mice.

5 **Comment.** Section 15205 is amended to reflect nonsubstantive recodification of the California
6 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
7 Reports __ (2019).

8 **§ 29041 (amended). Confidentiality of information relating to apiaries**

9 SEC. _____. Section 29041 of the Food and Agricultural Code is amended to read:

10 29041. Notwithstanding the California Public Records Act (~~Chapter 3.5~~
11 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
12 Section 7920.000) of Title 1 of the Government Code), any information provided in
13 accordance with this article or Section 29070 shall be held confidential, and shall
14 not be disclosed to any person or governmental agency, other than the department
15 or a county department of agriculture. The information shall also be considered
16 privileged under the provisions of Sections 1040 and 1060 of the Evidence Code,
17 with the exception of the location of apiaries for disclosure to pesticide applicators
18 pursuant to Section 29101.

19 **Comment.** Section 29041 is amended to reflect nonsubstantive recodification of the California
20 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
21 Reports __ (2019).

22 **§ 46013.2 (amended). Fees and procedures**

23 SEC. _____. Section 46013.2 of the Food and Agricultural Code is amended to read:

24 46013.2. (a) To the extent feasible, the secretary, in consultation with the director,
25 shall coordinate the registration and annual fee collection procedures of this section
26 with similar licensing or registration procedures applicable to registrants.

27 (b) The secretary shall deny a registration submission that is incomplete or not in
28 compliance with this act.

29 (c) A registrant shall, within a reasonable time, notify the secretary of any change
30 in the information reported on the registration form and shall pay any additional fee
31 owed if that change results in a higher fee owed than that previously paid.

32 (d)(1) At the request of any person, the secretary or county agricultural
33 commissioner shall provide the following:

34 (A) The name and address of the registrant.

35 (B) The nature of the registrant’s business.

36 (C) The names of all certification organizations or governmental entities, if any,
37 providing certification pursuant to the NOP and this act.

38 (2) The secretary or county agricultural commissioner may charge a reasonable
39 fee for the cost of reproducing this information. Except as provided in this
40 subdivision, a registration form is exempt from ~~Chapter 3.5 (commencing with~~
41 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
42 Title 1 of the Government Code.

1 (e) The secretary, in consultation with the California Organic Products Advisory
2 Committee, may suspend the registration program set forth in this section if the
3 secretary determines that income derived from registration fees is insufficient to
4 support a registration enforcement program.

5 (f) A registration is considered legal and valid until revoked, suspended, or until
6 the expiration of the registration.

7 (g) The registration revocation process shall be in conjunction with other
8 provisions of this act. The secretary or county agricultural commissioner's office
9 may initiate the revocation process for failure to comply with the NOP or this act.
10 Any person against whom the action is being taken shall have the opportunity to
11 appeal the action and be afforded the opportunity to be heard in an administrative
12 appeal. This appeal shall be administered by either the state or county agricultural
13 commissioner's office.

14 (h) If the registration fee is not paid within 60 days from the expiration date, the
15 account shall be considered closed and the registration voided. A notification shall
16 be sent to the registrant and the certifier, if applicable, notifying them the registrant
17 is no longer able to market products as organic until the account is paid in full.

18 (i) Any producer, handler, processor, or certification agency subject to this
19 chapter that does not pay the fee within 10 days of the date on which the fee is due
20 and payable shall pay a penalty of 10 percent of the total amount determined to be
21 due plus interest at the rate of 1.5 percent per month on the unpaid balance.

22 **Comment.** Section 46013.2 is amended to reflect nonsubstantive recodification of the California
23 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
24 Reports __ (2019).

25 **§ 46014.1 (amended). Registration and other procedures relating to products certified as**
26 **organic**

27 SEC. ____. Section 46014.1 of the Food and Agricultural Code is amended to read:

28 46014.1. (a) Any certification agency that certifies product in this state sold as
29 organic shall register with the secretary and shall thereafter annually renew the
30 registration, unless the organization is no longer engaged in the activities requiring
31 the registration. Registration shall be on a form provided by the secretary, shall
32 include a copy of accreditation by the USDA or proof of application if applicable.

33 (b) Each certification agency shall pay to the secretary an annual registration fee
34 of twenty-five dollars (\$25) for each client they have certified in this state up to a
35 maximum of five hundred dollars (\$500). Any registration submitted by a
36 certification agency shall be made available to the public for inspection and copying.
37 The secretary may audit the agency's certification procedures and records at any
38 time, but any records of the certification agency not otherwise required to be
39 disclosed shall be kept confidential by the secretary.

40 (c) An accredited certifying agency may submit an annual registration fee and
41 application on behalf of their client provided that all of the information required
42 under Section 46013.1 is included when remitting applicable fees to the secretary.

1 (d) The secretary and the county agricultural commissioners under the supervision
2 of the secretary shall, if requested by a sufficient number of persons to cover the
3 costs of the program in a county as determined by the secretary, establish a
4 certification program. This program shall meet all of the requirements of this act. In
5 addition, this program shall meet all of the requirements of the federal certification
6 program, including federal accreditation. The secretary shall establish a fee schedule
7 for participants in this program that covers all of the secretary's reasonable costs of
8 the program. A county agricultural commissioner that conducts a voluntary
9 certification program pursuant to this section shall establish a fee schedule for
10 participants in this program that covers all of the county's reasonable costs of the
11 program. The secretary shall not expend funds obtained from registration fees
12 collected under this chapter for the purposes of adopting or administering this
13 program. The certification fee authorized by this subdivision is due and payable on
14 January 1 or may be prorated before the 10th day of the month following the month
15 in which the decision to grant the certification is issued. Any person who does not
16 pay the amount that is due within the required period shall pay the enforcement
17 authority providing the certificate a penalty of 10 percent of the total amount
18 determined to be due, plus interest at the rate of 1.5 percent interest per month on
19 the unpaid balance.

20 (e) Notwithstanding any other law, any certification agency that certifies product
21 in this state sold as organic shall immediately make the following records available
22 for inspection by, and shall upon request within three business days of the request,
23 or within a reasonable time exceeding three business days as determined by the
24 secretary, provide a copy to, the secretary or county agricultural commissioner:

25 (1) Records obtained from applicants for certification and certified operations.

26 (2) Records created by the certifying agent regarding applicants for certification
27 and certified operations.

28 (3) Any record required to be kept under the National Organic Program (Section
29 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et
30 seq.) and 7 C.F.R. 205 et seq.), Article 7 (commencing with Section 110810) of
31 Chapter 5 of Part 5 of Division 104 of the Health and Safety Code, and this act
32 applicable to any person selling products as organic.

33 (f) Records acquired pursuant to this section shall not be public records as that
34 term is defined in Section ~~6252~~ 7920.530 of the Government Code and shall not be
35 subject to ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
36 (commencing with Section 7920.000) of Title 1 of the Government Code.

37 **Comment.** Section 46014.1 is amended to reflect nonsubstantive recodification of the California
38 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
39 Reports __ (2019).

40 **§ 46029 (amended). Records relating to products sold as organic**

41 SEC. ____ . Section 46029 of the Food and Agricultural Code is amended to read:

1 46029. (a) Notwithstanding any other provision of law, any producer, handler,
2 processor, or retailer of product sold as organic shall immediately make available
3 for inspection by, and shall upon request, within 72 hours of the request, provide a
4 copy to, the secretary, the Attorney General, any prosecuting attorney, any
5 governmental agency responsible for enforcing laws related to the production or
6 handling of products sold as organic, of any record required to be kept under this
7 section for purposes of carrying out this act. Records acquired pursuant to this act
8 shall not be public records as that term is defined in Section ~~6252~~ 7920.530 of the
9 Government Code and shall not be subject to ~~Chapter 3.5 (commencing with Section~~
10 ~~6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of
11 the Government Code.

12 (b) Upon written request of any person that establishes cause for the request, the
13 secretary shall obtain and provide to the requesting party within 10 working days of
14 the request a copy of any of the following records required to be kept under this act
15 that pertain to a specific product sold or offered for sale, and that identify substances
16 applied, administered, or added to that product, except that financial information
17 about an operation or transaction, information regarding the quantity of a substance
18 administered or applied, the date of each administration or application, information
19 regarding the identity of suppliers or customers, and the quantity or price of supplies
20 purchased or products sold shall be removed before disclosure and shall not be
21 released to any person other than persons and agencies authorized to acquire records
22 under subdivision (a):

23 (1) Records of a producer, as described in Section 46028.

24 (2) Records of a handler, as described in Section 46028, records of previous
25 handlers, if any, and producers as described in Section 46028 without identifying
26 the previous handlers or producers, and, if applicable, records obtained as required
27 in this act.

28 (3)(A) Records of a retailer, as described in Section 46028, records of previous
29 handlers, if any, and producers as described in Section 46028 without identifying
30 the previous processors, handlers, or producers, and, if applicable, records obtained
31 as required in subdivision (d). This subdivision shall be the exclusive means of
32 public access to records required to be kept by producers, processors, handlers, and
33 retailers under this act.

34 (B) A person required to provide records pursuant to a request under this
35 subdivision, may petition the secretary to deny the request based on a finding that
36 the request is of a frivolous or harassing nature. The secretary may, upon the
37 issuance of this finding, waive the information production requirements of this
38 subdivision for the specific request for information that was the subject of the
39 petition.

40 (c) Information specified in subdivision (b) that is required to be released upon
41 request shall not be considered a “trade secret” under Section 110165, Section 1060
42 of the Evidence Code, or the Uniform Trade Secrets Act (Title 5 (commencing with
43 Section 3426) of Part 1 of Division 4 of the Civil Code).

1 (d) The secretary may charge the person requesting records a reasonable fee to
2 reimburse ~~himself or herself~~ the secretary or the source of the records for the cost
3 of reproducing the records requested.

4 (e) The secretary shall not be required to obtain records not in ~~his or her~~ the
5 secretary's possession in response to a subpoena. Prior to releasing records required
6 to be kept pursuant to this act in response to a subpoena, the secretary shall delete
7 any information regarding the identity of suppliers or customers and the quantity or
8 price of supplies purchased or products sold.

9 **Comment.** Section 46029 is amended to reflect nonsubstantive recodification of the California
10 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
11 Reports __ (2019).

12 The section is also amended to eliminate gendered pronouns.

13 **§ 55075 (amended). Records relating to rice certification**

14 SEC. ____. Section 55075 of the Food and Agricultural Code is amended to read:

15 55075. (a) Notwithstanding any other provision of law, any producer or handler
16 of rice sold as a certified rice and any organization certifying rice for the commission
17 shall immediately make available for inspection by, and shall within 72 hours of a
18 request provide to, the commission a copy of any record required to be kept under
19 this chapter. Records acquired pursuant to this section and any information marked
20 trade secret or confidential acquired by the commission in carrying out its duties
21 under this chapter shall not be public records as that term is defined in Section ~~6252~~
22 7920.530 of the Government Code and shall not be subject to ~~Chapter 3.5~~
23 ~~(commencing with Section 6250)~~ Division 10 (commencing with Section 7920.000)
24 of Title 1 of the Government Code.

25 (b) The commission shall not be required to obtain records not in its possession
26 in response to a subpoena. Prior to releasing records required to be kept pursuant to
27 this chapter in response to a subpoena, the commission shall delete any financial
28 information about any operation or transaction, information regarding the identity
29 of suppliers or customers, the quantity or price of supplies purchased or products
30 sold and any information marked trade secret or confidential.

31 (c) Except for those records subject to public inspection pursuant to Sections
32 55071 and 55074, this section shall be the exclusive means of public access to
33 records required to be kept or obtained by the commission pursuant to this chapter.

34 **Comment.** Section 55075 is amended to reflect nonsubstantive recodification of the California
35 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
36 Reports __ (2019).

37 **§ 58577 (amended). Confidentiality and closed meetings**

38 SEC. ____. Section 58577 of the Food and Agricultural Code is amended to read:

39 58577. (a)(1) The director, the Director of General Services, and the advisory
40 committee shall take necessary precautions to assure the confidentiality of the
41 information ~~which~~ that is contained in proposals for project agreements, market
42 development plans, progress reports, documents in support of claims for funding

1 under a project agreement, and other pertinent information submitted by individual
2 marketing organizations.

3 (2) This information is exempt from the California Public Records Act (~~Chapter~~
4 ~~3.5 (commencing with Section 6250) of Division 7~~ Division 10 (commencing with
5 Section 7920.000) of Title 1 of the Government Code).

6 (b) Notwithstanding Article 9 (commencing with Section 11120) of Chapter 1 of
7 Part 1 of Division 3 of Title 2 of the Government Code, the advisory committee may
8 hold a closed meeting if an applicant requests that the submitted information not be
9 discussed in an open meeting and the committee determines that it is in the best
10 interest of the program to conduct a closed meeting for that purpose.

11 **Comment.** Section 58577 is amended to reflect nonsubstantive recodification of the California
12 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
13 Reports __ (2019).

14 The section is also amended to insert paragraph labels and make a grammatical correction.

15 **§ 71089 (amended). Confidentiality and disclosure of records of California Rice**
16 **Commission**

17 SEC. ____. Section 71089 of the Food and Agricultural Code is amended to read:

18 71089. (a) The commission and the secretary shall keep confidential and shall not
19 disclose, except when required by court order after a hearing in a judicial
20 proceeding, all lists in their possession of persons subject to this chapter. However,
21 the commission shall establish procedures to provide access to communication with
22 other producers and handlers regarding noncommercial matters affecting the
23 commission and persons subject to its jurisdiction. The access shall not include the
24 actual release of the list of the names and addresses of producers and handlers in the
25 possession of the commission or the secretary. In addition, notwithstanding any
26 other provision of law, all proprietary or trade secret information developed or
27 gathered pursuant to this chapter, including, but not limited to, names and addresses
28 of handlers, producers, processors, wholesalers, retailers, brokers and shippers,
29 individual quantities produced, handled, shipped, bought or sold, prices paid, and
30 the products of research obtained by the commission, or by the department on behalf
31 of the commission, from any source is confidential and shall not be considered a
32 public record as that term is defined in Section ~~6252~~ 7920.530 of the Government
33 Code.

34 (b) Upon receipt of a request for information from a person establishing cause for
35 the request, the department shall direct the commission to provide the requesting
36 person any record in the commission's possession, except that any proprietary
37 information shall be removed before disclosure.

38 **Comment.** Section 71089 is amended to reflect nonsubstantive recodification of the California
39 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
40 Reports __ (2019).

1 § 77965 (amended). Prevention of unfair trade practices detrimental to California’s cut
2 flower industry

3 SEC. ____ . Section 77965 of the Food and Agricultural Code is amended to read:

4 77965. (a) To prevent unfair trade practices ~~which~~ that are detrimental to
5 California’s cut flower industry, including, but not limited to, deception and
6 misinformation, the commission shall annually specify the types and varieties of cut
7 flowers for which it shall collect from producers who participate, and disseminate
8 to these producers, market price information based on sales ~~which~~ that have
9 occurred.

10 (b) The identity of each producer reporting the information and the information
11 reported pursuant to this section and ~~Section 6254~~ the provisions listed in Section
12 7920.505 of the Government Code shall be kept confidential and not made public
13 under any circumstances. Information that gives industry totals, averages, and other
14 similar data may be disclosed by the commission.

15 (c) The procedure for the collection and dissemination of the information
16 specified in this section shall be adopted by the commission and approved by the
17 secretary.

18 **Comment.** Section 77965 is amended to reflect nonsubstantive recodification of the California
19 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
20 Reports __ (2019).

21 The section is also amended to make grammatical corrections.

22 § 78925 (amended). Proprietary and trade secret information obtained from producers and
23 vintners

24 SEC. ____ . Section 78925 of the Food and Agricultural Code is amended to read:

25 78925. (a) All proprietary and trade secret information obtained by the
26 commission from producers and vintners shall be confidential and shall not be
27 disclosed except when required by a court order after a hearing in a judicial
28 proceeding involving this chapter. The Legislature finds and declares that this
29 provision is required to ensure that producer and vintner proprietary and trade secret
30 information shall not be disclosed.

31 (b) In addition, and notwithstanding any other provision of law, all proprietary or
32 trade secret information developed or gathered pursuant to this chapter by the
33 commission, or by the department on behalf of the commission, from any source is
34 confidential, shall not be considered a public record as that term is defined in Section
35 ~~6252~~ 7920.530 of the Government Code, and shall not be disclosed by the
36 commission or the secretary except when required by a court order after a hearing
37 in a judicial proceeding involving this chapter.

38 (c) Information on volume shipments, crop value, and any other related
39 information that is required for reports to governmental agencies, financial reports
40 to the commission, or aggregate sales and inventory information, and other
41 information that give only totals, but excludes individual information, may be
42 disclosed by the commission.

1 (d) The commission shall determine whether information is proprietary or trade
2 secret and not subject to disclosure. If the commission denies a request for
3 disclosure of this information, the commission shall provide written justification for
4 its decision to the person requesting the information who may appeal the decision
5 of the commission to the secretary.

6 **Comment.** Section 78925 is amended to reflect nonsubstantive recodification of the California
7 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
8 Reports __ (2019).

9 **§ 79505 (amended). Confidentiality and disclosure of information**

10 SEC. ____. Section 79505 of the Food and Agricultural Code is amended to read:

11 79505. (a) All information obtained by the commission or the secretary from
12 producers and other persons required to keep and submit records pursuant to this
13 article shall be confidential and shall not be disclosed except when required by a
14 court order after a hearing in a judicial proceeding involving this chapter.

15 (b) In addition, and notwithstanding any other provision of law, all proprietary or
16 trade secret information developed or gathered pursuant to this chapter, including,
17 but not limited to, the names and addresses of persons subject to this chapter,
18 individual quantities produced or sold, prices paid, and the products of research
19 obtained by the commission, or by the department on behalf of the commission,
20 from any source is confidential, shall not be considered a public record as that term
21 is defined in Section ~~6252~~ 7920.530 of the Government Code, and shall not be
22 disclosed by the commission or the secretary except when required by a court order
23 after a hearing in a judicial proceeding involving this chapter.

24 (c) Information on volume shipments, crop value, and any other related
25 information that is required for reports to governmental agencies, financial reports
26 to the commission, or aggregate sales and inventory information, and any other
27 information that gives only totals, but excludes individual information, may be
28 disclosed by the commission in its sole discretion.

29 **Comment.** Section 79505 is amended to reflect nonsubstantive recodification of the California
30 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
31 Reports __ (2019).

32 GOVERNMENT CODE

33 **§ 925.6 (amended). Controller's warrant for claim**

34 SEC. ____. Section 925.6 of the Government Code is amended to read:

35 925.6. (a) The Controller shall not draw ~~his or her~~ the Controller's warrant for any
36 claim until it has been audited by ~~him or her~~ the Controller in conformity with law
37 and the general rules and regulations adopted by the department, governing the
38 presentation and audit of claims. Whenever the Controller is directed by law to draw
39 ~~his or her~~ the Controller's warrant for any purpose, the direction is subject to this
40 section.

1 (b) Notwithstanding the provisions of subdivision (a), the Assembly Committee
2 on Rules, the Senate Committee on Rules, and the Joint Rules Committee, in
3 cooperation with the Controller, shall adopt rules and regulations to govern the
4 presentation of claims of the committees to the Controller. The Controller, in
5 cooperation with the committees, shall adopt rules and regulations governing the
6 audit and recordkeeping of claims of the committees. All rules and regulations shall
7 be adopted by January 31, 1990, shall be published in the Assembly and Senate
8 Journals, and shall be made available to the public.

9 (c) Rules and regulations adopted pursuant to subdivision (b) shall not be subject
10 to the review by or approval of the Office of Administrative Law.

11 (d) Records of claims kept by the Controller pursuant to subdivision (b) shall be
12 open to public inspection as permitted by the California Public Records Act
13 (~~Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1~~ Division 10
14 (commencing with Section 7920.000)).

15 **Comment.** Section 925.6 is amended to reflect nonsubstantive recodification of the California
16 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
17 Reports __ (2019).

18 The section is also amended to eliminate gendered pronouns.

19 **§ 1363 (amended). Oaths of office**

20 SEC. ____. Section 1363 of the Government Code is amended to read:

21 1363. (a) Unless otherwise provided, every oath of office certified by the officer
22 before whom it was taken shall be filed within the time required as follows:

23 (1) The oath of all officers whose authority is not limited to any particular county,
24 in the office of the Secretary of State.

25 (2) The oath of all officers elected or appointed for any county, and, except as
26 provided in paragraph (4), of all officers whose duties are local, or whose residence
27 in any particular county is prescribed by law, in the office of the county clerk of
28 their respective counties.

29 (3) Each judge of a superior court, the county clerk, the clerk of the court, the
30 executive officer or court administrator of the superior court, and the recorder shall
31 file a copy of ~~his or her~~ that person's official oath, signed with ~~his or her~~ that
32 person's own proper signature, in the office of the Secretary of State as soon as ~~he~~
33 ~~or she~~ that person has taken and subscribed ~~his or her~~ the oath.

34 (4) The oath of all officers for any independent special district, as defined in
35 Section 56044, in the office of the clerk or secretary of that district.

36 (b)(1) In its discretion, the board of supervisors of a county may require every
37 elected or appointed officer or department head of that county who legally changes
38 ~~his or her~~ name, delegated authority, or department, within 10 days from the date of
39 the change, to file a new oath of office in the same manner as the original filing. The
40 county may maintain a record of each person so required to file a new oath of office
41 indicating whether or not the person has complied. Any record maintained pursuant
42 to this paragraph is a public record subject to disclosure under the California Public

1 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~) (Division
2 10 (commencing with Section 7920.000)).

3 (2) Notwithstanding any other law, including, but not limited to, Sections 1368
4 and 1369, failure of an elected or appointed officer or department head of a county
5 to file a new oath of office required by the board of supervisors pursuant to this
6 subdivision shall not be punishable as a crime.

7 (c) Every oath of office filed pursuant to this section with the Secretary of State
8 shall include the expiration date of the officer's term of office, if any. In the case of
9 an oath of office for an appointed officer, if there is no expiration date set forth in
10 the oath, or the officer leaves office before the expiration date, the appointing
11 authority shall report in writing to the Secretary of State the officer's date of
12 departure from office.

13 (d) The powers of an appointed officer of a county are no longer granted upon the
14 officer's departure from office. In its discretion, the board of supervisors of a county
15 may require the appointing authority to rescind these powers in writing by filing a
16 revocation in the same manner as the oath of office was filed.

17 **Comment.** Section 1363 is amended to reflect nonsubstantive recodification of the California
18 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
19 Reports __ (2019).

20 The section is also amended to eliminate gendered pronouns.

21 **§ 3105 (amended). Oath or affirmation of disaster service worker**

22 SEC. _____. Section 3105 of the Government Code is amended to read:

23 3105. (a) The oath or affirmation of any disaster service worker of the state shall
24 be filed as prescribed by State Personnel Board rule within 30 days of the date on
25 which it is taken and subscribed.

26 (b) The oath or affirmation of any disaster service worker of any county shall be
27 filed in the office of the county clerk of the county or in the official department
28 personnel file of the county employee who is designated as a disaster service
29 worker.

30 (c) The oath or affirmation of any disaster service worker of any city shall be filed
31 in the office of the city clerk of the city.

32 (d) The oath or affirmation of any disaster service worker of any other public
33 agency, including any district, shall be filed with any officer or employee of the
34 agency that may be designated by the agency.

35 (e)(1) In its discretion, the board of supervisors of a county may require every
36 disaster service worker of that county who legally changes ~~his or her~~ name, within
37 10 days from the date of the change, to file a new oath or affirmation in the same
38 manner as the original filing. The county may maintain a record of each person so
39 required to file a new oath of office indicating whether or not the person has
40 complied. Any record maintained pursuant to this paragraph is a public record
41 subject to disclosure under the California Public Records Act (~~Chapter 3.5~~

1 (~~commencing with Section 6250~~) of ~~Division 7~~ Division 10 (~~commencing with~~
2 Section 7920.000)).

3 (2) Notwithstanding any other law, including, but not limited to, Sections 3108
4 and 3109, failure of a disaster service worker to file a new oath of office required
5 by the board of supervisors pursuant to this subdivision shall not be punishable as a
6 crime.

7 (f) The oath or affirmation of any disaster service worker may be destroyed
8 without duplication five years after the termination of the disaster service worker's
9 service or, in the case of a public employee, five years after the termination of the
10 employee's employment.

11 **Comment.** Section 3105 is amended to reflect nonsubstantive recodification of the California
12 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
13 Reports __ (2019).

14 **§ 3558 (amended). Information that public employer must provide to exclusive**
15 **representative**

16 SEC. ____. Section 3558 of the Government Code is amended to read:

17 3558. Subject to the exceptions provided here, the public employer shall provide
18 the exclusive representative with the name, job title, department, work location,
19 work, home, and personal cellular telephone numbers, personal email addresses on
20 file with the employer, and home address of any newly hired employee within 30
21 days of the date of hire or by the first pay period of the month following hire, and
22 the public employer shall also provide the exclusive representative with a list of that
23 information for all employees in the bargaining unit at least every 120 days unless
24 more frequent or more detailed lists are required by an agreement with the exclusive
25 representative. The information identified in this section shall be provided to the
26 exclusive representative regardless of whether the newly hired public employee was
27 previously employed by the public employer. The information under this section
28 shall be provided in a manner consistent with ~~Section 6254.3~~ 7928.300 and in a
29 manner consistent with Section 6207 for a participant in the address confidentiality
30 program established pursuant to Chapter 3.1 (commencing with Section 6205) of
31 Division 7. The provision of information under this section shall be consistent with
32 the employee privacy requirements described in *County of Los Angeles v. Los*
33 *Angeles County Employee Relations Com.* (2013) 56 Cal.4th 905. This section does
34 not preclude a public employer and exclusive representative from agreeing to a
35 different interval within which the public employer provides the exclusive
36 representative with the name, job title, department, work location, work, home, and
37 personal cellular telephone numbers, personal email addresses, and home address
38 of any newly hired employee or member of the bargaining unit.

39 **Comment.** Section 3558 is amended to reflect nonsubstantive recodification of the California
40 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
41 Reports __ (2019).

1 **§ 5872 (amended). Audit of conduit financing provider’s accounts and records**

2 SEC. ____ . Section 5872 of the Government Code is amended to read:

3 5872. (a) When an audit of a conduit financing provider’s accounts and records is
4 required by law, in addition to any other requirements, the audit shall include all of
5 the following:

6 (1) A disclosure of fees imposed on borrowers by, or on behalf of, the conduit
7 financing provider.

8 (2) A disclosure of expenditures related to those fees made by or on behalf of the
9 conduit financing provider.

10 (3) The dollar amount and nature of these fees and expenses.

11 (4) A disclosure of the amount of bonds authorized but unsold at the end of the
12 time period covered by the audit.

13 (5) A disclosure of the amount of debt the conduit financing provider has issued
14 during the period covered by the audit and the amount of debt still outstanding at
15 the end of the time period covered by the audit.

16 (b) An audit of a conduit financing provider’s accounts and records shall be made
17 publicly available pursuant to the California Public Records Act (~~Article 1~~
18 ~~(commencing with Section 6250) of Chapter 3.5 of Division 7 (Division 10~~
19 ~~(commencing with Section 7920.000)).~~

20 (c) Notwithstanding any other reporting periods permitted pursuant to subdivision
21 (f) of Section 6505, Section 26909, or any other provision of law, a conduit
22 financing provider shall annually conduct an audit of its accounts and records and
23 report the results of that audit to the Controller. The minimum requirements of the
24 annual audit and report shall be prescribed by the Controller and conform to
25 generally accepted auditing standards.

26 **Comment.** Section 5872 is amended to reflect nonsubstantive recodification of the California
27 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
28 Reports __ (2019).

29 **§ 5976 (amended). Long Beach Civic Center**

30 SEC. ____ . Section 5976 of the Government Code is amended to read:

31 5976. (a) The city may contract and procure the project pursuant to this chapter.

32 (b) The city shall evaluate the project proposals it solicits and receives and choose
33 the private entity or entities whose proposal is, or proposals are, judged as providing
34 the best value in meeting the best interests of the city. The city may enter into a
35 public-private partnership through a concession agreement, design-build agreement,
36 design-build-finance agreement, project agreement, lease-leaseback, or other
37 appropriate agreements combining one or more major elements of the foregoing
38 agreements, with one or more private entities for delivery of the project. The city
39 shall retain the right to terminate the project prior to project award should the city
40 determine that the project is not in the best interests of the city or should the
41 negotiations with the private entity or entities otherwise fail.

1 (c) The contract award for the project shall be made to the private entity or entities
2 whose proposal or proposals are determined by the city, in writing, to be the most
3 advantageous by providing the best value in meeting the best interests of the city.

4 (d) The negotiation process shall specifically prohibit practices that may result in
5 unlawful activity, including, but not limited to, rebates, kickbacks, or other unlawful
6 consideration, and shall specifically prohibit city employees from participating in
7 the selection process when those employees have a relationship with a person or
8 business entity seeking a contract under this chapter that would subject those
9 employees to the prohibition of Section 87100.

10 (e) All documents related to the project shall be subject to disclosure under the
11 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of~~
12 ~~Division 7) (Division 10 (commencing with Section 7920.000))~~, except those
13 exempted from disclosure under that act.

14 **Comment.** Section 5976 is amended to reflect nonsubstantive recodification of the California
15 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
16 Reports __ (2019).

17 **§ 6204 (amended). Notice and demand for return of record belonging to state or local**
18 **agency**

19 SEC. __. Section 6204 of the Government Code is amended to read:

20 6204. (a) For purposes of this chapter, the following definitions shall apply:

21 (1) “Archivist” means the Chief of Archives, as specified in Section 12227.

22 (2) “Record” has the same meaning as “public records” is defined in ~~subdivision~~
23 ~~(e) of Section 6252~~ Section 7920.530, and includes, but is not limited to, any writing
24 containing information relating to the conduct of the public’s business prepared,
25 owned, used, or retained by a state or local agency regardless of physical form or
26 characteristics.

27 (3) “Secretary” means the Secretary of State.

28 (b) Whenever the secretary, in consultation with the archivist, has reasonable
29 grounds to believe that a record belonging to the state or a local agency is in the
30 possession of a person, organization, or institution not authorized by law to possess
31 that record, the secretary may issue a written notice demanding that person,
32 organization, or institution to do either of the following within 20 calendar days of
33 receiving the notice:

34 (1) Return the record to the appropriate state or local agency.

35 (2) Respond in writing and declare why the record does not belong to the state or
36 a local agency.

37 (c) The notice and demand issued pursuant to subdivision (b) shall identify the
38 record claimed to belong to the state or local agency with reasonable specificity, and
39 shall state that the secretary is authorized to take legal action to recover the record
40 if the person, organization, or institution fails to respond in writing within the
41 required time or does not adequately demonstrate that the record does not belong to
42 the state or a local agency.

1 (d) The secretary shall send the notice and demand specified in subdivision (b) by
2 certified or registered mail, return receipt requested.

3 (e) When a record is returned pursuant to paragraph (1) of subdivision (b), upon
4 the request of the person, organization, or institution that returned the record, the
5 secretary or a local agency that receives the record shall issue to that person,
6 organization, or institution a copy or digital image of the record, which shall be
7 certified as a true copy of the record that was returned to the state or local agency,
8 and dated on the same day the record was returned.

9 **Comment.** Section 6204 is amended to reflect nonsubstantive recodification of the California
10 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
11 Reports __ (2019).

12 **§ 6204.1 (amended). Noncompliance with Secretary of State's written notice and demand**
13 **for record**

14 SEC. ____. Section 6204.1 of the Government Code is amended to read:

15 6204.1. (a) If a person, organization, or institution that receives a written notice
16 and demand from the secretary pursuant to Section 6204 does not deliver the
17 described record, does not respond to the notice and demand within the required
18 time, or does not adequately demonstrate that the record does not belong to the state
19 or a local agency, the secretary may ask the Attorney General to petition the superior
20 court in the county in which the records are located for an order requiring the return
21 of the record.

22 (b) After a hearing, and upon a finding that the specified record is in the
23 possession of a person, organization, or institution not authorized by law to possess
24 the record, the court shall order the record to be delivered to the archivist or other
25 government official designated by the court.

26 (c) The court may issue any order necessary to protect the record from destruction,
27 alteration, transfer, conveyance, or alienation by the person, organization, or
28 institution in possession of the record, and may order the record to be surrendered
29 into the custody of the archivist pending the court's decision on the ~~petition~~.
30 petition. The court may order the record to be available for public access under a
31 request made pursuant to the California Public Records Act (~~Chapter 3.5~~
32 ~~(commencing with Section 6250)~~ Division 10 (commencing with Section
33 7920.000)).

34 **Comment.** Section 6204.1 is amended to reflect nonsubstantive recodification of the California
35 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
36 Reports __ (2019).

37 The section is also amended to correct a typographical error.

38 **§ 6204.2 (amended). Unauthorized possession of local agency record**

39 SEC. ____. Section 6204.2 of the Government Code is amended to read:

40 6204.2. (a) If a local agency has reasonable grounds to believe that a record
41 belonging to that local agency is in the possession of a person, organization, or
42 institution not authorized by law to possess the record, it may request the secretary

1 to act on its behalf pursuant to the procedures specified in Sections 6204 and 6204.1,
2 or undertake on its own behalf the same procedure available to the secretary under
3 those sections, subject to subdivisions (b), (c), and (d).

4 (b) If a person, organization, or institution that receives a written notice and
5 demand from a local agency issued pursuant to this section does not deliver the
6 described record, does not respond to the notice and demand within the required
7 time, or does not adequately demonstrate that the record does not belong to the local
8 agency, the local agency may request the county district attorney or, where
9 applicable, the city attorney, to petition the superior court in the county in which the
10 record is located for an order requiring the return of the record.

11 (c) After a hearing, and upon a finding that a specified record is in the possession
12 of a person, organization, or institution not authorized by law to possess the record,
13 the court shall order the record to be delivered to the local agency or a government
14 official designated by the court.

15 (d) The court may issue any order necessary to protect the record from
16 destruction, alteration, transfer, conveyance, or alienation by the person,
17 organization, or institution in possession of the record, and may order the record to
18 be surrendered into the custody of the local agency pending the court's decision on
19 the petition. The court may order the record to be available for public access under
20 a request made pursuant to the California Public Records Act (~~Chapter 3.5~~
21 ~~(commencing with Section 6250)~~ Division 10 (commencing with Section
22 7920.000)).

23 **Comment.** Section 6204.2 is amended to reflect nonsubstantive recodification of the California
24 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
25 Reports __ (2019).

26 **§ 6204.3 (amended). Exempt organization or institution**

27 SEC. ____. Section 6204.3 of the Government Code is amended to read:

28 6204.3. (a) Notwithstanding any other provision of this chapter, an organization
29 or institution having physical custody of a record shall be exempt from Sections
30 6204 to 6204.2, inclusive, if the organization or institution meets both of the
31 following requirements:

32 (1) It follows professional practices recommended by the Society of American
33 Archivists, as used by the archivist, for the management, care, and preservation of
34 historical records.

35 (2) It requires that all records it receives or maintains are subject to inspection to
36 the same extent that the records would be subject to inspection and not exempt from
37 disclosure pursuant to ~~Chapter 3.5 (commencing with Section 6250)~~ Division 10
38 (commencing with Section 7920.000) if received or maintained by a public agency.

39 (b) If an organization or institution refuses public inspection of a record in its
40 custody in violation of the requirements described in paragraph (2) of subdivision
41 (a), the archivist or local agency, or a designated representative, shall contact the
42 organization or institution to inform it of those requirements and, if appropriate,

1 facilitate inspection of the record. If an organization or institution continues to deny
2 public inspection consistent with paragraph (2) of subdivision (a), the secretary, on
3 behalf of the archivist or the local agency may pursue recovery of the records under
4 this chapter.

5 **Comment.** Section 6204.3 is amended to reflect nonsubstantive recodification of the California
6 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
7 Reports __ (2019).

8 **§ 6527 (amended). Participation of nonprofit corporation in pooling of self-insurance claims**
9 **or losses**

10 SEC. ____. Section 6527 of the Government Code is amended to read:

11 6527. (a) Notwithstanding any other provision of law, where two or more health
12 care districts have joined together to pool their self-insurance claims or losses, a
13 nonprofit corporation that provides health care services that may be carried out by
14 a health care district may participate in the pool, provided that its participation in an
15 existing joint powers agreement, as authorized by this section, shall be permitted
16 only after the public agency members, or public agency representatives on the
17 governing body of the joint powers entity make a finding, at a public meeting, that
18 the agreement provides both of the following:

19 (1) The primary activities conducted under the joint powers agreement will be
20 substantially related to and in furtherance of the governmental purposes of the
21 public agency.

22 (2) The public agency participants will maintain control over the activities
23 conducted under the joint powers agreement through public agency control over
24 governance, management, or ownership of the joint powers authority.

25 (b) Any public agency or private entity entering into a joint powers agreement
26 under this section shall establish or maintain a reserve fund to be used to pay losses
27 incurred under the agreement. The reserve fund shall contain sufficient moneys to
28 maintain the fund on an actuarially sound basis.

29 (c) In any risk pooling arrangement created under this section, the aggregate
30 payments made under each program shall not exceed the amount available in the
31 pool established for that program.

32 (d) A public meeting shall be held prior to the dissolution or termination of any
33 enterprise operating under this section to consider the disposition, division, or
34 distribution of any property acquired as a result of exercise of the joint exercise of
35 powers.

36 (e) Nothing in this section shall be construed to do any of the following:

37 (1) Relieve a public benefit corporation that is a health facility from charitable
38 trust obligations.

39 (2) Exempt ~~such~~ a public benefit corporation that is a health facility from existing
40 law governing joint ventures, or the sale, transfer, lease, exchange, option,
41 conveyance, or other disposition of assets.

1 (3) Grant any power to any private, nonprofit hospital that participates in an
2 agreement authorized under this section to levy any tax or assessment.

3 (4) Permit any entity, other than a private, nonprofit hospital corporation or a
4 public agency, to participate as a party to an agreement authorized under this
5 section.

6 (5) Permit an agency or entity created pursuant to a joint powers agreement
7 entered into pursuant to this section to act in a manner inconsistent with the laws
8 that apply to public agencies, including, but not limited to, the California Public
9 Records Act (~~Chapter 3.5 (commencing with Section 6250)~~); (Division 10
10 (commencing with Section 7920.000)), the Ralph M. Brown Act (Chapter 9
11 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), and the
12 Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

13 (f) Notwithstanding any other provision of law, the Self-Insurers' Security Fund
14 established pursuant to Article 2.5 (commencing with Section 3740) of Chapter 4
15 of Part 1 of Division 4 of the Labor Code shall owe no duties or obligations to any
16 entity that participates as a party to an agreement authorized pursuant to this section,
17 or to its employees, and shall not be required, under any circumstances, to assume
18 the worker's compensation liabilities of this entity if it becomes insolvent or
19 otherwise unable to pay those liabilities.

20 (g) For purposes of this section, "self-insurance claims or losses" includes, but is
21 not limited to, claims or losses incurred pursuant to Chapter 4 (commencing with
22 Section 3700) of Part 1 of Division 4 of the Labor Code.

23 **Comment.** Section 6527 is amended to reflect nonsubstantive recodification of the California
24 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
25 Reports __ (2019).

26 The section is also amended to make a technical change.

27 **§ 7283.1 (amended). ICE and individual in local law enforcement custody**

28 SEC. ____. Section 7283.1 of the Government Code is amended to read:

29 7283.1. (a) In advance of any interview between ICE and an individual in local
30 law enforcement custody regarding civil immigration violations, the local law
31 enforcement entity shall provide the individual with a written consent form that
32 explains the purpose of the interview, that the interview is voluntary, and that ~~he or~~
33 ~~she~~ the individual may decline to be interviewed or may choose to be interviewed
34 only with ~~his or her~~ the individual's attorney present. The written consent form shall
35 be available in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean. The
36 written consent form shall also be available in any additional languages that meet
37 the county threshold as defined in subdivision (d) of Section 128552 of the Health
38 and Safety Code if certified translations in those languages are made available to
39 the local law enforcement agency at no cost.

40 (b) Upon receiving any ICE hold, notification, or transfer request, the local law
41 enforcement agency shall provide a copy of the request to the individual and inform
42 ~~him or her~~ the individual whether the law enforcement agency intends to comply

1 with the request. If a local law enforcement agency provides ICE with notification
2 that an individual is being, or will be, released on a certain date, the local law
3 enforcement agency shall promptly provide the same notification in writing to the
4 individual and to ~~his or her~~ the individual's attorney or to one additional person who
5 the individual shall be permitted to designate.

6 (c) All records relating to ICE access provided by local law enforcement agencies,
7 including all communication with ICE, shall be public records for purposes of the
8 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250))~~
9 (Division 10 (commencing with Section 7920.000)), including the exemptions
10 provided by that act and, as permitted under that act, personal identifying
11 information may be redacted prior to public disclosure. Records relating to ICE
12 access include, but are not limited to, data maintained by the local law enforcement
13 agency regarding the number and demographic characteristics of individuals to
14 whom the agency has provided ICE access, the date ICE access was provided, and
15 whether the ICE access was provided through a hold, transfer, or notification request
16 or through other means.

17 (d) Beginning January 1, 2018, the local governing body of any county, city, or
18 city and county in which a local law enforcement agency has provided ICE access
19 to an individual during the last year shall hold at least one community forum during
20 the following year, that is open to the public, in an accessible location, and with at
21 least 30 days' notice to provide information to the public about ICE's access to
22 individuals and to receive and consider public comment. As part of this forum, the
23 local law enforcement agency may provide the governing body with data it
24 maintains regarding the number and demographic characteristics of individuals to
25 whom the agency has provided ICE access, the date ICE access was provided, and
26 whether the ICE access was provided through a hold, transfer, or notification request
27 or through other means. Data may be provided in the form of statistics or, if statistics
28 are not maintained, individual records, provided that personally identifiable
29 information shall be redacted.

30 **Comment.** Section 7283.1 is amended to reflect nonsubstantive recodification of the California
31 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
32 Reports __ (2019).

33 The section is also amended to eliminate gendered pronouns.

34 **§ 7284.6 (amended). Prohibited activities for California law enforcement agency**

35 SEC. ____. Section 7284.6 of the Government Code is amended to read:

36 7284.6. (a) California law enforcement agencies shall not:

37 (1) Use agency or department moneys or personnel to investigate, interrogate,
38 detain, detect, or arrest persons for immigration enforcement purposes, including
39 any of the following:

40 (A) Inquiring into an individual's immigration status.

41 (B) Detaining an individual on the basis of a hold request.

1 (C) Providing information regarding a person’s release date or responding to
2 requests for notification by providing release dates or other information unless that
3 information is available to the public, or is in response to a notification request from
4 immigration authorities in accordance with Section 7282.5. Responses are never
5 required, but are permitted under this subdivision, provided that they do not violate
6 any local law or policy.

7 (D) Providing personal information, as defined in Section 1798.3 of the Civil
8 Code, about an individual, including, but not limited to, the individual’s home
9 address or work address unless that information is available to the public.

10 (E) Making or intentionally participating in arrests based on civil immigration
11 warrants.

12 (F) Assisting immigration authorities in the activities described in Section
13 1357(a)(3) of Title 8 of the United States Code.

14 (G) Performing the functions of an immigration officer, whether pursuant to
15 Section 1357(g) of Title 8 of the United States Code or any other law, regulation, or
16 policy, whether formal or informal.

17 (2) Place peace officers under the supervision of federal agencies or employ peace
18 officers deputized as special federal officers or special federal deputies for purposes
19 of immigration enforcement. All peace officers remain subject to California law
20 governing conduct of peace officers and the policies of the employing agency.

21 (3) Use immigration authorities as interpreters for law enforcement matters
22 relating to individuals in agency or department custody.

23 (4) Transfer an individual to immigration authorities unless authorized by a
24 judicial warrant or judicial probable cause determination, or in accordance with
25 Section 7282.5.

26 (5) Provide office space exclusively dedicated for immigration authorities for use
27 within a city or county law enforcement facility.

28 (6) Contract with the federal government for use of California law enforcement
29 agency facilities to house individuals as federal detainees for purposes of civil
30 immigration custody, except pursuant to Chapter 17.8 (commencing with Section
31 7310).

32 (b) Notwithstanding the limitations in subdivision (a), this section does not
33 prevent any California law enforcement agency from doing any of the following
34 that does not violate any policy of the law enforcement agency or any local law or
35 policy of the jurisdiction in which the agency is operating:

36 (1) Investigating, enforcing, or detaining upon reasonable suspicion of, or
37 arresting for a violation of, Section 1326(a) of Title 8 of the United States Code that
38 may be subject to the enhancement specified in Section 1326(b)(2) of Title 8 of the
39 United States Code and that is detected during an unrelated law enforcement
40 activity. Transfers to immigration authorities are permitted under this subsection
41 only in accordance with paragraph (4) of subdivision (a).

42 (2) Responding to a request from immigration authorities for information about a
43 specific person’s criminal history, including previous criminal arrests, convictions,

1 or similar criminal history information accessed through the California Law
2 Enforcement Telecommunications System (CLETS), where otherwise permitted by
3 state law.

4 (3) Conducting enforcement or investigative duties associated with a joint law
5 enforcement task force, including the sharing of confidential information with other
6 law enforcement agencies for purposes of task force investigations, so long as the
7 following conditions are met:

8 (A) The primary purpose of the joint law enforcement task force is not
9 immigration enforcement, as defined in subdivision (f) of Section 7284.4.

10 (B) The enforcement or investigative duties are primarily related to a violation of
11 state or federal law unrelated to immigration enforcement.

12 (C) Participation in the task force by a California law enforcement agency does
13 not violate any local law or policy to which it is otherwise subject.

14 (4) Making inquiries into information necessary to certify an individual who has
15 been identified as a potential crime or trafficking victim for a T or U Visa pursuant
16 to Section 1101(a)(15)(T) or 1101(a)(15)(U) of Title 8 of the United States Code or
17 to comply with Section 922(d)(5) of Title 18 of the United States Code.

18 (5) Giving immigration authorities access to interview an individual in agency or
19 department custody. All interview access shall comply with requirements of the
20 TRUTH Act (Chapter 17.2 (commencing with Section 7283)).

21 (c)(1) If a California law enforcement agency chooses to participate in a joint law
22 enforcement task force, for which a California law enforcement agency has agreed
23 to dedicate personnel or resources on an ongoing basis, it shall submit a report
24 annually to the Department of Justice, as specified by the Attorney General. The
25 law enforcement agency shall report the following information, if known, for each
26 task force of which it is a member:

27 (A) The purpose of the task force.

28 (B) The federal, state, and local law enforcement agencies involved.

29 (C) The total number of arrests made during the reporting period.

30 (D) The number of people arrested for immigration enforcement purposes.

31 (2) All law enforcement agencies shall report annually to the Department of
32 Justice, in a manner specified by the Attorney General, the number of transfers
33 pursuant to paragraph (4) of subdivision (a), and the offense that allowed for the
34 transfer pursuant to paragraph (4) of subdivision (a).

35 (3) All records described in this subdivision shall be public records for purposes
36 of the California Public Records Act (~~Chapter 3.5 (commencing with Section~~
37 ~~6250));~~ Division 10 (commencing with Section 7920.000)), including the
38 exemptions provided by that act and, as permitted under that act, personal
39 identifying information may be redacted prior to public disclosure. To the extent
40 that disclosure of a particular item of information would endanger the safety of a
41 person involved in an investigation, or would endanger the successful completion
42 of the investigation or a related investigation, that information shall not be disclosed.

1 (4) If more than one California law enforcement agency is participating in a joint
2 task force that meets the reporting requirement pursuant to this section, the joint task
3 force shall designate a local or state agency responsible for completing the reporting
4 requirement.

5 (d) The Attorney General, by March 1, 2019, and annually thereafter, shall report
6 on the total number of arrests made by joint law enforcement task forces, and the
7 total number of arrests made for the purpose of immigration enforcement by all task
8 force participants, including federal law enforcement agencies. To the extent that
9 disclosure of a particular item of information would endanger the safety of a person
10 involved in an investigation, or would endanger the successful completion of the
11 investigation or a related investigation, that information shall not be included in the
12 Attorney General’s report. The Attorney General shall post the reports required by
13 this subdivision on the Attorney General’s Internet Web site.

14 (e) This section does not prohibit or restrict any government entity or official from
15 sending to, or receiving from, federal immigration authorities, information
16 regarding the citizenship or immigration status, lawful or unlawful, of an individual,
17 or from requesting from federal immigration authorities immigration status
18 information, lawful or unlawful, of any individual, or maintaining or exchanging
19 that information with any other federal, state, or local government entity, pursuant
20 to Sections 1373 and 1644 of Title 8 of the United States Code.

21 (f) Nothing in this section shall prohibit a California law enforcement agency
22 from asserting its own jurisdiction over criminal law enforcement matters.

23 **Comment.** Section 7284.6 is amended to reflect nonsubstantive recodification of the California
24 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
25 Reports __ (2019).

26 **§ 7514.7 (amended). Annual disclosures of alternative investment vehicle of public**
27 **investment fund**

28 SEC. ____. Section 7514.7 of the Government Code is amended to read:

29 7514.7. (a) Every public investment fund shall require each alternative investment
30 vehicle in which it invests to make the following disclosures at least annually:

31 (1) The fees and expenses that the public investment fund pays directly to the
32 alternative investment vehicle, the fund manager, or related parties.

33 (2) The public investment fund’s pro rata share of fees and expenses not included
34 in paragraph (1) that are paid from the alternative investment vehicle to the fund
35 manager or related parties. The public investment fund may independently calculate
36 this information based on information contractually required to be provided by the
37 alternative investment vehicle to the public investment fund. If the public
38 investment fund independently calculates this information, then the alternative
39 investment vehicle shall not be required to provide the information identified in this
40 paragraph.

41 (3) The public investment fund’s pro rata share of carried interest distributed to
42 the fund manager or related parties.

1 (4) The public investment fund’s pro rata share of aggregate fees and expenses
2 paid by all of the portfolio companies held within the alternative investment vehicle
3 to the fund manager or related parties.

4 (5) Any additional information described in ~~subdivision (b) of Section 6254.26~~
5 subdivision (c) of Section 7928.710.

6 (b) Every public investment fund shall disclose the information provided pursuant
7 to subdivision (a) at least once annually in a report presented at a meeting open to
8 the public. The public investment fund’s report required pursuant to this subdivision
9 shall also include the gross and net rate of return of each alternative investment
10 vehicle, since inception, in which the public investment fund participates. The
11 public investment fund may report the gross and net rate of return and information
12 required by subdivision (a) based on its own calculations or based on calculations
13 provided by the alternative investment vehicle.

14 (c) For purposes of this section:

15 (1) “Alternative investment” means an investment in a private equity fund,
16 venture fund, hedge fund, or absolute return fund.

17 (2) “Alternative investment vehicle” means the limited partnership, limited
18 liability company, or similar legal structure through which a public investment fund
19 invests in an alternative investment.

20 (3) “Fund manager” means the general partner, managing manager, adviser, or
21 other person or entity with primary investment decisionmaking authority over an
22 alternative investment vehicle and related parties of the fund manager.

23 (4) “Carried interest” means any share of profits from an alternative investment
24 vehicle that is distributed to a fund manager, general partner, or related parties,
25 including allocations of alternative investment vehicle profits received by a fund
26 manager in consideration of having waived fees that it might otherwise have been
27 entitled to receive.

28 (5) “Portfolio companies” means individual portfolio investments made by the
29 alternative investment vehicle.

30 (6) “Gross rate of return” means the internal rate of return for the alternative
31 investment vehicle prior to the reduction of fees and expenses described in
32 subdivision (a).

33 (7) “Public investment fund” means any fund of any public pension or retirement
34 system, including that of the University of California.

35 (8) “Operational person” means any operational partner, senior adviser, or other
36 consultant or employee whose primary activity for a relevant entity is to provide
37 operational or back office support to any portfolio company of any alternative
38 investment vehicle, account, or fund managed by a related person.

39 (9) “Related person” means any current or former employee, manager, or partner
40 of any related entity that is involved in the investment activities or accounting and
41 valuation functions of the relevant entity or any of their respective family members.

42 (10) “Related party” means:

43 (A) Any related person.

1 (B) Any operational person.

2 (C) Any entity more than 10 percent of the ownership of which is held directly or
3 indirectly, whether through other entities or trusts, by a related person or operational
4 person regardless if the related person or operational person participates in the
5 carried interest received by the general partner or the special limited partner.

6 (D) Any consulting, legal, or other service provider regularly engaged by portfolio
7 companies of an alternative investment vehicle, account, or fund managed by a
8 related person and that also provides advice or services to any related person or
9 relevant entity.

10 (11) “Relevant entity” means the general partner, any separate carry vehicle, the
11 investor adviser, any of the investment adviser’s parent or subsidiary entities, or any
12 similar entity related to any other alternative investment vehicle, account, or fund
13 advised or managed by any current or former related person.

14 (d)(1) This section applies to all new contracts the public investment fund enters
15 into on or after January 1, 2017, and to all existing contracts pursuant to which the
16 public investment fund makes a new capital commitment on or after January 1,
17 2017.

18 (2) With respect to existing contracts not covered by paragraph (1), the public
19 investment fund shall undertake reasonable efforts to obtain the information
20 described in subdivision (a) and comply with the reporting requirements contained
21 in subdivision (b) with respect to any information obtained after January 1, 2017.

22 **Comment.** Section 7514.7 is amended to reflect nonsubstantive recodification of the California
23 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
24 Reports __ (2019).

25 **§ 8201.5 (amended). Application for appointment and commission as notary public**

26 SEC. ____. Section 8201.5 of the Government Code is amended to read:

27 8201.5. The Secretary of State shall require an applicant for appointment and
28 commission as a notary public to complete an application form and submit a
29 photograph of their person as prescribed by the Secretary of State. Information on
30 this form filed by an applicant with the Secretary of State, except for ~~his or her~~ the
31 applicant’s name and address, is confidential and no individual record shall be
32 divulged by an official or employee having access to it to any person other than the
33 applicant, ~~his or her~~ the applicant’s authorized representative, or an employee or
34 officer of the federal government, the state government, or a local agency, as defined
35 in ~~subdivision (b) of Section 6252~~ Section 7920.510 of the Government Code,
36 acting in ~~his or her~~ official capacity. That information shall be used by the Secretary
37 of State for the sole purpose of carrying out the duties of this chapter.

38 **Comment.** Section 8201.5 is amended to reflect nonsubstantive recodification of the California
39 Public Records Act (“CPRA”). See *California Public Records Act Clean-Up*, __ Cal. L. Revision
40 Comm’n Reports __ (2019).

41 The amendment also eliminates gendered pronouns and corrects a cross-reference to subdivision
42 (b) of former Section 6252, which became obsolete when subdivision (b) was relabeled as
43 subdivision (a). Compare 1969 Cal. Stat. ch. 1313, § 1 (original version of Section 8201.5, which

1 cross-refers to “a local agency, as defined in subdivision (b) of Section 6252”) with 1968 Cal. Stat.
2 ch. 1473, § 39 (version of former Section 6252 in place when Section 8201.5 was added to the
3 codes); see also 2004 Cal. Stat. ch. 937, § 1 (relabeling definition of “local agency” as subdivision
4 (a)); 2015 Cal. Stat. ch. 537, § 20 (version of former Section 6252 repealed by CPRA
5 Recodification Act of 2020); Section 7920.510 (continuing former Section 6252(a)’s definition of
6 “local agency”).

7 **§ 8545 (amended). Records used to support completed audit of California State Auditor**

8 SEC. ____ . Section 8545 of the Government Code is amended to read:

9 8545. The California State Auditor shall not destroy any papers or memoranda
10 used to support a completed audit sooner than three years after the audit report is
11 released to the public. All books, papers, records, and correspondence of the office
12 pertaining to its work are public records subject to ~~Chapter 3.5 (commencing with~~
13 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
14 Title 1 and shall be filed at any of the regularly maintained offices of the California
15 State Auditor, except that none of the following items or papers of which these items
16 are a part shall be released to the public by the California State Auditor, ~~his or her~~
17 employees of the California State Auditor, or members of the commission:

18 (a) Personal papers and correspondence of any person providing assistance to the
19 California State Auditor when that person has requested in writing that ~~his or her~~
20 the person’s papers and correspondence be kept private and confidential. Those
21 papers and correspondence shall become public records if the written request is
22 withdrawn or upon the order of the California State Auditor.

23 (b) Papers, correspondence, memoranda, or any substantive information
24 pertaining to any audit not completed.

25 (c) Papers, correspondence, or memoranda pertaining to any audit that has been
26 completed, which papers, correspondence, or memoranda are not used in support of
27 any report resulting from the audit.

28 (d) Any survey of public employees that the California State Auditor determines
29 should be kept confidential because the employees have expressed fear of retaliation
30 by their employer if they respond to the survey.

31 (e) In accordance with Section 8545.1 and subdivision (b) of Section 8545.2, any
32 paper, correspondence, record, document, or information the disclosure of which is
33 restricted from release to the public by a statutory or constitutional provision, a rule
34 that is consistent with ~~such~~ a provision of that type, or a rule adopted pursuant to
35 subdivision (i) of Section 18 of Article VI of the California Constitution.

36 **Comment.** Section 8545 is amended to reflect nonsubstantive recodification of the California
37 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
38 Reports __ (2019).

39 The section is also amended to eliminate gendered pronouns and make another technical change.

40 **§ 8585 (amended). Office of Emergency Services**

41 SEC. ____ . Section 8585 of the Government Code is amended to read:

42 8585. (a)(1) There is in state government, within the office of the Governor, the
43 Office of Emergency Services. The Office of Emergency Services shall be under

1 the supervision of the Director of Emergency Services, who shall have all rights and
2 powers of a head of an office as provided by this code, and shall be referred to as
3 the Director of Emergency Services.

4 (2) Unless the context clearly requires otherwise, whenever the term “California
5 Emergency Management Agency” appears in any statute, regulation, or contract, or
6 in any other code, it shall be construed to refer to the Office of Emergency Services,
7 and whenever the term “Secretary of Emergency Management” or the “Secretary of
8 the Emergency Management Agency” appears in statute, regulation, or contract, or
9 in any other code, it shall be construed to refer to the Director of Emergency
10 Services.

11 (3) Unless the context clearly requires otherwise, whenever the term “Director of
12 Homeland Security” or “Office of Homeland Security” appears in any statute,
13 regulation, or contract, or in any other code, it shall be construed to refer to the
14 Office of Emergency Services, and whenever the term “Director of Homeland
15 Security” or “Director of the Office of Homeland Security” appears in any statute,
16 regulation, or contract, or in any other code, it shall be construed to refer to the
17 Director of Emergency Services.

18 (b)(1) The Office of Emergency Services and the Director of Emergency Services
19 shall succeed to and are vested with all the duties, powers, purposes, responsibilities,
20 and jurisdiction vested in the California Emergency Management Agency and the
21 Secretary of Emergency Management, respectively.

22 (2) The Office of Emergency Services and the Director of Emergency Services
23 shall succeed to and are vested with all the duties, powers, purposes, responsibilities,
24 and jurisdiction vested in the Office of Homeland Security and the Director of
25 Homeland Security, respectively.

26 (c) The Office of Emergency Services shall be considered a law enforcement
27 organization as required for receipt of criminal intelligence information pursuant to
28 ~~subdivision (f) of Section 6254~~ Article 1 (commencing with Section 7923.600) of
29 Chapter 1 of Part 5 of Division 10 of Title 1 by persons employed within the office
30 whose duties and responsibilities require the authority to access criminal
31 intelligence information.

32 (d) Persons employed by the Office of Emergency Services whose duties and
33 responsibilities require the authority to access criminal intelligence information
34 shall be furnished state summary criminal history information as described in
35 Section 11105 of the Penal Code, if needed in the course of their duties.

36 (e) The Office of Emergency Services shall be responsible for the state’s
37 emergency and disaster response services for natural, technological, or manmade
38 disasters and emergencies, including responsibility for activities necessary to
39 prevent, respond to, recover from, and mitigate the effects of emergencies and
40 disasters to people and property.

41 (f) Notwithstanding any other law, nothing in this section shall authorize an
42 employee of the Office of Emergency Services to access criminal intelligence

1 information under subdivision (c) or (d) for the purpose of determining eligibility
2 for, or providing access to, disaster-related assistance and services.

3 **Comment.** Section 8585 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
5 Reports __ (2019).

6 **§ 8587.11 (amended). California Earthquake Early Warning Program and California**
7 **Earthquake Early Warning Advisory Board**

8 SEC. ____. Section 8587.11 of the Government Code is amended to read:

9 8587.11. (a) There is in state government, within the office, both of the following:

10 (1) The California Earthquake Early Warning Program.

11 (2) The California Earthquake Early Warning Advisory Board.

12 (b) The following definitions apply to this section and Section 8587.12:

13 (1) "Board" means the California Earthquake Early Warning Advisory Board.

14 (2) "Program" means the California Earthquake Early Warning Program.

15 (3) "System" means the statewide earthquake early warning system.

16 (c)(1) The board shall be composed of the following eight members:

17 (A) Seven voting members, as follows:

18 (i) The Secretary of the Natural Resources Agency, or ~~his or her~~ designee.

19 (ii) The Secretary of California Health and Human Services, or ~~his or her~~
20 designee.

21 (iii) The Secretary of Transportation, or ~~his or her~~ designee.

22 (iv) The Secretary of Business, Consumer Services, and Housing, or ~~his or her~~
23 designee.

24 (v) One member who is appointed by, and serves at the pleasure of, the Speaker
25 of the Assembly and represents the interests of private businesses.

26 (vi) One member who is appointed by, and serves at the pleasure of, the Governor
27 and represents the utilities industry.

28 (vii) One member who is appointed by, and serves at the pleasure of, the Senate
29 Committee on Rules and represents county government.

30 (B) The Chancellor of the California State University, or ~~his or her~~ designee, shall
31 serve as a nonvoting member of the board.

32 (2) The President of the University of California, or ~~his or her~~ designee, may serve
33 as a nonvoting member of the board.

34 (3) The members of the board shall serve without compensation, but shall be
35 reimbursed for actual and reasonable travel and meal expenses to attend board
36 meetings.

37 (d)(1) The board shall convene periodically and advise the director on all aspects
38 of the program, including, but not limited to, the following functional areas of the
39 program:

40 (A) System operations.

41 (B) Research and development.

42 (C) Finance and investment.

1 (D) Training and education.

2 (2) The board shall utilize committees, groups, and organizations, including, but
3 not limited to, the California Institute of Technology, the California Geological
4 Survey, the University of California, the United States Geological Survey, and
5 entities participating in the critical infrastructure sectors to fulfill the objectives of
6 the program by supporting the functional areas of the system.

7 (3) The board shall inform the public regarding, and provide the public with the
8 opportunity to engage the board on, the development and implementation of the
9 system.

10 (4) The board shall consult with program participants, state agencies,
11 departments, boards and commissions, private businesses, postsecondary
12 educational institutions, and subject matter experts, as necessary, to advise the board
13 on the development, implementation, and maintenance of the system.

14 (e)(1) Except as otherwise provided by law, the California Integrated Seismic
15 Network shall be responsible for the generation of an earthquake early warning alert
16 and related system operations.

17 (2) The board shall, in conjunction with the director, determine the appropriate
18 methods to provide the public with an earthquake early warning alert.

19 (f)(1) The board shall comply with the Bagley-Keene Open Meeting Act (Article
20 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3) and the
21 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of~~
22 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1).

23 (2) Notwithstanding any law, including, but not limited to, the California Public
24 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
25 10 (commencing with Section 7920.000) of Title 1), any information in a public
26 record that is a trade secret, as that term is defined in Section 3426.1 of the Civil
27 Code, of a private entity cooperating with the board or participating in the system
28 or with the program is confidential and shall not be disclosed.

29 **Comment.** Section 8587.11 is amended to reflect nonsubstantive recodification of the California
30 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
31 Reports __ (2019).

32 The section is also amended to eliminate gendered pronouns.

33 **§ 8589.5 (amended). Emergency action plan**

34 SEC. ____ . Section 8589.5 of the Government Code is amended to read:

35 8589.5. (a) For the purposes of this section, “emergency action plan” means a
36 written document that outlines actions to be undertaken during an emergency in
37 order to minimize or eliminate the potential loss of life and property damage.

38 (b) An emergency action plan shall do all of the following:

39 (1) Be based upon an inundation map approved by the Department of Water
40 Resources pursuant to Section 6161 of the Water Code.

1 (2) Be developed by the dam's owner in consultation with any local public safety
2 agency that may be impacted by an incident involving the dam, to the extent a local
3 public safety agency wishes to consult.

4 (3) Adhere to Federal Emergency Management Agency guidelines, and include,
5 at a minimum, all of the following:

6 (A) Notification flowcharts and contact information.

7 (B) The response process.

8 (C) The roles and responsibilities of the dam owner and impacted jurisdictions
9 following an incident involving the dam.

10 (D) Preparedness activities and exercise schedules.

11 (E) Inundation maps approved by the Department of Water Resources pursuant to
12 Section 6161 of the Water Code.

13 (F) Any additional information that may impact life or property.

14 (c) At least once annually, an owner of a dam shall conduct an emergency action
15 plan notification exercise with local public safety agencies, to the extent that a local
16 public safety agency wishes to participate. This annual exercise is to ensure that
17 emergency communications plans and processes are current and implemented
18 effectively.

19 (d)(1) The appropriate public safety agencies of any city, county, or city and
20 county, the territory of which includes any of those areas identified in an inundation
21 map and the emergency action plan, may adopt emergency procedures for the
22 evacuation and control of the potentially affected areas. The Office of Emergency
23 Services may provide guidance to these agencies on incorporating the emergency
24 action plan into the local all-hazard emergency response plans and local hazard
25 mitigation plans.

26 (2) Local public safety agencies may adopt emergency procedures that
27 incorporate the information contained in an emergency action plan in a manner that
28 conforms to local needs, and that includes all of the following elements:

29 (A) Methods and procedures for alerting and warning the public.

30 (B) Delineation of the area to be evacuated.

31 (C) Routes to be used.

32 (D) Traffic control measures.

33 (E) Shelters to be activated for the care of the evacuees.

34 (F) Methods for the movement of people without their own transportation.

35 (G) Identification of particular areas or facilities in the flood zones that will not
36 require evacuation because of their location on high ground or similar
37 circumstances.

38 (H) Identification and development of procedures for the evacuation and care of
39 people with access and functional needs and for the evacuation of specific facilities,
40 such as schools, hospitals, skilled nursing facilities, and other facilities as deemed
41 necessary.

42 (I) Procedures for the perimeter and interior security of the evacuated area.

43 (J) Procedures for the lifting of the evacuation and reentry of the area.

1 (K) Details as to which organizations are responsible for the functions described
2 in this paragraph and the material and personnel resources required.

3 (3) Each agency that prepares emergency procedures may review and update these
4 procedures in accordance with its established schedules.

5 (e) Nothing in ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
6 Division 10 (commencing with Section 7920.000) of Title 1 shall be construed to
7 require disclosure of an emergency action plan.

8 (f) The Office of Emergency Services may promulgate emergency regulations, as
9 necessary, for the purpose of this section in accordance with the rulemaking
10 provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with
11 Section 11340) of Part 1 of Division 3). The adoption of these regulations shall be
12 deemed to be an emergency and necessary for the immediate preservation of the
13 public peace, health and safety, or general welfare.

14 **Comment.** Section 8589.5 is amended to reflect nonsubstantive recodification of the California
15 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
16 Reports __ (2019).

17 **§ 8592.45 (amended). Confidential cybersecurity records**

18 SEC. ____. Section 8592.45 of the Government Code is amended to read:

19 8592.45. The information required by subdivisions (b) and (c) of Section 8592.35,
20 the report required by subdivision (a) of Section 8592.40, the plan authorized by
21 subdivision (b) of Section 8592.40, and any public records relating to any
22 communication made pursuant to, or in furtherance of the purposes of, subdivision
23 (c) of Section 8592.40 are confidential and shall not be disclosed pursuant to any
24 state law, including, but not limited to, the California Public Records Act (~~Chapter~~
25 3.5 (commencing with Section 6250) of Division 7 Division 10 (commencing with
26 Section 7920.000) of Title 1).

27 **Comment.** Section 8592.45 is amended to reflect nonsubstantive recodification of the California
28 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
29 Reports __ (2019).

30 **§ 11015.5 (amended). Notice to user**

31 SEC. ____. Section 11015.5 of the Government Code is amended to read:

32 11015.5. (a) On or after July 1, 2001, unless otherwise authorized by the
33 Department of Information Technology pursuant to Executive Order D-3-99, every
34 state agency, including the California State University, that utilizes any method,
35 device, identifier, or other data base application on the Internet to electronically
36 collect personal information, as defined in subdivision (d), regarding any user shall
37 prominently display the following at least one anticipated initial point of
38 communication with a potential user, to be determined by each agency, and in
39 instances when the specified information would be collected:

40 (1) Notice to the user of the usage or existence of the information gathering
41 method, device, identifier, or other data base application.

1 (2) Notice to the user of the type of personal information that is being collected
2 and the purpose for which the collected information will be used.

3 (3) Notice to the user of the length of time that the information gathering device,
4 identifier, or other data base application will exist in the user's hard drive, if
5 applicable.

6 (4) Notice to the user that ~~he or she~~ the user has the option of having ~~his or her~~ the
7 user's personal information discarded without reuse or distribution, provided that
8 the appropriate agency official or employee is contacted after notice is given to the
9 user.

10 (5) Notice to the user that any information acquired by the state agency, including
11 the California State University, is subject to the limitations set forth in the
12 Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of
13 Part 4 of Division 3 of the Civil Code).

14 (6) Notice to the user that state agencies shall not distribute or sell any
15 electronically collected personal information, as defined in subdivision (d), about
16 users to any third party without the permission of the user.

17 (7) Notice to the user that electronically collected personal information, as defined
18 in subdivision (d), is exempt from requests made pursuant to the California Public
19 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
20 10 (commencing with Section 7920.000) of Title 1).

21 (8) The title, business address, telephone number, and electronic mail address, if
22 applicable, of the agency official who is responsible for records requests, as
23 specified by subdivision (b) of Section 1798.17 of the Civil Code, or the agency
24 employee designated pursuant to Section 1798.22 of that code, as determined by the
25 agency, who is responsible for ensuring that the agency complies with requests
26 made pursuant to this section.

27 (b) A state agency shall not distribute or sell any electronically collected personal
28 information about users to any third party without prior written permission from the
29 user, except as required to investigate possible violations of Section 502 of the Penal
30 Code or as authorized under the Information Practices Act of 1977 (Title 1.8
31 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code). Nothing
32 in this subdivision shall be construed to prohibit a state agency from distributing
33 electronically collected personal information to another state agency or to a public
34 law enforcement organization in any case where the security of a network operated
35 by a state agency and exposed directly to the Internet has been, or is suspected of
36 having been, breached.

37 (c) A state agency shall discard without reuse or distribution any electronically
38 collected personal information, as defined in subdivision (d), upon request by the
39 user.

40 (d) For purposes of this section:

41 (1) "Electronically collected personal information" means any information that is
42 maintained by an agency that identifies or describes an individual user, including,
43 but not limited to, ~~his or her~~ the user's name, social security number, physical

1 description, home address, home telephone number, education, financial matters,
2 medical or employment history, password, electronic mail address, and information
3 that reveals any network location or identity, but excludes any information manually
4 submitted to a state agency by a user, whether electronically or in written form, and
5 information on or relating to individuals who are users serving in a business
6 capacity, including, but not limited to, business owners, officers, or principals of
7 that business.

8 (2) “User” means an individual who communicates with a state agency or with an
9 agency employee or official electronically.

10 (e) Nothing in this section shall be construed to permit an agency to act in a
11 manner inconsistent with the standards and limitations adopted pursuant to the
12 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of~~
13 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1) or the
14 Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of
15 Part 4 of Division 3 of the Civil Code).

16 **Comment.** Section 11015.5 is amended to reflect nonsubstantive recodification of the California
17 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
18 Reports __ (2019).

19 The section is also amended to eliminate gendered pronouns.

20 **§ 11018.5 (amended). License information to be provided on Internet by Bureau of Real**
21 **Estate**

22 SEC. ____. Section 11018.5 of the Government Code is amended to read:

23 11018.5. (a) The Bureau of Real Estate, on or after July 1, 2001, unless otherwise
24 authorized by the Department of Information Technology pursuant to Executive
25 Order D-3-99, shall provide on the Internet information regarding the status of every
26 license issued by that entity in accordance with the California Public Records Act
27 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
28 (commencing with Section 7920.000) of Title 1 of the ~~Government Code~~ this code)
29 and the Information Practices Act of 1977 (Chapter 1 (commencing with Section
30 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), including information
31 relative to suspensions and revocations of licenses issued by that state agency and
32 other related enforcement action taken against persons, businesses, or facilities
33 subject to licensure or regulation by a state agency.

34 (b) The Bureau of Real Estate shall disclose information on its licensees,
35 including real estate brokers and agents, on the Internet that is in compliance with
36 the bureau’s public record access guidelines. In instances where licensees use their
37 home address as a mailing address, the bureau shall allow licensees to provide a
38 post office box number or other alternate address where correspondence may be
39 received. Notwithstanding the foregoing, real estate brokers shall provide the bureau
40 with the actual address of their place or places of business as required by Section
41 10162 of the Business and Professions Code.

1 (c) “Internet” for the purposes of this section has the meaning set forth in
2 paragraph (6) of subdivision (e) of Section 17538 of the Business and Professions
3 Code.

4 **Comment.** Section 11018.5 is amended to reflect nonsubstantive recodification of the California
5 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
6 Reports __ (2019).

7 The section is also amended to make a technical change.

8 **§ 11104.5 (amended). Use of electronic mail upon recipient’s request**

9 SEC. ____. Section 11104.5 of the Government Code is amended to read:

10 11104.5. (a) Notwithstanding any other provision of law, any requirement that a
11 state agency send material, information, notices, correspondence, or other
12 communication through the United States mail shall be deemed to include the
13 authority for the state agency to send that material, information, notice,
14 correspondence, or other communication by electronic mail upon the request of the
15 recipient, unless impracticable to do so, or unless contrary to state or federal law.

16 (b) Any state agency may require that direct costs incurred by the agency
17 involving the electronic transmission of information be paid by the requester
18 pursuant to this section and the California Public Records Act (~~Chapter 3.5~~
19 ~~(commencing with Section 6250)~~ of ~~Division 7~~ Division 10 (commencing with
20 Section 7920.000) of Title 1).

21 (c) Nothing in this section shall be construed to permit an agency to act in a
22 manner inconsistent with the standards adopted pursuant to the California Public
23 Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of ~~Division 7~~ Division
24 10 (commencing with Section 7920.000) of Title 1) and the Information Practices
25 Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of
26 Division 3 of the Civil Code).

27 **Comment.** Section 11104.5 is amended to reflect nonsubstantive recodification of the California
28 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
29 Reports __ (2019).

30 **§ 11124.1 (amended). Right to record open and public meeting of state body**

31 SEC. ____. Section 11124.1 of the Government Code is amended to read:

32 11124.1. (a) Any person attending an open and public meeting of the state body
33 shall have the right to record the proceedings with an audio or video recorder or a
34 still or motion picture camera in the absence of a reasonable finding by the state
35 body that the recording cannot continue without noise, illumination, or obstruction
36 of view that constitutes, or would constitute, a persistent disruption of the
37 proceedings.

38 (b) Any audio or video recording of an open and public meeting made for
39 whatever purpose by or at the direction of the state body shall be subject to
40 inspection pursuant to the California Public Records Act (~~Chapter 3.5 (commencing~~
41 ~~with Section 6250)~~ of ~~Division 7~~ Division 10 (commencing with Section 7920.000)
42 of Title 1), but may be erased or destroyed 30 days after the recording. Any

1 inspection of an audio or video recording shall be provided without charge on
2 equipment made available by the state body.

3 (c) No state body shall prohibit or otherwise restrict the broadcast of its open and
4 public meetings in the absence of a reasonable finding that the broadcast cannot be
5 accomplished without noise, illumination, or obstruction of view that would
6 constitute a persistent disruption of the proceedings.

7 **Comment.** Section 11124.1 is amended to reflect nonsubstantive recodification of the California
8 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
9 Reports __ (2019).

10 **§ 11125.1 (amended). Agendas and other writings distributed to members of state body in**
11 **connection with subject of public meeting**

12 SEC. ____. Section 11125.1 of the Government Code is amended to read:

13 11125.1. (a) Notwithstanding Section ~~6255~~ 7922.000 or any other provisions of
14 law, agendas of public meetings and other writings, when distributed to all, or a
15 majority of all, of the members of a state body by any person in connection with a
16 matter subject to discussion or consideration at a public meeting of the body, are
17 disclosable public records under the California Public Records Act (~~Chapter 3.5~~
18 ~~(commencing with Section 6250)~~ of Division 7 Division 10 (commencing with
19 Section 7920.000) of Title 1), and shall be made available upon request without
20 delay. However, this section shall not include any writing exempt from public
21 disclosure under Section ~~6253.5, 6254, or 6254.7~~ 7924.100, 7924.105, 7924.110,
22 7924.510, or 7924.700 of this code, any provision listed in Section 7920.505 of this
23 code, or Section 489.1 or 583 of the Public Utilities Code.

24 (b) Writings that are public records under subdivision (a) and that are distributed
25 to members of the state body prior to or during a meeting, pertaining to any item to
26 be considered during the meeting, shall be made available for public inspection at
27 the meeting if prepared by the state body or a member of the state body, or after the
28 meeting if prepared by some other person. These writings shall be made available
29 in appropriate alternative formats, as required by Section 202 of the Americans with
30 Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and
31 regulations adopted in implementation thereof, upon request by a person with a
32 disability.

33 (c) In the case of the Franchise Tax Board, prior to that state body taking final
34 action on any item, writings pertaining to that item that are public records under
35 subdivision (a) that are prepared and distributed by the Franchise Tax Board staff
36 or individual members to members of the state body prior to or during a meeting
37 shall be:

38 (1) Made available for public inspection at that meeting.

39 (2) Distributed to all persons who request notice in writing pursuant to subdivision
40 (a) of Section 11125.

41 (3) Made available on the Internet.

1 (d) Prior to the State Board of Equalization taking final action on any item that
2 does not involve a named tax or fee payer, writings pertaining to that item that are
3 public records under subdivision (a) that are prepared and distributed by board staff
4 or individual members to members of the state body prior to or during a meeting
5 shall be:

6 (1) Made available for public inspection at that meeting.

7 (2) Distributed to all persons who request or have requested copies of these
8 writings.

9 (3) Made available on the Internet.

10 (e) Nothing in this section shall be construed to prevent a state body from charging
11 a fee or deposit for a copy of a public record pursuant to Section ~~6253~~ 7922.530,
12 except that no surcharge shall be imposed on persons with disabilities in violation
13 of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec.
14 12132), and the federal rules and regulations adopted in implementation thereof.
15 The writings described in subdivision (b) are subject to the requirements of the
16 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of
17 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1), and shall
18 not be construed to limit or delay the public's right to inspect any record required to
19 be disclosed by that act, or to limit the public's right to inspect any record covered
20 by that act. This section shall not be construed to be applicable to any writings solely
21 because they are properly discussed in a closed session of a state body. Nothing in
22 this article shall be construed to require a state body to place any paid advertisement
23 or any other paid notice in any publication.

24 (f) "Writing" for purposes of this section means "writing" as defined under
25 Section ~~6252~~ 7920.550.

26 **Comment.** Section 11125.1 is amended to reflect nonsubstantive recodification of the California
27 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
28 Reports __ (2019).

29 **§ 11126 (amended). Closed session of state body**

30 SEC. __. Section 11126 of the Government Code is amended to read:

31 11126. (a)(1) Nothing in this article shall be construed to prevent a state body
32 from holding closed sessions during a regular or special meeting to consider the
33 appointment, employment, evaluation of performance, or dismissal of a public
34 employee or to hear complaints or charges brought against that employee by another
35 person or employee unless the employee requests a public hearing.

36 (2) As a condition to holding a closed session on the complaints or charges to
37 consider disciplinary action or to consider dismissal, the employee shall be given
38 written notice of ~~his or her~~ the employee's right to have a public hearing, rather than
39 a closed session, and that notice shall be delivered to the employee personally or by
40 mail at least 24 hours before the time for holding a regular or special meeting. If
41 notice is not given, any disciplinary or other action taken against any employee at
42 the closed session shall be null and void.

1 (3) The state body also may exclude from any public or closed session, during the
2 examination of a witness, any or all other witnesses in the matter being investigated
3 by the state body.

4 (4) Following the public hearing or closed session, the body may deliberate on the
5 decision to be reached in a closed session.

6 (b) For the purposes of this section, “employee” does not include any person who
7 is elected to, or appointed to a public office by, any state body. However, officers
8 of the California State University who receive compensation for their services, other
9 than per diem and ordinary and necessary expenses, shall, when engaged in that
10 capacity, be considered employees. Furthermore, for purposes of this section, the
11 term employee includes a person exempt from civil service pursuant to subdivision
12 (e) of Section 4 of Article VII of the California Constitution.

13 (c) Nothing in this article shall be construed to do any of the following:

14 (1) Prevent state bodies that administer the licensing of persons engaging in
15 businesses or professions from holding closed sessions to prepare, approve, grade,
16 or administer examinations.

17 (2) Prevent an advisory body of a state body that administers the licensing of
18 persons engaged in businesses or professions from conducting a closed session to
19 discuss matters that the advisory body has found would constitute an unwarranted
20 invasion of the privacy of an individual licensee or applicant if discussed in an open
21 meeting, provided the advisory body does not include a quorum of the members of
22 the state body it advises. Those matters may include review of an applicant’s
23 qualifications for licensure and an inquiry specifically related to the state body’s
24 enforcement program concerning an individual licensee or applicant where the
25 inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary
26 action against the licensee or applicant by the state body.

27 (3) Prohibit a state body from holding a closed session to deliberate on a decision
28 to be reached in a proceeding required to be conducted pursuant to Chapter 5
29 (commencing with Section 11500) or similar provisions of law.

30 (4) Grant a right to enter any correctional institution or the grounds of a
31 correctional institution where that right is not otherwise granted by law, nor shall
32 anything in this article be construed to prevent a state body from holding a closed
33 session when considering and acting upon the determination of a term, parole, or
34 release of any individual or other disposition of an individual case, or if public
35 disclosure of the subjects under discussion or consideration is expressly prohibited
36 by statute.

37 (5) Prevent any closed session to consider the conferring of honorary degrees, or
38 gifts, donations, and bequests that the donor or proposed donor has requested in
39 writing to be kept confidential.

40 (6) Prevent the Alcoholic Beverage Control Appeals Board from holding a closed
41 session for the purpose of holding a deliberative conference as provided in Section
42 11125.

1 (7)(A) Prevent a state body from holding closed sessions with its negotiator prior
2 to the purchase, sale, exchange, or lease of real property by or for the state body to
3 give instructions to its negotiator regarding the price and terms of payment for the
4 purchase, sale, exchange, or lease.

5 (B) However, prior to the closed session, the state body shall hold an open and
6 public session in which it identifies the real property or real properties that the
7 negotiations may concern and the person or persons with whom its negotiator may
8 negotiate.

9 (C) For purposes of this paragraph, the negotiator may be a member of the state
10 body.

11 (D) For purposes of this paragraph, “lease” includes renewal or renegotiation of a
12 lease.

13 (E) Nothing in this paragraph shall preclude a state body from holding a closed
14 session for discussions regarding eminent domain proceedings pursuant to
15 subdivision (e).

16 (8) Prevent the California Postsecondary Education Commission from holding
17 closed sessions to consider matters pertaining to the appointment or termination of
18 the Director of the California Postsecondary Education Commission.

19 (9) Prevent the Council for Private Postsecondary and Vocational Education from
20 holding closed sessions to consider matters pertaining to the appointment or
21 termination of the Executive Director of the Council for Private Postsecondary and
22 Vocational Education.

23 (10) Prevent the Franchise Tax Board from holding closed sessions for the
24 purpose of discussion of confidential tax returns or information the public disclosure
25 of which is prohibited by law, or from considering matters pertaining to the
26 appointment or removal of the Executive Officer of the Franchise Tax Board.

27 (11) Require the Franchise Tax Board to notice or disclose any confidential tax
28 information considered in closed sessions, or documents executed in connection
29 therewith, the public disclosure of which is prohibited pursuant to Article 2
30 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the
31 Revenue and Taxation Code.

32 (12) Prevent the Corrections Standards Authority from holding closed sessions
33 when considering reports of crime conditions under Section 6027 of the Penal Code.

34 (13) Prevent the State Air Resources Board from holding closed sessions when
35 considering the proprietary specifications and performance data of manufacturers.

36 (14) Prevent the State Board of Education or the Superintendent of Public
37 Instruction, or any committee advising the board or the Superintendent, from
38 holding closed sessions on those portions of its review of assessment instruments
39 pursuant to Chapter 5 (commencing with Section 60600) of Part 33 of Division 4 of
40 Title 2 of the Education Code during which actual test content is reviewed and
41 discussed. The purpose of this provision is to maintain the confidentiality of the
42 assessments under review.

1 (15) Prevent the Department of Resources Recycling and Recovery or its auxiliary
2 committees from holding closed sessions for the purpose of discussing confidential
3 tax returns, discussing trade secrets or confidential or proprietary information in its
4 possession, or discussing other data, the public disclosure of which is prohibited by
5 law.

6 (16) Prevent a state body that invests retirement, pension, or endowment funds
7 from holding closed sessions when considering investment decisions. For purposes
8 of consideration of shareholder voting on corporate stocks held by the state body,
9 closed sessions for the purposes of voting may be held only with respect to election
10 of corporate directors, election of independent auditors, and other financial issues
11 that could have a material effect on the net income of the corporation. For the
12 purpose of real property investment decisions that may be considered in a closed
13 session pursuant to this paragraph, a state body shall also be exempt from the
14 provisions of paragraph (7) relating to the identification of real properties prior to
15 the closed session.

16 (17) Prevent a state body, or boards, commissions, administrative officers, or
17 other representatives that may properly be designated by law or by a state body,
18 from holding closed sessions with its representatives in discharging its
19 responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3
20 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525),
21 or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 as the
22 sessions relate to salaries, salary schedules, or compensation paid in the form of
23 fringe benefits. For the purposes enumerated in the preceding sentence, a state body
24 may also meet with a state conciliator who has intervened in the proceedings.

25 (18)(A) Prevent a state body from holding closed sessions to consider matters
26 posing a threat or potential threat of criminal or terrorist activity against the
27 personnel, property, buildings, facilities, or equipment, including electronic data,
28 owned, leased, or controlled by the state body, where disclosure of these
29 considerations could compromise or impede the safety or security of the personnel,
30 property, buildings, facilities, or equipment, including electronic data, owned,
31 leased, or controlled by the state body.

32 (B) Notwithstanding any other law, a state body, at any regular or special meeting,
33 may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote
34 of the members present at the meeting.

35 (C) After meeting in closed session pursuant to subparagraph (A), the state body
36 shall reconvene in open session prior to adjournment and report that a closed session
37 was held pursuant to subparagraph (A), the general nature of the matters considered,
38 and whether any action was taken in closed session.

39 (D) After meeting in closed session pursuant to subparagraph (A), the state body
40 shall submit to the Legislative Analyst written notification stating that it held this
41 closed session, the general reason or reasons for the closed session, the general
42 nature of the matters considered, and whether any action was taken in closed

1 session. The Legislative Analyst shall retain for no less than four years any written
2 notification received from a state body pursuant to this subparagraph.

3 (19) Prevent the California Sex Offender Management Board from holding a
4 closed session for the purpose of discussing matters pertaining to the application of
5 a sex offender treatment provider for certification pursuant to Sections 290.09 and
6 9003 of the Penal Code. Those matters may include review of an applicant's
7 qualifications for certification.

8 (d)(1) Notwithstanding any other law, any meeting of the Public Utilities
9 Commission at which the rates of entities under the commission's jurisdiction are
10 changed shall be open and public.

11 (2) Nothing in this article shall be construed to prevent the Public Utilities
12 Commission from holding closed sessions to deliberate on the institution of
13 proceedings, or disciplinary actions against any person or entity under the
14 jurisdiction of the commission.

15 (e)(1) Nothing in this article shall be construed to prevent a state body, based on
16 the advice of its legal counsel, from holding a closed session to confer with, or
17 receive advice from, its legal counsel regarding pending litigation when discussion
18 in open session concerning those matters would prejudice the position of the state
19 body in the litigation.

20 (2) For purposes of this article, all expressions of the lawyer-client privilege other
21 than those provided in this subdivision are hereby abrogated. This subdivision is the
22 exclusive expression of the lawyer-client privilege for purposes of conducting
23 closed session meetings pursuant to this article. For purposes of this subdivision,
24 litigation shall be considered pending when any of the following circumstances
25 exist:

26 (A) An adjudicatory proceeding before a court, an administrative body exercising
27 its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body
28 is a party, has been initiated formally.

29 (B)(i) A point has been reached where, in the opinion of the state body on the
30 advice of its legal counsel, based on existing facts and circumstances, there is a
31 significant exposure to litigation against the state body.

32 (ii) Based on existing facts and circumstances, the state body is meeting only to
33 decide whether a closed session is authorized pursuant to clause (i).

34 (C)(i) Based on existing facts and circumstances, the state body has decided to
35 initiate or is deciding whether to initiate litigation.

36 (ii) (3) The legal counsel of the state body shall prepare and submit to it a
37 memorandum stating the specific reasons and legal authority for the closed session.
38 If the closed session is pursuant to ~~paragraph (1)~~ subparagraph (A) of paragraph (2),
39 the memorandum shall include the title of the litigation. If the closed session is
40 pursuant to ~~subparagraph (A) or (B)~~ (B) or (C) of paragraph (2), the memorandum
41 shall include the existing facts and circumstances on which it is based. The legal
42 counsel shall submit the memorandum to the state body prior to the closed session,
43 if feasible, and in any case no later than one week after the closed session. The

1 memorandum shall be exempt from disclosure pursuant to Section ~~6254.25~~
2 7927.205.

3 ~~(iii)~~ (4) For purposes of this subdivision, “litigation” includes any adjudicatory
4 proceeding, including eminent domain, before a court, administrative body
5 exercising its adjudicatory authority, hearing officer, or arbitrator.

6 ~~(iv)~~ (5) Disclosure of a memorandum required under this subdivision shall not be
7 deemed as a waiver of the lawyer-client privilege, as provided for under Article 3
8 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

9 (f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be
10 construed to do any of the following:

11 (1) Prevent a state body operating under a joint powers agreement for insurance
12 pooling from holding a closed session to discuss a claim for the payment of tort
13 liability or public liability losses incurred by the state body or any member agency
14 under the joint powers agreement.

15 (2) Prevent the examining committee established by the State Board of Forestry
16 and Fire Protection, pursuant to Section 763 of the Public Resources Code, from
17 conducting a closed session to consider disciplinary action against an individual
18 professional forester prior to the filing of an accusation against the forester pursuant
19 to Section 11503.

20 (3) Prevent the enforcement advisory committee established by the California
21 Board of Accountancy pursuant to Section 5020 of the Business and Professions
22 Code from conducting a closed session to consider disciplinary action against an
23 individual accountant prior to the filing of an accusation against the accountant
24 pursuant to Section 11503. Nothing in this article shall be construed to prevent the
25 qualifications examining committee established by the California Board of
26 Accountancy pursuant to Section 5023 of the Business and Professions Code from
27 conducting a closed hearing to interview an individual applicant or accountant
28 regarding the applicant’s qualifications.

29 (4) Prevent a state body, as defined in subdivision (b) of Section 11121, from
30 conducting a closed session to consider any matter that properly could be considered
31 in closed session by the state body whose authority it exercises.

32 (5) Prevent a state body, as defined in subdivision (d) of Section 11121, from
33 conducting a closed session to consider any matter that properly could be considered
34 in a closed session by the body defined as a state body pursuant to subdivision (a)
35 or (b) of Section 11121.

36 (6) Prevent a state body, as defined in subdivision (c) of Section 11121, from
37 conducting a closed session to consider any matter that properly could be considered
38 in a closed session by the state body it advises.

39 (7) Prevent the State Board of Equalization from holding closed sessions for either
40 of the following:

41 (A) When considering matters pertaining to the appointment or removal of the
42 Executive Secretary of the State Board of Equalization.

1 (B) For the purpose of hearing confidential taxpayer appeals or data, the public
2 disclosure of which is prohibited by law.

3 (8) Require the State Board of Equalization to disclose any action taken in closed
4 session or documents executed in connection with that action, the public disclosure
5 of which is prohibited by law pursuant to Sections 15619 and 15641 of this code
6 and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651,
7 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

8 (9) Prevent the California Earthquake Prediction Evaluation Council, or other
9 body appointed to advise the Director of Emergency Services or the Governor
10 concerning matters relating to volcanic or earthquake predictions, from holding
11 closed sessions when considering the evaluation of possible predictions.

12 (g) This article does not prevent either of the following:

13 (1) The Teachers' Retirement Board or the Board of Administration of the Public
14 Employees' Retirement System from holding closed sessions when considering
15 matters pertaining to the recruitment, appointment, employment, or removal of the
16 chief executive officer or when considering matters pertaining to the recruitment or
17 removal of the Chief Investment Officer of the State Teachers' Retirement System
18 or the Public Employees' Retirement System.

19 (2) The Commission on Teacher Credentialing from holding closed sessions when
20 considering matters relating to the recruitment, appointment, or removal of its
21 executive director.

22 (h) This article does not prevent the Board of Administration of the Public
23 Employees' Retirement System from holding closed sessions when considering
24 matters relating to the development of rates and competitive strategy for plans
25 offered pursuant to Chapter 15 (commencing with Section 21660) of Part 3 of
26 Division 5 of Title 2.

27 (i) This article does not prevent the Managed Risk Medical Insurance Board from
28 holding closed sessions when considering matters related to the development of
29 rates and contracting strategy for entities contracting or seeking to contract with the
30 board, entities with which the board is considering a contract, or entities with which
31 the board is considering or enters into any other arrangement under which the board
32 provides, receives, or arranges services or reimbursement, pursuant to Part 6.2
33 (commencing with Section 12693), former Part 6.3 (commencing with Section
34 12695), former Part 6.4 (commencing with Section 12699.50), former Part 6.5
35 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5),
36 or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance
37 Code.

38 (j) Nothing in this article shall be construed to prevent the board of the State
39 Compensation Insurance Fund from holding closed sessions in the following:

40 (1) When considering matters related to claims pursuant to Chapter 1
41 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that
42 confidential medical information or other individually identifiable information
43 would be disclosed.

1 (2) To the extent that matters related to audits and investigations that have not
2 been completed would be disclosed.

3 (3) To the extent that an internal audit containing proprietary information would
4 be disclosed.

5 (4) To the extent that the session would address the development of rates,
6 contracting strategy, underwriting, or competitive strategy, pursuant to the powers
7 granted to the board in Chapter 4 (commencing with Section 11770) of Part 3 of
8 Division 2 of the Insurance Code, when discussion in open session concerning those
9 matters would prejudice the position of the State Compensation Insurance Fund.

10 (k) The State Compensation Insurance Fund shall comply with the procedures
11 specified in Section 11125.4 of the Government Code with respect to any closed
12 session or meeting authorized by subdivision (j), and in addition shall provide an
13 opportunity for a member of the public to be heard on the issue of the
14 appropriateness of closing the meeting or session.

15 **Comment.** Subdivision (e) of Section 11126 is amended to reflect nonsubstantive recodification
16 of the California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L.
17 Revision Comm'n Reports __ (2019).

18 Subdivision (e) is also amended to make nonsubstantive, technical changes to fix drafting errors
19 in 1996 Cal. Stat. ch. 1041, § 2.5.

20 Subdivision (i) is amended to update the cross-references to “Part 6.3 (commencing with Section
21 12695),” “Part 6.4 (commencing with Section 12699.50),” and “Part 6.5 (commencing with Section
22 12700)” of the Insurance Code, which have been repealed. See 2014 Cal. Stat. ch. 31, §§ 36, 37,
23 38 (former Ins. Code §§ 12699.15, 12699.64, 12701), sunset provisions that operated on Jan. 1,
24 2016.

25 **Note.** For further explanation of the drafting errors in 1996 Cal. Stat. ch. 1041, § 2.5, see
26 Memorandum 2017-50, pp. 11-16. See also Memorandum 2018-66, p. 4; Minutes (Dec. 2017), p.
27 7; Minutes (Dec. 2018), pp. 4-5.

28 For discussion of the repeals of “Part 6.3 (commencing with Section 12695),” “Part 6.4
29 (commencing with Section 12699.50),” and “Part 6.5 (commencing with Section 12700)” of the
30 Insurance Code, see generally Memorandum 2017-50, pp. 4-7; Minutes (Dec. 2017), p. 7.

31 **Comments on these matters would be particularly helpful.**

32 **§ 11126.1 (amended). Minute book relating to closed sessions of state body**

33 SEC. ____. Section 11126.1 of the Government Code is amended to read:

34 11126.1. The state body shall designate a clerk or other officer or employee of the
35 state body, who shall then attend each closed session of the state body and keep and
36 enter in a minute book a record of topics discussed and decisions made at the
37 meeting. The minute book made pursuant to this section is not a public record
38 subject to inspection pursuant to the California Public Records Act (~~Chapter 3.5~~
39 ~~(commencing with Section 6250)~~ of Division 7 Division 10 (commencing with
40 Section 7920.000) of Title 1), and shall be kept confidential. The minute book shall
41 be available to members of the state body or, if a violation of this chapter is alleged
42 to have occurred at a closed session, to a court of general jurisdiction. ~~Such~~ The
43 minute book may, but need not, consist of a recording of the closed session.

1 **Comment.** Section 11126.1 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 The section is also amended to make a technical change.

5 **§ 11146.2 (amended). Attendance record for orientation course**

6 SEC. ____. Section 11146.2 of the Government Code is amended to read:

7 11146.2. Each state agency shall maintain records indicating the specific
8 attendees, each attendee's job title, and dates of their attendance for each orientation
9 course offered pursuant to Section 11146.1 for a period of not less than five years
10 after each course is given. These records shall be public records subject to inspection
11 and copying consistent with Section 81008 and otherwise subject to the California
12 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
13 Division 10 (commencing with Section 7920.000) of Title 1).

14 **Comment.** Section 11146.2 is amended to reflect nonsubstantive recodification of the California
15 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
16 Reports __ (2019).

17 **§ 11549.3 (amended). Information security program**

18 SEC. ____. Section 11549.3 of the Government Code is amended to read:

19 11549.3. (a) The chief shall establish an information security program. The
20 program responsibilities include, but are not limited to, all of the following:

21 (1) The creation, updating, and publishing of information security and privacy
22 policies, standards, and procedures for state agencies in the State Administrative
23 Manual.

24 (2) The creation, issuance, and maintenance of policies, standards, and procedures
25 directing state agencies to effectively manage security and risk for both of the
26 following:

27 (A) Information technology, which includes, but is not limited to, all electronic
28 technology systems and services, automated information handling, system design
29 and analysis, conversion of data, computer programming, information storage and
30 retrieval, telecommunications, requisite system controls, simulation, electronic
31 commerce, and all related interactions between people and machines.

32 (B) Information that is identified as mission critical, confidential, sensitive, or
33 personal, as defined and published by the office.

34 (3) The creation, issuance, and maintenance of policies, standards, and procedures
35 directing state agencies for the collection, tracking, and reporting of information
36 regarding security and privacy incidents.

37 (4) The creation, issuance, and maintenance of policies, standards, and procedures
38 directing state agencies in the development, maintenance, testing, and filing of each
39 state agency's disaster recovery plan.

40 (5) Coordination of the activities of state agency information security officers, for
41 purposes of integrating statewide security initiatives and ensuring compliance with
42 information security and privacy policies and standards.

1 (6) Promotion and enhancement of the state agencies' risk management and
2 privacy programs through education, awareness, collaboration, and consultation.

3 (7) Representing the state before the federal government, other state agencies,
4 local government entities, and private industry on issues that have statewide impact
5 on information security and privacy.

6 (b) All state entities defined in Section 11546.1 shall implement the policies and
7 procedures issued by the office, including, but not limited to, performing both of the
8 following duties:

9 (1) Comply with the information security and privacy policies, standards, and
10 procedures issued pursuant to this chapter by the office.

11 (2) Comply with filing requirements and incident notification by providing timely
12 information and reports as required by the office.

13 (c)(1) The office may conduct, or require to be conducted, an independent security
14 assessment of every state agency, department, or office. The cost of the independent
15 security assessment shall be funded by the state agency, department, or office being
16 assessed.

17 (2) In addition to the independent security assessments authorized by paragraph
18 (1), the office, in consultation with the Office of Emergency Services, shall perform
19 all the following duties:

20 (A) Annually require no fewer than thirty-five (35) state entities to perform an
21 independent security assessment, the cost of which shall be funded by the state
22 agency, department, or office being assessed.

23 (B) Determine criteria and rank state entities based on an information security risk
24 index that may include, but not be limited to, analysis of the relative amount of the
25 following factors within state agencies:

26 (i) Personally identifiable information protected by law.

27 (ii) Health information protected by law.

28 (iii) Confidential financial data.

29 (iv) Self-certification of compliance and indicators of unreported noncompliance
30 with security provisions in the following areas:

31 (I) Information asset management.

32 (II) Risk management.

33 (III) Information security program management.

34 (IV) Information security incident management.

35 (V) Technology recovery planning.

36 (C) Determine the basic standards of services to be performed as part of
37 independent security assessments required by this subdivision.

38 (3) The Military Department may perform an independent security assessment of
39 any state agency, department, or office, the cost of which shall be funded by the
40 state agency, department, or office being assessed.

41 (d) State agencies and entities required to conduct or receive an independent
42 security assessment pursuant to subdivision (c) shall transmit the complete results

1 of that assessment and recommendations for mitigating system vulnerabilities, if
2 any, to the office and the Office of Emergency Services.

3 (e) The office shall report to the Department of Technology and the Office of
4 Emergency Services any state entity found to be noncompliant with information
5 security program requirements.

6 (f)(1) Notwithstanding any other law, during the process of conducting an
7 independent security assessment pursuant to subdivision (c), information and
8 records concerning the independent security assessment are confidential and shall
9 not be disclosed, except that the information and records may be transmitted to state
10 employees and state contractors who have been approved as necessary to receive
11 the information and records to perform that independent security assessment,
12 subsequent remediation activity, or monitoring of remediation activity.

13 (2) The results of a completed independent security assessment performed
14 pursuant to subdivision (c), and any related information shall be subject to all
15 disclosure and confidentiality provisions pursuant to any state law, including, but
16 not limited to, the California Public Records Act (~~Chapter 3.5 (commencing with~~
17 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
18 Title 1), including, but not limited to, ~~Section 6254.19~~ 7929.210.

19 (g) The office may conduct or require to be conducted an audit of information
20 security to ensure program compliance, the cost of which shall be funded by the
21 state agency, department, or office being audited.

22 (h) The office shall notify the Office of Emergency Services, Department of the
23 California Highway Patrol, and the Department of Justice regarding any criminal or
24 alleged criminal cyber activity affecting any state entity or critical infrastructure of
25 state government.

26 **Comment.** Section 11549.3 is amended to reflect nonsubstantive recodification of the California
27 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
28 Reports __ (2019).

29 **§ 12019.45 (amended). Grant application form**

30 SEC. ____. Section 12019.45 of the Government Code is amended to read:

31 12019.45. (a) The advisor and panel, with administrative support from the
32 commission and in consultation with federally recognized tribes in California, shall
33 develop a concise application form for one or more eligible tribes to apply for a
34 grant.

35 (b) The application developed pursuant to subdivision (a) shall include, but not be
36 limited to, all of the following:

37 (1) An identification of every eligible tribe applying for the grant and the name,
38 signature, and contact information of every individual who is authorized by each
39 eligible tribe's governing body to apply for the grant.

40 (2) A description of the purpose or project for which the grant is intended to be
41 used.

1 (3) An assessment of the nature and extent of the potential benefits from the
2 described purpose or project to each applying eligible tribe.

3 (4) The safeguards in place to ensure that the grant would be applied only to the
4 described purpose or project.

5 (5) The amount and source of other moneys or in-kind services or goods, if any,
6 that are available to be additionally applied to the described purpose or project and
7 when those moneys or in-kind services or goods are intended to be applied.

8 (6) A list of every grant awarded or other distribution from the fund previously
9 awarded or distributed to each eligible tribe applying for the grant and the results
10 achieved as a result of those prior awards or distributions.

11 (7) A strategy for how the benefits from the described purpose or project will be
12 sustainably maintained.

13 (8) A signed acceptance of the terms described in Section 12019.75 from an
14 authorized representative of every eligible tribe applying in the application.

15 (9) Identification of the information provided in the application that each eligible
16 tribe proposes is confidential and not subject to public disclosure pursuant to
17 subdivision (a) of Section 12019.55, and a statement, in bold, that the panel may
18 consider, but is not required to comply with, an eligible tribe's identification of
19 information as confidential when responding to a request for public records pursuant
20 to the California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~
21 ~~of Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1).

22 (10) Any other information the advisor and panel deem valuable to evaluating the
23 merits of awarding a grant.

24 **Comment.** Section 12019.45 is amended to reflect nonsubstantive recodification of the
25 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
26 Comm'n Reports __ (2019).

27 **§ 12019.55 (amended). Information directly or indirectly describing internal affairs of**
28 **eligible tribe**

29 SEC. ____. Section 12019.55 of the Government Code is amended to read:

30 12019.55. (a) All information relating to the administration of this article that
31 describes, directly or indirectly, the internal affairs of an eligible tribe, including,
32 but not limited to, the finances and competitive business plans of an eligible tribe,
33 is confidential and shall not be disclosed pursuant to any state law, including, but
34 not limited to, the California Public Records Act (~~Chapter 3.5 (commencing with~~
35 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
36 Title 1).

37 (b) The panel shall comply with the Bagley-Keene Open Meeting Act (Article 9
38 (commencing with Section 11120) of Chapter 1 of Part 1), and shall do so in a
39 manner that prevents the disclosure of information described in subdivision (a),
40 including, but not limited to, holding, when necessary in a closed session, as
41 authorized by Section 11126.4.5.

1 **Comment.** Section 12019.55 is amended to reflect nonsubstantive recodification of the
2 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
3 Comm'n Reports __ (2019).

4 **§ 12172.5 (amended). Role of Secretary of State**

5 SEC. ____. Section 12172.5 of the Government Code is amended to read:

6 12172.5. (a) The Secretary of State is the chief elections officer of the state, and
7 shall administer the provisions of the Elections Code. The Secretary of State shall
8 see that elections are efficiently conducted and that state election laws are enforced.
9 The Secretary of State may require elections officers to make reports concerning
10 elections in their jurisdictions.

11 (b) If, at any time, the Secretary of State concludes that state election laws are not
12 being enforced, the Secretary of State shall call the violation to the attention of the
13 district attorney of the county or to the Attorney General. In these instances, the
14 Secretary of State may assist the county elections officer in discharging ~~his or her~~
15 the officer's duties.

16 (c) In order to determine whether an elections law violation has occurred, the
17 Secretary of State may examine voted, unvoted, spoiled and canceled ballots, vote-
18 counting computer programs, vote by mail ballot envelopes and applications, and
19 supplies referred to in Section 14432 of the Elections Code. The Secretary of State
20 may also examine any other records of elections officials as ~~he or she~~ the secretary
21 finds necessary in making ~~his or her~~ the secretary's determination, subject to the
22 restrictions set forth in Section ~~6253.5~~ Article 2 (commencing with Section
23 7924.100) of Chapter 2 of Part 5 of Division 10 of Title 1.

24 (d) The Secretary of State may adopt regulations to assure the uniform application
25 and administration of state election laws.

26 **Comment.** Section 12172.5 is amended to reflect nonsubstantive recodification of the California
27 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
28 Reports __ (2019).

29 The section is also amended to eliminate gendered pronouns.

30 **§ 12237 (amended). Archived items that are 75 years old or older**

31 SEC. ____. Section 12237 of the Government Code is amended to read:

32 12237. (a) Notwithstanding any provision of ~~Chapter 3.5 (commencing with~~
33 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
34 Title 1, any provision of law that exempts from public disclosure any item in the
35 custody of the State Archives shall not apply to that item 75 years after the item was
36 created, irrespective of the origin of the item, the manner in which it was deposited
37 with the State Archives, or any other condition or circumstance at the time the item
38 was deposited.

39 (b) Subdivision (a) shall apply to any item currently in the custody of the State
40 Archives and any item deposited in the State Archives after the effective date of this
41 section.

1 (c) The State Archives shall notify any party who deposits any item in the State
2 Archives after the effective date of this section of the provisions of subdivision (a).

3 (d) The Secretary of State’s Internet Web site shall include a public notice stating
4 that on or after January 1, 2005, all items 75 years old or older that are on deposit
5 in the State Archives shall be accessible to the public.

6 **Comment.** Section 12237 is amended to reflect nonsubstantive recodification of the California
7 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
8 Reports __ (2019).

9 **§ 12271 (amended). Definitions**

10 SEC. ____. Section 12271 of the Government Code is amended to read:

11 12271. For the purposes of this article, the following terms shall have the
12 following meanings:

13 (a) “Acquire” includes acquisition by gift, purchase, lease, eminent domain, or
14 otherwise.

15 (b) “Archival value” means the ongoing usefulness or significance of a record
16 based on the administrative, legal, fiscal, evidential, or historical information it
17 contains, justifying its permanent preservation.

18 (c) “Public record plant” means the plant, or any part thereof, or any record
19 therein, of any person engaged in the business of searching or publishing public
20 records or insuring or guaranteeing titles to real property, including copies of public
21 records or abstracts and memoranda taken from public records that are owned by or
22 in possession of that person or that are used by that person in ~~his or her~~ the person’s
23 business.

24 (d) “Public use form” means a form used by the state to obtain or to solicit facts,
25 opinions, or other information from the public or a private citizen, partnership,
26 corporation, organization, business trust, or nongovernmental entity or legal
27 representative thereof.

28 (e) “Record” has the same meaning as “public records” as defined in subdivision
29 ~~(e) of Section 6252~~ Section 7920.530, and includes, but is not limited to, any writing
30 containing information relating to the conduct of the public’s business prepared,
31 owned, used, or retained by a state or local agency regardless of physical form or
32 characteristics. Library and museum materials made or acquired and preserved
33 solely for reference or exhibition purposes and stocks of publications and of
34 processed documents are not included within the definition of the term “record” as
35 used in this article.

36 **Comment.** Section 12271 is amended to reflect nonsubstantive recodification of the California
37 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
38 Reports __ (2019).

39 The section is also amended to eliminate gendered pronouns.

40 **§ 12419.10 (amended). Offsets**

41 SEC. ____. Section 12419.10 of the Government Code is amended to read:

1 12419.10. (a)(1) The Controller shall, to the extent feasible, offset any amount
2 overdue and unpaid for a fine, penalty, assessment, bail, vehicle parking penalty, or
3 court-ordered reimbursement for court-related services, from a person or entity,
4 against any amount owing the person or entity by a state agency on a claim for a
5 refund from the Franchise Tax Board under the Personal Income Tax Law or the
6 Bank and Corporation Tax Law, from winnings in the California State Lottery, or a
7 cash payment of a claim for unclaimed property held by the state. Standards and
8 procedures for submission of requests for offsets shall be as prescribed by the
9 Controller. Neither the Controller nor the Franchise Tax Board shall condition a
10 request for offset on the submission of a person's social security number. If
11 sufficient funds are not available to satisfy an offset request, the Controller, after
12 first applying the amounts available to any amount due a state agency, may allocate
13 the balance among any other requests for offset.

14 (2) Any request for an offset for a vehicle parking penalty shall be submitted
15 within three years of the date the penalty was incurred. This three year maximum
16 term for refund offsets for parking tickets applies to requests submitted to the
17 Controller on or after January 1, 2004.

18 (b) Once an offset request for a vehicle parking penalty is made, a local agency
19 may not accrue additional interest charges, collection charges, penalties, or other
20 charges on or after the date that the offset request is made. Payment of an offset
21 request for a vehicle parking penalty shall be made on the condition that it
22 constitutes full and final payment of that offset.

23 (c) The Controller shall deduct and retain from any amount offset in favor of a
24 city, county, city and county, court, or special district an amount sufficient to
25 reimburse the Controller, the Franchise Tax Board, the California State Lottery, and
26 the Department of Motor Vehicles for their administrative costs of processing the
27 offset payment.

28 (d) If necessary to confirm the identity of a person before making an offset, the
29 Franchise Tax Board may, upon paying any necessary fees, obtain a social security
30 number from the Department of Motor Vehicles, as authorized by subdivision (f) of
31 Section 1653.5 of the Vehicle Code.

32 (e) Notwithstanding ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
33 Division 10 (commencing with Section 7920.000) of Title 1, or any other law, the
34 social security number of a person obtained pursuant to Section 4150, 4150.2, or
35 12800 of the Vehicle Code is not a public record and shall only be provided by the
36 Department of Motor Vehicles to an authorized agency for the sole purpose of
37 making an offset pursuant to this section for an unpaid vehicle parking penalty or
38 an unpaid fine, penalty, assessment, or bail of which the Department of Motor
39 Vehicles has been notified pursuant to subdivision (a) of Section 40509 of the
40 Vehicle Code or Section 1803 of the Vehicle Code, responding to information
41 requests from the Franchise Tax Board for the purpose of tax administration, and
42 responding to requests for information from an agency, operating pursuant to and
43 carrying out the provisions of Part A (Block Grants to States for Temporary

1 Assistance for Needy Families), or Part D (Child Support and Establishment of
2 Paternity) of Subchapter IV of Chapter 7 of Title 42 of the United States Code. As
3 used in this section, “authorized agency” means the Controller, the Franchise Tax
4 Board, or the California State Lottery Commission.

5 **Comment.** Section 12419.10 is amended to reflect nonsubstantive recodification of the
6 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
7 Comm’n Reports __ (2019).

8 **§ 12525 (amended). Report to Attorney General on death of person in custody of law**
9 **enforcement agency or state or local correctional facility**

10 SEC. _____. Section 12525 of the Government Code is amended to read:

11 12525. In any case in which a person dies while in the custody of any law
12 enforcement agency or while in custody in a local or state correctional facility in
13 this state, the law enforcement agency or the agency in charge of the correctional
14 facility shall report in writing to the Attorney General, within 10 days after the death,
15 all facts in the possession of the law enforcement agency or agency in charge of the
16 correctional facility concerning the death. These writings are public records within
17 the meaning of ~~subdivision (d) of Section 6252~~ Section 7920.530 of the California
18 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
19 Division 10 (commencing with Section 7920.000) of Title 1), are open to public
20 inspection pursuant to Sections ~~6253, 6256, 6257, and 6258~~ 7922.500 to 7922.545,
21 inclusive, 7923.000, and 7923.005. Nothing in this section shall permit the
22 disclosure of confidential medical information that may have been submitted to the
23 Attorney General’s office in conjunction with the report except as provided in Part
24 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

25 **Comment.** Section 12525 is amended to reflect nonsubstantive recodification of the California
26 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
27 Reports __ (2019).

28 The amendment also corrects a cross-reference to subdivision (d) of former Section 6252, which
29 became obsolete when subdivision (d) was relabeled as subdivision (e). *Compare* 1992 Cal. Stat.
30 ch. 529, § 1 (amending Section 12525 to cross-refer to “public records within the meaning of
31 subdivision (d) of Section 6252”) *with* 1991 Cal. Stat. ch. 181, § 1 (version of former Section 6252
32 in place when Section 12525 was amended to cross-refer to “public records within the meaning of
33 subdivision (d) of Section 6252”); see also 1998 Cal. Stat. ch. 620, § 2 (relabeling definition of
34 “public records” as subdivision (e)); 2015 Cal. Stat. ch. 537, § 20 (version of former Section 6252
35 repealed by CPRA Recodification Act of 2020); Section 7920.530 (continuing former Section
36 6252(e)’s definition of “public records”).

37 In addition, the amendment corrects cross-references to former Sections 6256 and 6257. Those
38 sections were repealed in 1998 (see 1998 Cal. Stat. ch. 620, §§ 7, 10). Most of their substance was
39 continued in newly added Section 6253, which also continued the pertinent part of the previous
40 version of Section 6253. See 1998 Cal. Stat. ch. 620, § 5; Gov. Reorg. Plan No. 1 of 1991, § 7.
41 Pursuant to the CPRA Recodification Act of 2020, Section 6253 has in turn been repealed and
42 recodified in Sections 7922.500-7922.545.

43 **§ 12525.5 (amended). Annual report on stops conducted by peace officers of state or local**
44 **agency**

45 SEC. _____. Section 12525.5 of the Government Code is amended to read:

1 12525.5. (a)(1) Each state and local agency that employs peace officers shall
2 annually report to the Attorney General data on all stops conducted by that agency's
3 peace officers for the preceding calendar year.

4 (2) Each agency that employs 1,000 or more peace officers shall begin collecting
5 data on or before July 1, 2018, and shall issue its first round of reports on or before
6 April 1, 2019. Each agency that employs 667 or more but less than 1,000 peace
7 officers shall begin collecting data on or before January 1, 2019, and shall issue its
8 first round of reports on or before April 1, 2020. Each agency that employs 334 or
9 more but less than 667 peace officers shall begin collecting data on or before January
10 1, 2021, and shall issue its first round of reports on or before April 1, 2022. Each
11 agency that employs one or more but less than 334 peace officers shall begin
12 collecting data on or before January 1, 2022, and shall issue its first round of reports
13 on or before April 1, 2023.

14 (b) The reporting shall include, at a minimum, the following information for each
15 stop:

16 (1) The time, date, and location of the stop.

17 (2) The reason for the stop.

18 (3) The result of the stop, such as, no action, warning, citation, property seizure,
19 or arrest.

20 (4) If a warning or citation was issued, the warning provided or violation cited.

21 (5) If an arrest was made, the offense charged.

22 (6) The perceived race or ethnicity, gender, and approximate age of the person
23 stopped, provided that the identification of these characteristics shall be based on
24 the observation and perception of the peace officer making the stop, and the
25 information shall not be requested from the person stopped. For motor vehicle stops,
26 this paragraph only applies to the driver, unless any actions specified under
27 paragraph (7) apply in relation to a passenger, in which case the characteristics
28 specified in this paragraph shall also be reported for ~~him or her~~ that passenger.

29 (7) Actions taken by the peace officer during the stop, including, but not limited
30 to, the following:

31 (A) Whether the peace officer asked for consent to search the person, and, if so,
32 whether consent was provided.

33 (B) Whether the peace officer searched the person or any property, and, if so, the
34 basis for the search and the type of contraband or evidence discovered, if any.

35 (C) Whether the peace officer seized any property and, if so, the type of property
36 that was seized and the basis for seizing the property.

37 (c) If more than one peace officer performs a stop, only one officer is required to
38 collect and report to ~~his or her~~ the officer's agency the information specified under
39 subdivision (b).

40 (d) State and local law enforcement agencies shall not report the name, address,
41 social security number, or other unique personal identifying information of persons
42 stopped, searched, or subjected to a property seizure, for purposes of this section.
43 Notwithstanding any other law, the data reported shall be available to the public,

1 except for the badge number or other unique identifying information of the peace
2 officer involved. Law enforcement agencies are solely responsible for ensuring that
3 personally identifiable information of the individual stopped or any other
4 information that is exempt from disclosure pursuant to this section is not transmitted
5 to the Attorney General in an open text field.

6 (e) Not later than January 1, 2018, the Attorney General, in consultation with
7 stakeholders, including the Racial and Identity Profiling Advisory Board (RIPA)
8 established pursuant to paragraph (1) of subdivision (j) of Section 13519.4 of the
9 Penal Code, federal, state, and local law enforcement agencies and community,
10 professional, academic, research, and civil and human rights organizations, shall
11 issue regulations for the collection and reporting of data required under subdivision
12 (b). The regulations shall specify all data to be reported, and provide standards,
13 definitions, and technical specifications to ensure uniform reporting practices across
14 all reporting agencies. To the best extent possible, ~~such~~ the regulations should be
15 compatible with any similar federal data collection or reporting program.

16 (f) All data and reports made pursuant to this section are public records within the
17 meaning of ~~subdivision (e) of Section 6252~~ Section 7920.530, and are open to public
18 inspection pursuant to Sections ~~6253 and 6258~~ 7922.500 to 7922.545, inclusive,
19 7923.000, and 7923.005.

20 (g)(1) For purposes of this section, “peace officer,” as defined in Chapter 4.5
21 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, is limited to
22 members of the California Highway Patrol, a city or county law enforcement
23 agency, and California state or university educational institutions. “Peace officer,”
24 as used in this section, does not include probation officers and officers in a custodial
25 setting.

26 (2) For purposes of this section, “stop” means any detention by a peace officer of
27 a person, or any peace officer interaction with a person in which the peace officer
28 conducts a search, including a consensual search, of the person’s body or property
29 in the person’s possession or control.

30 **Comment.** Section 12525.5 is amended to reflect nonsubstantive recodification of the California
31 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
32 Reports __ (2019).

33 The section is also amended to eliminate gendered pronouns and make a technical change.

34 **§ 12811.3 (amended). Transfer of peace officer employed under jurisdiction of Department**
35 **of Corrections and Rehabilitation**

36 SEC. __. Section 12811.3 of the Government Code is amended to read:

37 12811.3. (a) Notwithstanding any other provision of law and subject to the
38 provisions of subdivision (i), any employee of a department, board, or commission
39 under the jurisdiction of the Department of Corrections and Rehabilitation, who is
40 designated as a peace officer described in Chapter 4.5 (commencing with Section
41 830) of Title 3 of Part 2 of the Penal Code, may transfer from ~~his or her~~ the

1 employee's current position to another department, board, or commission under the
2 jurisdiction of the Department of Corrections and Rehabilitation.

3 (b) Any peace officer who desires to transfer to another department, board, or
4 commission pursuant to subdivision (a), and who is prohibited from carrying a
5 firearm pursuant to state or federal law shall not transfer to a department, board, or
6 commission that requires the use of a firearm.

7 (c) Any peace officer who desires to transfer to another department, board, or
8 commission pursuant to subdivision (a) to a position requiring the ability to carry a
9 firearm, as determined by the department, board, or commission, and who has not
10 completed the required training pursuant to Section 832 of the Penal Code, shall
11 successfully complete the required training before appointment to ~~his or her~~ a new
12 peace officer position.

13 (d)(1) Any peace officer who desires to transfer shall not be required to undergo
14 a psychological screening pursuant to subdivision (f) of Section 1031 of this code
15 or subdivision (a) of Section 13601 of the Penal Code, unless the Secretary of the
16 Department of Corrections and Rehabilitation, or ~~his or her~~ the secretary's designee,
17 makes a determination that a peace officer is required to undergo all or a portion of
18 a psychological screening as described in subdivision (f) of Section 1031 of this
19 code or subdivision (a) of Section 13601 of the Penal Code.

20 (2) The Secretary of the Department of Corrections and Rehabilitation shall
21 promulgate emergency regulations in order to implement paragraph (1).
22 Notwithstanding subdivision (b) of Section 11346.1, no showing of an emergency
23 shall be necessary in order to adopt, amend, or repeal the emergency regulations
24 required by this paragraph.

25 (e) Any peace officer who has successfully completed a course of training
26 pursuant to Section 13602 of the Penal Code and who transfers to another
27 department, board, or commission pursuant to subdivision (a) shall not be required
28 to complete a new course of training pursuant to Section 13602 of the Penal Code.
29 However, each department, board, or commission may prescribe additional training
30 to be provided to an employee who transfers pursuant to subdivision (a) and shall
31 provide that training within the first six months of appointment to ~~his or her~~ a new
32 peace officer position.

33 (f) Any peace officer who desires to transfer to another department, board, or
34 commission pursuant to subdivision (a) shall not be required to undergo a new
35 background investigation pursuant to Section 1029.1.

36 (g) Nothing in this section shall affect an employee's seniority calculation as
37 provided for under current law or any memorandum of understanding between the
38 state and any applicable bargaining unit agreement in effect upon the effective date
39 of this section.

40 (h) The provisions of the Unit 6 Memorandum of Understanding, which expires
41 July 2, 2006, as modified by the ratified addendum dated June 30, 2004, relating to
42 the release of copies of video recorded incidents, shall be subject to the California

1 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
2 Division 10 (commencing with Section 7920.000) of Title 1).

3 (i) This section shall become operative only when the Secretary of the Department
4 of Corrections and Rehabilitation certifies in writing that it is necessary to prevent
5 or minimize employment actions, including, but not limited to, layoffs, demotions,
6 reductions in time base, or involuntary transfers of employees. In addition, the
7 Secretary of the Department of Corrections and Rehabilitation shall have the sole
8 authority to designate any or all departments, boards, or commissions eligible to
9 have its peace officer employees transfer pursuant to subdivision (a) and any or all
10 departments, boards, or commissions that shall accept peace officer employees
11 under this section.

12 **Comment.** Section 12811.3 is amended to reflect nonsubstantive recodification of the California
13 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
14 Reports __ (2019).

15 The section is also amended to eliminate gendered pronouns.

16 **§ 12894.5 (amended). Legislative findings and declarations relating to Western Climate**
17 **Initiative, Inc.**

18 SEC. ____. Section 12894.5 of the Government Code is amended to read:

19 12894.5. (a) The Legislature finds and declares both of the following:

20 (1) California's participation in the Western Climate Initiative, Incorporated,
21 requires that its sole purpose be to provide operational and technical support to
22 California in its implementation of Division 25.5 (commencing with Section 38500)
23 of the Health and Safety Code and to provide support to the greenhouse gas
24 emissions reduction programs of other jurisdictions. Given its limited scope of
25 activities, the Western Climate Initiative, Incorporated, does not have the authority
26 to create policy with respect to any existing or future program or regulation
27 undertaken pursuant to Division 25.5 (commencing with Section 38500) of the
28 Health and Safety Code.

29 (2) The state recognizes the ongoing efforts of the Western Climate Initiative,
30 Incorporated, have resulted in policies that are consistent with the Bagley-Keene
31 Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part
32 1 of Division 3 of Title 2 ~~of the Government Code~~) and the California Public
33 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
34 10 (commencing with Section 7920.000) of Title 1 ~~of the Government Code~~) as well
35 as bylaws that meet the requirements of this section.

36 (b) The California membership of the Board of Directors of the Western Climate
37 Initiative, Incorporated, as established pursuant to Section 12894, shall participate
38 on the board so long as the Western Climate Initiative, Incorporated, maintains
39 policies and bylaws according to all of the following:

40 (1) An open meetings policy that is and remains consistent with the general
41 policies of the Bagley-Keene Open Meeting Act (Article 9 (commencing with
42 Section 11120) of Chapter 1 of Part 1) and affords the public the greatest possible

1 access consistent with the other duties of the Western Climate Initiative,
2 Incorporated.

3 (2) A records availability policy that is and remains consistent with the general
4 policies of the California Public Records Act (~~Chapter 3.5 (commencing with~~
5 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
6 Title 1) and affords the public access to corporate records consistent with the
7 operating needs and other duties of the Western Climate Initiative, Incorporated,
8 and all applicable legal privileges.

9 (3) Bylaws that limit the activities of the Western Climate Initiative, Incorporated,
10 to the technical and operational support of the greenhouse gas emissions reduction
11 programs of California and other jurisdictions. These bylaws shall not allow the
12 Western Climate Initiative, Incorporated, to have policymaking authority with
13 respect to these programs.

14 (c) The State Air Resources Board shall provide notice to the Joint Legislative
15 Budget Committee for all procurements over one hundred fifty thousand dollars
16 (\$150,000) proposed by the Western Climate Initiative, Incorporated, that are
17 expected to result in a contract no later than 30 days prior to the execution of those
18 contracts.

19 (d) Commencing January 1, 2014, the State Air Resources Board shall include
20 information on all proposed expenditures and allocations of moneys to the Western
21 Climate Initiative, Incorporated, in the Governor’s Budget.

22 **Comment.** Section 12894.5 is amended to reflect nonsubstantive recodification of the California
23 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
24 Reports __ (2019).

25 The section is also amended to make technical changes.

26 **§ 15570.42 (amended). Regulations establishing procedures and guidelines to access public**
27 **records of Department of Tax and Fee Administration**

28 SEC. __. Section 15570.42 of the Government Code is amended to read:

29 15570.42. Pursuant to ~~Section 6253~~ Article 1 (commencing with Section
30 7922.630) of Chapter 2 of Part 3 of Division 10 of Title 1, the department shall
31 adopt regulations to establish procedures and guidelines to access public records.
32 These regulations shall facilitate maximum public accessibility to the department’s
33 public records. These regulations shall specifically identify and describe the types
34 of public records pertaining to the tax and the fee programs administered by the
35 department.

36 **Comment.** Section 15570.42 is amended to reflect nonsubstantive recodification of the
37 California Public Records Act (“CPRA”). See *California Public Records Act Clean-Up*, __ Cal. L.
38 Revision Comm’n Reports __ (2019).

39 The amendment also corrects a cross-reference to “Section 6253.” When Section 15570.42 was
40 enacted in 2017, it was apparently modeled on Section 15652. It closely tracked the language of
41 that section, including the cross-reference to “Section 6253.” *Compare* 2017 Cal. Stat. ch. 16, § 5
42 *with* 1998 Cal. Stat. ch. 1049, § 2. However, Section 15652’s cross-reference to “Section 6253”
43 was obsolete because former Section 6253 was amended and renumbered as Section 6253.4 in 1998
44 (see 1998 Cal. Stat. ch. 620, § 4; see also Section 15652 Comment). Pursuant to the CPRA

1 Recodification Act of 2020, Section 6253.4 has in turn been repealed and recodified as Article 1 of
2 Chapter 2 of Part 3 of Division 10 of Title 1 (Sections 7922.530-7922.640). That article is now the
3 proper cross-reference to include in Sections 15652 and 15570.42; it contains the CPRA material
4 on adoption of regulations.

5 **§ 15650 (amended). “Public record”**

6 SEC. _____. Section 15650 of the Government Code is amended to read:

7 15650. For purposes of this chapter, “public record” means any public record as
8 defined in ~~subdivision (d) of Section 6252~~ Section 7920.530.

9 **Comment.** Section 15650 is amended to reflect nonsubstantive recodification of the California
10 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
11 Reports __ (2019).

12 The amendment also corrects a cross-reference to subdivision (d) of former Section 6252, which
13 became obsolete when subdivision (d) was relabeled as subdivision (e). *Compare* 1998 Cal. Stat.
14 ch. 1049, § 2 (original version of Section 15650, which cross-refers to “any public record as defined
15 in subdivision (d) of Section 6252”) with 1994 Cal. Stat. ch. 1010, § 136 (version of former Section
16 6252 in place when Section 15650 was enacted); see also 1998 Cal. Stat. ch. 620, § 2 (relabeling
17 definition of “public records” as subdivision (e)); 2015 Cal. Stat. ch. 537, § 20 (version of former
18 Section 6252 repealed by CPRA Recodification Act of 2020); Section 7920.530 (continuing former
19 Section 6252(e)’s definition of “public records”).

20 **§ 15652 (amended). Regulations establishing procedures and guidelines to access public**
21 **records of State Board of Equalization**

22 SEC. _____. Section 15652 of the Government Code is amended to read:

23 15652. Pursuant to ~~Section 6253~~ Article 1 (commencing with Section 7922.630)
24 of Chapter 2 of Part 3 of Division 10 of Title 1, the State Board of Equalization shall
25 adopt regulations to establish procedures and guidelines to access public records.
26 These regulations shall facilitate maximum public accessibility to the board’s public
27 records. These regulations shall specifically identify and describe the types of public
28 records pertaining to the tax and the fee programs maintained by the board.

29 **Comment.** Section 15652 is amended to reflect nonsubstantive recodification of the California
30 Public Records Act (“CPRA”). See *California Public Records Act Clean-Up*, __ Cal. L. Revision
31 Comm’n Reports __ (2019).

32 The amendment also corrects a cross-reference to “Section 6253.” When Section 15652 was
33 added to the codes by 1998 Cal. Stat. ch. 1049, § 2, the CPRA material on adoption of regulations
34 was located in former Section 6253 (see Gov. Reorg. Plan No. 1 of 1991, § 70). Shortly afterwards,
35 former Section 6253 was amended and renumbered as Section 6253.4 (see 1998 Cal. Stat. ch. 620,
36 § 4, which became operative on Jan. 1, 1999). Pursuant to the CPRA Recodification Act of 2020,
37 Section 6253.4 has in turn been repealed and recodified as Article 1 of Chapter 2 of Part 3 of
38 Division 10 of Title 1 (Sections 7922.530-7922.640). That article is now the proper cross-reference;
39 it contains the CPRA material on adoption of regulations.

40 **§ 15705 (amended). Truncation of social security numbers on lien abstracts and other**
41 **disclosable records of Franchise Tax Board**

42 SEC. _____. Section 15705 of the Government Code is amended to read:

43 15705. Notwithstanding any other provision of law, unless prohibited by federal
44 law, the Franchise Tax Board shall truncate social security numbers on lien abstracts
45 and any other records created by the board that are disclosable under ~~Chapter 3.5~~

1 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
2 Section 7920.000) of Title 1 before disclosing the record to the public. For purposes
3 of this section, “truncate” means to redact the first five digits of a social security
4 number.

5 **Comment.** Section 15705 is amended to reflect nonsubstantive recodification of the California
6 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
7 Reports __ (2019).

8 **§ 20057 (amended). “Public agency”**

9 SEC. _____. Section 20057 of the Government Code is amended to read:

10 20057. “Public agency” also includes the following:

11 (a) The Commandant, Veterans’ Home of California, with respect to employees
12 of the Veterans’ Home Exchange and other post fund activities whose compensation
13 is paid from the post fund of the Veterans’ Home of California.

14 (b) Any auxiliary organization operating pursuant to Chapter 7 (commencing with
15 Section 89900) of Part 55 of Division 8 of Title 3 of the Education Code and in
16 conformity with regulations adopted by the Trustees of the California State
17 University and any auxiliary organization operating pursuant to Article 6
18 (commencing with Section 72670) of Chapter 6 of Part 45 of Division 7 of Title 3
19 of the Education Code and in conformity with regulations adopted by the Board of
20 Governors of the California Community Colleges.

21 (c) Any student body or nonprofit organization composed exclusively of students
22 of the California State University or community college or of members of the faculty
23 of the California State University or community college, or both, and established
24 for the purpose of providing essential activities related to, but not normally included
25 as a part of, the regular instructional program of the California State University or
26 community college.

27 (d) A state organization of governing boards of school districts, the primary
28 purpose of which is the advancing of public education through research and
29 investigation.

30 (e) Any nonprofit corporation whose membership is confined to public agencies
31 as defined in Section 20056.

32 (f) A section of the California Interscholastic Federation.

33 (g) Any credit union incorporated under Division 5 (commencing with Section
34 14000) of the Financial Code, or incorporated pursuant to federal law, with 95
35 percent of its membership limited to employees who are members of or retired
36 members of this system or the State Teachers’ Retirement Plan, and their immediate
37 families, and employees of any credit union. For the purposes of this subdivision,
38 “immediate family” means those persons related by blood or marriage who reside
39 in the household of a member of the credit union who is a member of or retired
40 member of this system or the State Teachers’ Retirement Plan. The credit union
41 shall pay any costs that are in addition to the normal charges required to enter into
42 a contract with the board. All the payments made by the credit union that are in

1 addition to the normal charges required shall be added to the total amount
2 appropriated by the Budget Act for the administrative expense of this system. For
3 purposes of this subdivision, a credit union is not deemed to be a public agency
4 unless it has entered into a contract with the board pursuant to Chapter 5
5 (commencing with Section 20460) prior to January 1, 1988. After January 1, 1988,
6 the board may not enter into a contract with any credit union as a public agency.

7 (h) Any county superintendent of schools that was a contracting agency on July
8 1, 1983, and any school district or community college district that was a contracting
9 agency with respect to local policemen, as defined in Section 20430, on July 1, 1983.

10 (i) Any school district or community college district that has established a police
11 department, pursuant to Section 39670 or 72330 of the Education Code, and has
12 entered into a contract with the board on or after January 1, 1990, for school safety
13 members, as defined in Section 20444.

14 (j) A nonprofit corporation formed for the primary purpose of assisting the
15 development and expansion of the educational, research, and scientific activities of
16 a district agricultural association formed pursuant to Part 3 (commencing with
17 Section 3801) of Division 3 of the Food and Agricultural Code, and the nonprofit
18 corporation described in the California State Exposition and Fair Law (former
19 Article 3 (commencing with Section 3551) of Chapter 3 of Part 2 of Division 3 of
20 the Food and Agricultural Code, as added by Chapter 15 of the Statutes of 1967).

21 (k)(1) A public or private nonprofit corporation that operates a regional center for
22 the developmentally disabled in accordance with Chapter 5 (commencing with
23 Section 4620) of Division 4.5 of the Welfare and Institutions Code.

24 (2) A public or private nonprofit corporation, exempt from taxation under Section
25 501(c)(3) of the Internal Revenue Code, that operates a rehabilitation facility for the
26 developmentally disabled and provides services under a contract with either (A) a
27 regional center for the developmentally disabled, pursuant to paragraph (3) of
28 subdivision (a) of Section 4648 of the Welfare and Institutions Code, or (B) the
29 Department of Rehabilitation, pursuant to Chapter 4.5 (commencing with Section
30 19350) of Part 2 of Division 10 of the Welfare and Institutions Code, upon obtaining
31 a written advisory opinion from the United States Department of Labor as described
32 in Section 20057.1.

33 (3) A public or private nonprofit corporation described in this subdivision shall
34 be deemed a “public agency” only for purposes of this part and only with respect to
35 the employees of the regional center or the rehabilitation facility described in this
36 subdivision. Notwithstanding any other provision of this part, the agency may elect
37 by appropriate provision or amendment of its contract not to provide credit for
38 service prior to the effective date of its contract.

39 (l) Independent data-processing centers formed pursuant to former Article 2
40 (commencing with Section 10550) of Chapter 6 of Part 7 of the Education Code, as
41 it read on December 31, 1990. An agency included pursuant to this subdivision shall
42 only provide benefits that are identical to those provided to a school member.

43 (m) Any local agency formation commission.

1 (n) A nonprofit corporation organized for the purpose of and engaged in
2 conducting a citrus fruit fair as defined in Section 4603 of the Food and Agricultural
3 Code.

4 (o)(1) A public or private nonprofit corporation that operates an independent
5 living center providing services to severely handicapped people and established
6 pursuant to federal Public Law 93-112, that receives the approval of the board, and
7 that provides at least three of the following services:

8 (A) Assisting severely handicapped people to obtain personal attendants who
9 provide in-home supportive services.

10 (B) Locating and distributing information about housing in the community usable
11 by severely handicapped people.

12 (C) Providing information about financial resources available through federal,
13 state and local government, and private and public agencies to pay all or part of the
14 cost of the in-home supportive services and other services needed by severely
15 handicapped people.

16 (D) Counseling by people with similar disabilities to aid the adjustment of
17 severely handicapped people to handicaps.

18 (E) Operation of vans or buses equipped with wheelchair lifts to provide
19 accessible transportation to otherwise unreachable locations in the community
20 where services are available to severely handicapped people.

21 (2) A public or private nonprofit corporation described in this subdivision shall
22 be deemed a “public agency” only for purposes of this part and only with respect to
23 the employees of the independent living center.

24 (3) Notwithstanding any other provisions of this part, the public or private
25 nonprofit corporation may elect by appropriate provision or amendment of its
26 contract not to provide credit for service prior to the effective date of its contract.

27 (p) A hospital that is managed by a city legislative body in accordance with Article
28 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4.

29 (q) The Tahoe Transportation District that is established by Article IX of Section
30 66801.

31 (r) The California Firefighter Joint Apprenticeship Program formed pursuant to
32 Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

33 (s) A public health department or district that is managed by the governing body
34 of a county of the 15th class, as defined by Sections 28020 and 28036, as amended
35 by Chapter 1204 of the Statutes of 1971.

36 (t) A nonprofit corporation or association conducting an agricultural fair pursuant
37 to Section 25905 may enter into a contract with the board for the participation of its
38 employees as members of this system, upon obtaining a written advisory opinion
39 from the United States Department of Labor as described in Section 20057.1. The
40 nonprofit corporation or association shall be deemed a “public agency” only for this
41 purpose.

42 (u) An auxiliary organization established pursuant to Article 2.5 (commencing
43 with Section 69522) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education

1 Code upon obtaining a written advisory opinion from the United States Department
2 of Labor as described in Section 20057.1. The auxiliary organization is a “public
3 agency” only for this purpose.

4 (v) The Western Association of Schools and Colleges upon obtaining a written
5 advisory opinion from the United States Department of Labor as described in
6 Section 20057.1. The association shall be deemed a “public agency” only for this
7 purpose.

8 (w) The State Assistance Fund for Enterprise, Business, and Industrial
9 Development Corporation upon obtaining a written opinion from the United States
10 Department of Labor as described in Section 20057.1.

11 (x)(1) A private nonprofit area agency on aging as described in Section 9006 of
12 the Welfare and Institutions Code upon obtaining a written advisory opinion from
13 the United States Department of Labor as described in Section 20057.1.

14 (2) The area agency on aging shall be deemed a “public agency” only for purposes
15 of this part and only with respect to the employees of the agency.

16 (3) Notwithstanding any other provision of this part, the area agency on aging
17 may elect by appropriate provision or amendment of its contract not to provide
18 credit for service prior to the effective date of its contract.

19 (y)(1) A nonprofit mutual water company operating pursuant to Chapter 1
20 (commencing with Section 14300) of Part 7 of Division 3 of Title 1 of the
21 Corporations Code, upon obtaining a written advisory opinion from the United
22 States Department of Labor as described in Section 20057.1, if both of the following
23 requirements are satisfied:

24 (A) More than 50 percent of the company’s shares are owned by a municipality.

25 (B) The governing body of the company is a local public agency, as defined in
26 Section ~~6252~~ 7920.510 and subdivision (a) of Section 7920.525, and a legislative
27 body, as defined in Section 54952.

28 (2) A nonprofit mutual water company that meets the requirements specified in
29 paragraph (1) shall be deemed a “public agency” only for the purposes of this part
30 and only with respect to the employees of the agency.

31 (3) A nonprofit mutual water company that meets the requirements specified in
32 paragraph (1) shall be deemed a “public agency” for purposes of this part only if it
33 complies with the provisions of ~~Chapter 3.5 (commencing with Section 6250) of~~
34 ~~Division 7~~ Division 10 (commencing with Section 7920.000 of Title 1 and Chapter
35 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5.

36 **Comment.** Section 20057 is amended to reflect nonsubstantive recodification of the California
37 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
38 Reports __ (2019).

39 **§ 22854.5 (amended). Required disclosures**

40 SEC. ____. Section 22854.5 of the Government Code is amended to read:

41 22854.5. (a) A health benefit plan or contractor, or an entity offering services
42 relating to the administration of health benefit plans to members and annuitants,

1 shall disclose to the board, staff, and any contractor or consultant of the system, the
2 cost, utilization, actual claim payments, and contract allowance amounts for health
3 care services rendered by participating hospitals to each member and annuitant.

4 (b) The information specified in subdivision (a) shall be deemed confidential
5 information and protected in accordance with the federal Health Insurance
6 Portability and Accountability Act of 1996 (42 U.S.C. Sec. 300gg), the final
7 regulations issued pursuant to the act by the United States Department of Health and
8 Human Services (45 C.F.R. Parts 160 and 164), and the Confidentiality of Medical
9 Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil
10 Code). Information provided to the board, staff, and any contractor or consultant of
11 the system shall not include individual member or annuitant identifying information.

12 (c) The information specified in subdivision (a) shall be deemed to be confidential
13 trade secret information in accordance with subdivision (d) of Section 3426.1 of the
14 Civil Code and Section 1060 of the Evidence Code.

15 (d) The board shall not disclose the information specified in subdivision (a) in
16 either individual or aggregated form to any other health care service plan or insurer
17 or any entity offering services relating to the administration of health benefit plans,
18 and shall not make this information available to the public, including, but not limited
19 to, any summaries, compilations, or rankings derived from this information. This
20 information shall be used only to make decisions that materially affect the members
21 and annuitants of the health benefits program established by the board.

22 (e) Any staff, contractor, or consultant to whom information is disclosed pursuant
23 to subdivision (a) shall be subject to all the restrictions in this section regarding the
24 confidentiality and nondisclosure of that information.

25 (f) The information specified in subdivision (a), in either individual or aggregated
26 form, shall be exempt from disclosure under the California Public Records Act
27 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
28 (commencing with Section 7920.000) of Title 1) pursuant to ~~subdivision (k) of~~
29 ~~Section 6254~~ Section 7927.705.

30 (g) Upon request from a hospital, the board shall, on an annual basis, provide the
31 hospital a reasonable opportunity to validate the data that has been provided to the
32 board by a health insurer, health care service plan, or entity pursuant to subdivision
33 (a).

34 (h) For purposes of this section:

35 (1) “Actual claim payment” means the actual amount paid by the health care plan
36 or administrator to the participating hospital for a health care service rendered to a
37 member or annuitant, exclusive of member or annuitant cost sharing and any other
38 payment adjustments.

39 (2) “Contract allowance amounts” means the negotiated rate that the participating
40 hospital agrees to accept as payment for a health care service rendered to a member
41 or annuitant under the provider agreement between the health plan or administrator
42 and the participating hospital.

1 (3) “Cost” means the full amount billed by the participating hospital for a health
2 care service rendered to a member or annuitant.

3 **Comment.** Section 22854.5 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
5 Reports __ (2019).

6 **§ 24102 (amended). Appointment of deputy and revocation of appointment**

7 SEC. ____. Section 24102 of the Government Code is amended to read:

8 24102. (a) An appointee shall not act as deputy until:

9 (1) A written appointment by the deputy’s principal is filed with the county clerk.

10 (2) A copy of the appointment is filed with the county auditor, if the auditor has
11 so requested.

12 (3) The deputy has taken the oath of office.

13 (b) In its discretion, the board of supervisors of a county may require every
14 appointed deputy of that county who legally changes ~~his or her~~ name, delegated
15 authority, or department, within 10 days from the date of the change, to file a new
16 appointment in the same manner as the original filing. The county may maintain a
17 record of each person so required to file a new oath of office indicating whether or
18 not the person has complied. Any record maintained pursuant to this subdivision is
19 a public record subject to disclosure under the California Public Records Act
20 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
21 (commencing with Section 7920.000) of Title 1).

22 (c) A revocation of the appointment of any deputy shall be made and filed in the
23 same manner as the appointment.

24 (d) Five years after the date of revocation of appointment of a deputy, the written
25 oath of office subscribed to by ~~such~~ that deputy may be destroyed and no
26 reproduction thereof need be made or preserved.

27 **Comment.** Section 24102 is amended to reflect nonsubstantive recodification of the California
28 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
29 Reports __ (2019).

30 The section is also amended to eliminate gendered pronouns and make another technical change.

31 **§ 25124 (amended). Publication of ordinance**

32 SEC. ____. Section 25124 of the Government Code is amended to read:

33 25124. (a) Except as provided in subdivision (c), within 15 days after the passage
34 of an ordinance it shall be published once, with the names of the members voting
35 for and against the ordinance, in a newspaper published in the county if there is one,
36 and if there is no newspaper published in the county, the ordinance shall be posted
37 in a prominent location at the board of supervisors’ chambers within the 15-day
38 period and remain posted thereafter for at least one week. The local agency, at its
39 option, may include in an ordinance reclassifying land either a brief description
40 accompanied by a map of the boundaries of the property, as recited in the notice of
41 hearing, or a complete metes and bounds description accompanied by a map
42 depicting the reclassified property and adjacent properties. Except for maps, any

1 exhibit attached to and incorporated by reference in an ordinance need not be
2 published in its entirety if the publication lists all those exhibits by title or
3 description and includes a notation that a complete copy of each exhibit is on file
4 with the clerk of the board of supervisors and is available for public inspection and
5 copying in that office in accordance with the California Public Records Act, ~~Chapter~~
6 ~~3.5 (commencing with Section 6250) of Division 7~~ Division 10 (commencing with
7 Section 7920.000) of Title 1. A certificate of the clerk of the board of supervisors
8 or order entered in the minutes of the board that the ordinance has been duly
9 published or posted is prima facie proof of the publication or posting.

10 (b) The publication or posting of ordinances, as required by subdivision (a), may
11 be satisfied by either of the following actions:

12 (1) The county board of supervisors may publish a summary of a proposed
13 ordinance or proposed amendment to an existing ordinance. The summary shall be
14 prepared by an official designated by the board of supervisors. A summary shall be
15 published and a certified copy of the full text of the proposed ordinance or proposed
16 amendment shall be made available to the public upon request by the clerk of the
17 legislative body at least five days prior to the board of supervisors meeting at which
18 the proposed ordinance or amendment or alteration thereto is to be adopted. The
19 clerk also shall either post a copy of the full text of the ordinance or amendment on
20 the county's Internet Web site or post a certified copy of the full text in the office
21 of the clerk five days prior to the board of supervisors meeting at which the proposed
22 ordinance or amendment or alteration is to be adopted. Within 15 days after
23 adoption of the ordinance or amendment, the board of supervisors shall publish a
24 summary of the ordinance or amendment with the names of those supervisors voting
25 for and against the matter and the clerk shall make available to the public, upon
26 request, a certified copy of the full text of the adopted ordinance or amendment
27 along with the names of those supervisors voting for and against the ordinance or
28 amendment. The clerk of the board of supervisors shall also either post a copy of
29 the full text of the ordinance or amendment and the names of those supervisors
30 voting for and against the ordinance or amendment on the county's Internet Web
31 site or shall post in the office of the clerk of the board of supervisors a certified copy
32 of the full text of the ordinance or amendment along with the vote information
33 specified in this paragraph.

34 (2) If the county official designated by the board of supervisors determines that it
35 is not feasible to prepare a fair and adequate summary of the proposed or adopted
36 ordinance or amendment, and if the board of supervisors so orders, a display
37 advertisement of at least one-quarter of a page in a newspaper of general circulation
38 in the county shall be published at least five days prior to the board of supervisors
39 meeting at which the proposed ordinance or amendment or alteration thereto is to
40 be adopted. Within 15 days after adoption of the ordinance or amendment, a display
41 advertisement of at least one-quarter of a page shall be published. The advertisement
42 shall indicate the general nature of, and provide information about, the proposed or
43 adopted ordinance or amendment, including information sufficient to enable the

1 public to obtain copies of the complete text of ~~such~~ the ordinance or amendment,
2 and the names of those supervisors voting for and against the ordinance or
3 amendment.

4 (c) If the clerk of the board of supervisors fails to publish an ordinance within 15
5 days after the date of adoption, the ordinance shall not take effect until 30 days after
6 the date of publication.

7 **Comment.** Section 25124 is amended to reflect nonsubstantive recodification of the California
8 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
9 Reports __ (2019).

10 The section is also amended to make a technical change.

11 **§ 26908.5 (amended). Auditor's records and public access**

12 SEC. ____. Section 26908.5 of the Government Code is amended to read:

13 26908.5. (a) As used in this section "auditor" includes an elected or appointed
14 officer or full-time employee of a county or a special district who is compensated,
15 but does not include an independent contractor.

16 (b) All books, papers, records, and correspondence of an auditor pertaining to ~~his~~
17 ~~or her~~ the auditor's work are public records subject to ~~Chapter 3.5 (commencing~~
18 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
19 of Title 1 and shall be filed at any of the regularly maintained offices of the auditor.
20 However, none of the following items or papers of which these items are a part may
21 be released to the public by the auditor or ~~his or her~~ the auditor's employees:

22 (1) Personal papers and correspondence of any person providing assistance to the
23 auditor when that person has requested in writing that ~~his or her~~ the person's papers
24 and correspondence be kept private and confidential. Those papers and that
25 correspondence shall become public records if the written request is withdrawn or
26 upon the order of the auditor.

27 (2) Papers, correspondence, memoranda, or any substantive information
28 pertaining to any audit not completed.

29 (3) Papers, correspondence, or memoranda pertaining to any audit that has been
30 completed, which papers, correspondence, or memoranda are not used in support of
31 any report resulting from the audit.

32 **Comment.** Section 26908.5 is amended to reflect nonsubstantive recodification of the California
33 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
34 Reports __ (2019).

35 The section is also amended to eliminate gendered pronouns.

36 **§ 27394 (amended). Electronic recording delivery system**

37 SEC. ____. Section 27394 of the Government Code is amended to read:

38 27394. (a) To be eligible to establish an electronic recording delivery system, a
39 county recorder shall contract with, and obtain a report from, a computer security
40 auditor selected from a list of computer security auditors approved by the Attorney
41 General.

1 (b) The Attorney General shall approve computer security auditors on the basis of
2 significant experience in the evaluation and analysis of Internet security design, the
3 conduct of security testing procedures, and specific experience performing Internet
4 penetration studies. The Attorney General shall complete the approval of security
5 auditors within 90 days of a request from a county recorder. The list shall be a public
6 record.

7 (c) An electronic recording delivery system shall be audited, at least once during
8 the first year of operation and periodically thereafter, as set forth in regulation and
9 in the system certification, by a computer security auditor. The computer security
10 auditor shall conduct security testing of the electronic recording delivery system.
11 The reports of the computer security auditor shall include, but not be limited to, all
12 of the following considerations:

13 (1) Safety and security of the system, including the vulnerability of the electronic
14 recording delivery system to fraud or penetration.

15 (2) Results of testing of the system's protections against fraud or intrusion,
16 including security testing and penetration studies.

17 (3) Recommendations for any additional precautions needed to ensure that the
18 system is secure.

19 (d) Upon completion, the reports and any response to any recommendations shall
20 be transmitted to the board of supervisors, the county recorder, the county district
21 attorney, and the Attorney General. These reports shall be exempt from disclosure
22 under the California Public Records Act (~~Chapter 3.5 (commencing with Section~~
23 ~~6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1).

24 (e) A computer security auditor shall have access to any aspect of an electronic
25 recording delivery system, in any form requested. Computer security auditor access
26 shall include, but not be limited to, permission for a thorough examination of source
27 code and the associated approved escrow facility, and necessary authorization and
28 assistance for a penetration study of that system.

29 (f) If the county recorder, a computer security auditor, a district attorney for a
30 county participating in the electronic recording delivery system, or the Attorney
31 General reasonably believes that an electronic recording delivery system is
32 vulnerable to fraud or intrusion, the county recorder, the board of supervisors, the
33 district attorney, and the Attorney General shall be immediately notified. The county
34 recorder shall immediately take the necessary steps to guard against any
35 compromise of the electronic recording delivery system, including, if necessary, the
36 suspension of an authorized submitter or of the electronic recording delivery system.

37 **Comment.** Section 27394 is amended to reflect nonsubstantive recodification of the California
38 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
39 Reports __ (2019).

40 **§ 36525 (amended). City auditor's records and public access**

41 SEC. _____. Section 36525 of the Government Code is amended to read:

1 36525. (a) As used in this section “city auditor” includes an elected or appointed
2 officer or full-time employee of the city who is compensated, but does not include
3 an independent contractor.

4 (b) All books, papers, records, and correspondence of the city auditor pertaining
5 to ~~his or her~~ the auditor’s work are public records subject to ~~Chapter 3.5~~
6 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
7 Section 7920.000) of Title 1 and shall be filed at any of the regularly maintained
8 offices of the city auditor. However, none of the following items or papers of which
9 these items are a part may be released to the public by the city auditor, or ~~his or her~~
10 the auditor’s employees:

11 (1) Personal papers and correspondence of any person providing assistance to the
12 city auditor when that person has requested in writing that ~~his or her~~ the person’s
13 papers and correspondence be kept private and confidential. Those papers and that
14 correspondence shall become public records if the written request is withdrawn or
15 upon the order of the city auditor.

16 (2) Papers, correspondence, memoranda, or any substantive information
17 pertaining to any audit not completed.

18 (3) Papers, correspondence, or memoranda pertaining to any audit that has been
19 completed, which papers, correspondence, or memoranda are not used in support of
20 any report resulting from the audit.

21 **Comment.** Section 36525 is amended to reflect nonsubstantive recodification of the California
22 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
23 Reports __ (2019).

24 The section is also amended to eliminate gendered pronouns.

25 **§ 52054 (amended). Application of CPRA to Community Energy Authority**

26 SEC. ____. Section 52054 of the Government Code is amended to read:

27 52054. The records of the authority shall be open to public inspection pursuant to
28 the California Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of~~
29 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1).

30 **Comment.** Section 52054 is amended to reflect nonsubstantive recodification of the California
31 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
32 Reports __ (2019).

33 **§ 53087.8 (amended). Internet Web site of independent special district**

34 SEC. ____. Section 53087.8 of the Government Code is amended to read:

35 53087.8. (a)(1) Except as provided in subdivision (b), beginning on January 1,
36 2020, every independent special district, as defined in Section 56044, shall maintain
37 an Internet Web site.

38 (2) The Internet Web site required by paragraph (1) shall conform to any other
39 provisions of law applicable to the Internet Web site of the district, including, but
40 not limited to, Sections ~~6270.5~~, 53893, 53908, and 54954.2 of this code, Article 3
41 (commencing with Section 7922.700) of Chapter 2 of Part 3 of Division 10 of Title
42 1 of this code, and Section 32139 of the Health and Safety Code.

1 (3) The Internet Web site required by paragraph (1) shall clearly list contact
2 information for the independent special district.

3 (b)(1) An independent special district shall be exempt from subdivision (a) if,
4 pursuant to a majority vote of its governing body at a regular meeting, the district
5 adopts a resolution declaring its determination that a hardship exists that prevents
6 the district from establishing or maintaining an Internet Web site.

7 (2) A resolution adopted pursuant to this subdivision shall include detailed
8 findings, based upon evidence set forth in the minutes of the meeting, supporting
9 the board's determination that a hardship prevents the district from establishing or
10 maintaining an Internet Web site. The findings may include, but shall not be limited
11 to, inadequate access to broadband communications network facilities that enable
12 high-speed Internet access, significantly limited financial resources, or insufficient
13 staff resources.

14 (3) A resolution adopted pursuant to this subdivision shall be valid for one year.
15 In order to continue to be exempt from subdivision (a), the governing body of an
16 independent special district shall adopt a resolution pursuant to this subdivision
17 annually so long as the hardship exists.

18 **Comment.** Section 53087.8 is amended to reflect nonsubstantive recodification of the California
19 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
20 Reports __ (2019).

21 **§ 53170 (amended). Information or documents obtained by city, county, or other local**
22 **agency for purpose of issuing local identification card**

23 SEC. ____. Section 53170 of the Government Code is amended to read:

24 53170. (a) Information or documents obtained by a city, county, or other local
25 agency for the purpose of issuing a local identification card shall be used only for
26 the purposes of administering the identification card program or policy. This
27 information, including the name and address of any person who applies for or is
28 issued a local identification card, is exempt from disclosure under the California
29 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
30 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
31 Code), shall not be open to the public for inspection, and shall not be disclosed
32 except as required to administer the program, or as otherwise required by California
33 law, any local law governing the identification card program, or court order. This
34 section does not prohibit the disclosure of aggregate data if it is disclosed in a
35 manner that would prevent it from being used to determine the identities of the
36 persons upon whom the data is based.

37 (b) The Legislature hereby finds and declares that protecting the privacy of the
38 residents of this state is an important matter of statewide concern. This section shall
39 therefore apply equally to all cities and counties in this state, including charter cities
40 and charter counties.

41 **Comment.** Section 53170 is amended to reflect nonsubstantive recodification of the California
42 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
43 Reports __ (2019).

1 **§ 53232.3 (amended). Reimbursement of expenses**

2 SEC. _____. Section 53232.3 of the Government Code is amended to read:

3 53232.3. (a) If a local agency reimburses members of a legislative body for actual
4 and necessary expenses incurred in the performance of official duties, then a local
5 agency shall provide expense report forms to be filed by the members of the
6 legislative body for reimbursement for actual and necessary expenses incurred on
7 behalf of the local agency in the performance of official duties. Reimbursable
8 expenses shall include, but not be limited to, meals, lodging, and travel.

9 (b) Expense reports shall document that expenses meet the existing policy,
10 adopted pursuant to Section 53232.2, for expenditure of public resources.

11 (c) Members of a legislative body shall submit expense reports within a
12 reasonable time after incurring the expense, as determined by the legislative body,
13 and the reports shall be accompanied by the receipts documenting each expense.

14 (d) Members of a legislative body shall provide brief reports on meetings attended
15 at the expense of the local agency at the next regular meeting of the legislative body.

16 (e) All documents related to reimbursable agency expenditures are public records
17 subject to disclosure under the California Public Records Act (~~Chapter 3.5~~
18 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
19 Section 7920.000) of Title 1).

20 **Comment.** Section 53232.3 is amended to reflect nonsubstantive recodification of the California
21 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
22 Reports __ (2019).

23 **§ 53235.2 (amended). Record of ethical training of local agency officials**

24 SEC. _____. Section 53235.2 of the Government Code is amended to read:

25 53235.2. (a) A local agency that requires its local agency officials to complete the
26 ethical training prescribed by this article shall maintain records indicating both of
27 the following:

28 (1) The dates that local officials satisfied the requirements of this article.

29 (2) The entity that provided the training.

30 (b) Notwithstanding any other provision of law, a local agency shall maintain
31 these records for at least five years after local officials receive the training. These
32 records are public records subject to disclosure under the California Public Records
33 Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
34 (commencing with Section 7920.000) of Title 1).

35 **Comment.** Section 53235.2 is amended to reflect nonsubstantive recodification of the California
36 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
37 Reports __ (2019).

38 **§ 53237.2 (amended). Records of sexual harassment prevention training and education**

39 SEC. _____. Section 53237.2 of the Government Code is amended to read:

40 53237.2. (a) A local agency that requires its local agency officials or employees
41 to complete the sexual harassment prevention training and education prescribed by
42 this article shall maintain records indicating both of the following:

1 (1) The dates that local agency officials or employees satisfied the requirements
2 of this article.

3 (2) The entity that provided the training.

4 (b) Notwithstanding any other law, a local agency shall maintain these records for
5 at least five years after local agency officials or employees receive the training.
6 These records are public records subject to disclosure under the California Public
7 Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of ~~Division 7~~ Division
8 10 (commencing with Section 7920.000) of Title 1).

9 **Comment.** Section 53237.2 is amended to reflect nonsubstantive recodification of the California
10 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
11 Reports __ (2019).

12 **§ 53359.7 (amended). Disclosure of information provided to California Debt and Investment**
13 **Advisory Commission**

14 SEC. ____. Section 53359.7 of the Government Code is amended to read:

15 53359.7. Current information on the items listed in Section 53359.5 is a matter of
16 public record, within the meaning of the California Public Records Act, ~~Chapter 3.5~~
17 (~~commencing with Section 6250~~) of ~~Division 7~~ Division 10 (commencing with
18 Section 7920.000) of Title 1, even if the information is physically held by an agent
19 or trustee of the public agency. Neither the legislative body, nor any of its officers,
20 agents, or trustees shall be liable in any way for making that financial information
21 available to anyone requesting it or for otherwise making it available to the public.

22 **Comment.** Section 53359.7 is amended to reflect nonsubstantive recodification of the California
23 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
24 Reports __ (2019).

25 **§ 53398.51.1 (amended). Public financing authority**

26 SEC. ____. Section 53398.51.1 of the Government Code is amended to read:

27 53398.51.1. (a) The public financing authority shall have a membership
28 consisting of one of the following, as appropriate:

29 (1) If a district has only one participating affected taxing entity, the public
30 financing authority's membership shall consist of three members of the legislative
31 body of the participating entity, and two members of the public chosen by the
32 legislative body. The appointment of the public members shall be subject to the
33 provisions of Section 54974.

34 (2) If a district has two or more participating affected taxing entities, the public
35 financing authority's membership shall consist of a majority of members from the
36 legislative bodies of the participating entities, and a minimum of two members of
37 the public chosen by the legislative bodies of the participating entities. The
38 appointment of the public members shall be subject to the provisions of Section
39 54974.

40 (b) The legislative body shall ensure the public financing authority is established
41 at the same time that it adopts a resolution of intention pursuant to Section 53398.59.

1 (c) Members of the public financing authority established pursuant to this chapter
2 shall not receive compensation but may receive reimbursement for actual and
3 necessary expenses incurred in the performance of official duties pursuant to Article
4 2.3 (commencing with Section 53232) of Chapter 2.

5 (d) Members of the public financing authority are subject to Article 2.4
6 (commencing with Section 53234) of Chapter 2.

7 (e) The public financing authority created pursuant to this chapter shall be a local
8 public agency subject to the Ralph M. Brown Act (Chapter 9 (commencing with
9 Section 54950)), the California Public Records Act (~~Chapter 3.5 (commencing with~~
10 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
11 Title 1), and the Political Reform Act of 1974 (Title 9 (commencing with Section
12 81000)).

13 **Comment.** Section 53398.51.1 is amended to reflect nonsubstantive recodification of the
14 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
15 Comm'n Reports __ (2019).

16 **§ 53753 (amended). Notice, protest, and hearing requirements for levy of new or increased**
17 **assessment**

18 SEC. _____. Section 53753 of the Government Code is amended to read:

19 53753. (a) The notice, protest, and hearing requirements imposed by this section
20 supersede any statutory provisions applicable to the levy of a new or increased
21 assessment that is in existence on the effective date of this section, whether or not
22 that provision is in conflict with this article. Any agency that complies with the
23 notice, protest, and hearing requirements of this section shall not be required to
24 comply with any other statutory notice, protest, and hearing requirements that would
25 otherwise be applicable to the levy of a new or increased assessment, with the
26 exception of Division 4.5 (commencing with Section 3100) of the Streets and
27 Highways Code. If the requirements of that division apply to the levy of a new or
28 increased assessment, the levying agency shall comply with the notice, protest, and
29 hearing requirements imposed by this section as well as with the requirements of
30 that division.

31 (b) Prior to levying a new or increased assessment, or an existing assessment that
32 is subject to the procedures and approval process set forth in Section 4 of Article
33 XIII D of the California Constitution, an agency shall give notice by mail to the
34 record owner of each identified parcel. Each notice shall include the total amount of
35 the proposed assessment chargeable to the entire district, the amount chargeable to
36 the record owner's parcel, the duration of the payments, the reason for the
37 assessment and the basis upon which the amount of the proposed assessment was
38 calculated, and the date, time, and location of a public hearing on the proposed
39 assessment. Each notice shall also include, in a conspicuous place thereon, a
40 summary of the procedures for the completion, return, and tabulation of the
41 assessment ballots required pursuant to subdivision (c), including a statement that
42 the assessment shall not be imposed if the ballots submitted in opposition to the

1 assessment exceed the ballots submitted in favor of the assessment, with ballots
2 weighted according to the proportional financial obligation of the affected property.
3 An agency shall give notice by mail at least 45 days prior to the date of the public
4 hearing upon the proposed assessment. On the face of the envelope mailed to the
5 record owner, in which the notice and ballot are enclosed, there shall appear in
6 substantially the following form in no smaller than 16-point bold type: “OFFICIAL
7 BALLOT ENCLOSED.” An agency may additionally place the phrase “OFFICIAL
8 BALLOT ENCLOSED” on the face of the envelope mailed to the recorded owner,
9 in which the notice and ballot are enclosed, in a language or languages other than
10 English.

11 (c) Each notice given pursuant to subdivision (b) shall contain an assessment
12 ballot that includes the agency’s address for receipt of the ballot and a place where
13 the person returning the assessment ballot may indicate ~~his or her~~ the person’s name,
14 a reasonable identification of the parcel, and ~~his or her~~ the person’s support or
15 opposition to the proposed assessment. Each assessment ballot shall be in a form
16 that conceals its contents once it is sealed by the person submitting the assessment
17 ballot. Each assessment ballot shall be signed and either mailed or otherwise
18 delivered to the address indicated on the assessment ballot. Regardless of the
19 method of delivery, all assessment ballots shall be received at the address indicated,
20 or the site of the public testimony, in order to be included in the tabulation of a
21 majority protest pursuant to subdivision (e). Assessment ballots shall remain sealed
22 until the tabulation of ballots pursuant to subdivision (e) commences, provided that
23 an assessment ballot may be submitted, or changed, or withdrawn by the person who
24 submitted the ballot prior to the conclusion of the public testimony on the proposed
25 assessment at the hearing required pursuant to subdivision (d). An agency may
26 provide an envelope for the return of the assessment ballot, provided that if the
27 return envelope is opened by the agency prior to the tabulation of ballots pursuant
28 to subdivision (e), the enclosed assessment ballot shall remain sealed as provided in
29 this section.

30 (d) At the time, date, and place stated in the notice mailed pursuant to subdivision
31 (b), the agency shall conduct a public hearing upon the proposed assessment. At the
32 public hearing, the agency shall consider all objections or protests, if any, to the
33 proposed assessment. At the public hearing, any person shall be permitted to present
34 written or oral testimony. The public hearing may be continued from time to time.

35 (e)(1) At the conclusion of the public hearing conducted pursuant to subdivision
36 (d), an impartial person designated by the agency who does not have a vested
37 interest in the outcome of the proposed assessment shall tabulate the assessment
38 ballots submitted, and not withdrawn, in support of or opposition to the proposed
39 assessment. For the purposes of this section, an impartial person includes, but is not
40 limited to, the clerk of the agency. If the agency uses agency personnel for the ballot
41 tabulation, or if the agency contracts with a vendor for the ballot tabulation and the
42 vendor or its affiliates participated in the research, design, engineering, public
43 education, or promotion of the assessment, the ballots shall be unsealed and

1 tabulated in public view at the conclusion of the hearing so as to permit all interested
2 persons to meaningfully monitor the accuracy of the tabulation process.

3 (2) The governing body of the agency may, if necessary, continue the tabulation
4 at a different time or location accessible to the public, provided the governing body
5 announces the time and location at the hearing. The impartial person may use
6 technological methods of tabulating the assessment ballots, including, but not
7 limited to, punchcard or optically readable (bar-coded) assessment ballots. During
8 and after the tabulation, the assessment ballots and the information used to
9 determine the weight of each ballot shall be treated as disclosable public records, as
10 defined in Section ~~6252~~ 7920.530, and equally available for inspection by the
11 proponents and the opponents of the proposed assessment. The ballots shall be
12 preserved for a minimum of two years, after which they may be destroyed as
13 provided in Sections 26202, 34090, and 60201.

14 (3) In the event that more than one of the record owners of an identified parcel
15 submits an assessment ballot, the amount of the proposed assessment to be imposed
16 upon the identified parcel shall be allocated to each ballot submitted in proportion
17 to the respective record ownership interests or, if the ownership interests are not
18 shown on the record, as established to the satisfaction of the agency by
19 documentation provided by those record owners.

20 (4) A majority protest exists if the assessment ballots submitted, and not
21 withdrawn, in opposition to the proposed assessment exceed the assessment ballots
22 submitted, and not withdrawn, in its favor, weighting those assessment ballots by
23 the amount of the proposed assessment to be imposed upon the identified parcel for
24 which each assessment ballot was submitted.

25 (5) If there is a majority protest against the imposition of a new assessment, or the
26 extension of an existing assessment, or an increase in an existing assessment, the
27 agency shall not impose, extend, or increase the assessment.

28 (6) The majority protest proceedings described in this subdivision shall not
29 constitute an election or voting for purposes of Article II of the California
30 Constitution or of the Elections Code.

31 **Comment.** Section 53753 is amended to reflect nonsubstantive recodification of the California
32 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
33 Reports __ (2019).

34 The section is also amended to eliminate gendered pronouns.

35 **§ 53755.5 (amended). Procedures for election to impose or increase fee or charge**

36 SEC. _____. Section 53755.5 of the Government Code is amended to read:

37 53755.5. When an agency proposes to impose or increase any fee or charge
38 subject to Section 6 of Article XIII D of the California Constitution that is not
39 exempt from the requirements of subdivision (c) of Section 6 of Article XIII D of
40 the California Constitution, the following procedures, in addition to any other
41 procedures adopted by the agency pursuant to subdivision (c) of Section 6 of Article
42 XIII D of the California Constitution, shall apply to the election:

1 (a) If the agency opts to submit the proposed fee or charge for approval by a two-
2 thirds vote of the registered voters residing in the affected area, the election shall be
3 conducted by the agency's elections official or ~~his or her~~ that official's designee. If
4 the election is conducted by the county elections official, the agency, if other than
5 the county, shall reimburse the county for the actual and reasonable costs incurred
6 by the county elections official in conducting the election.

7 (b) If the agency opts to submit the proposed fee or charge for approval by a
8 majority vote of the property owners who will be subject to the fee or charge, then
9 in addition to the procedures set forth in Section 6 of Article XIII D of the California
10 Constitution, the following procedures shall apply to the election:

11 (1) On the face of the envelope in which the notice of election and ballot are
12 mailed, there shall appear in substantially the following form in no smaller than 16-
13 point bold type: "OFFICIAL BALLOT ENCLOSED." Below that, an agency may
14 repeat the phrase "OFFICIAL BALLOT ENCLOSED" in a language or languages
15 other than English.

16 (2) The ballot shall include the agency's address for return of the ballot, the date
17 and location where the ballots will be tabulated, and a place where the person
18 returning it may indicate ~~his or her~~ the person's name, a reasonable identification of
19 the parcel, and ~~his or her~~ the person's support or opposition to the proposed fee. The
20 ballots shall be tabulated in a location accessible to the public. The ballot shall be
21 in a form that conceals its content once it is sealed by the person submitting it. The
22 ballot shall remain sealed until the ballot tabulation pursuant to paragraph (3)
23 commences.

24 (3) An impartial person designated by the agency who does not have a vested
25 interest in the outcome of the proposed fee shall tabulate the ballots submitted in
26 support of or opposition to the proposed fee. For the purposes of this section, an
27 impartial person includes, but is not limited to, the clerk of the agency. If the agency
28 uses agency personnel for the ballot tabulation, or if the agency contracts with a
29 vendor for the ballot tabulation and the vendor or its affiliates participated in the
30 research, design, engineering, public education, or promotion of the fee, the ballots
31 shall be unsealed and tabulated in public view to permit all interested persons to
32 meaningfully monitor the accuracy of the tabulation process.

33 (4) The ballot tabulation may be continued to a different time or different location
34 accessible to the public, provided that the time and location are announced at the
35 location at which the tabulation commenced and posted by the agency in a location
36 accessible to the public. The impartial person may use technological methods to
37 tabulate the ballots, including, but not limited to, punchcard or optically readable
38 (bar-coded) ballots. During and after the tabulation, the ballots and, if applicable,
39 the information used to determine the weight of each ballot, shall be treated as public
40 records, as defined in Section ~~6252~~ 7920.530, subject to public disclosure and made
41 available for inspection by any interested person. The ballots shall be preserved for
42 a minimum of two years, after which they may be destroyed as provided in Sections
43 26202, 34090, and 60201.

1 (c) The proceedings described in subdivision (b) shall not constitute an election
2 or voting for purposes of Article II of the California Constitution or of the Elections
3 Code.

4 (d) This section shall become operative on July 1, 2014.

5 **Comment.** Section 53755.5 is amended to reflect nonsubstantive recodification of the California
6 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
7 Reports __ (2019).

8 The section is also amended to eliminate gendered pronouns.

9 **§ 53760.9 (amended). List of retired employees and beneficiaries**

10 SEC. ____ . Section 53760.9 of the Government Code is amended to read:

11 53760.9. (a) Notwithstanding any other law, including, but not limited to, the
12 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of
13 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1), except as
14 provided in subdivision (c), a local public entity shall provide the name and mailing
15 address of each retired employee, or ~~his or her~~ the beneficiary receiving the retired
16 employee's retirement benefit, in list form, to any organization that is incorporated
17 as a California nonprofit mutual benefit corporation pursuant to Part 3 (commencing
18 with Section 7110) of Division 2 of Title 1 of the Corporations Code and qualified
19 pursuant to Section 501(c)(3), 501(c)(4), or 501(c)(5) of Title 26 of the Internal
20 Revenue Code for the purpose of representing retired employees of the local public
21 entity, upon that organization's request, if any of the following occur:

22 (1) The local public entity began the process of participating in a neutral
23 evaluation process pursuant to Section 53760.3.

24 (2) The local public entity declared a fiscal emergency and adopted a resolution
25 by a majority vote of the governing board pursuant to Section 53760.5.

26 (3) The local public entity filed a petition pursuant to applicable federal
27 bankruptcy law on or before December 31, 2011.

28 (b)(1) An organization receiving a list with the name and mailing address of a
29 retired employee or ~~his or her~~ the beneficiary receiving the retired employee's
30 retirement benefit pursuant to subdivision (a) shall use that information only for the
31 purpose of representing the retired employee or ~~his or her~~ the retired employee's
32 beneficiary as a member of the organization as an interested party in a neutral
33 evaluation process pursuant to Section 53760.3, the declaration of a fiscal
34 emergency and adoption of a resolution pursuant to Section 53760.5, or a
35 bankruptcy proceeding.

36 (2) An organization that violates paragraph (1) by misusing the information in the
37 list provided shall be subject to a civil penalty in the amount of twenty-five thousand
38 dollars (\$25,000).

39 (c) Upon written request of any retired employee, or ~~his or her~~ the beneficiary
40 receiving the retired employee's retirement benefit, a local public entity shall not
41 disclose the name and home address of the retired employee, or ~~his or her~~ the
42 beneficiary receiving the retired employee's retirement benefit, and shall remove

1 the retired employee, or ~~his or her~~ the beneficiary receiving the retired employee’s
2 retirement benefit, from any mailing list created by that local public entity for
3 compliance with subdivision (a).

4 (d) This section shall not affect or limit the disclosure or nondisclosure of public
5 records pursuant to any other statute or decisional law.

6 **Comment.** Section 53760.9 is amended to reflect nonsubstantive recodification of the California
7 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
8 Reports __ (2019).

9 The section is also amended to eliminate gendered pronouns.

10 **§ 54953 (amended). Teleconference of legislative body of local agency**

11 SEC. ____. Section 54953 of the Government Code is amended to read:

12 54953. (a) All meetings of the legislative body of a local agency shall be open and
13 public, and all persons shall be permitted to attend any meeting of the legislative
14 body of a local agency, except as otherwise provided in this chapter.

15 (b)(1) Notwithstanding any other provision of law, the legislative body of a local
16 agency may use teleconferencing for the benefit of the public and the legislative
17 body of a local agency in connection with any meeting or proceeding authorized by
18 law. The teleconferenced meeting or proceeding shall comply with all requirements
19 of this chapter and all otherwise applicable provisions of law relating to a specific
20 type of meeting or proceeding.

21 (2) Teleconferencing, as authorized by this section, may be used for all purposes
22 in connection with any meeting within the subject matter jurisdiction of the
23 legislative body. All votes taken during a teleconferenced meeting shall be by
24 rollcall.

25 (3) If the legislative body of a local agency elects to use teleconferencing, it shall
26 post agendas at all teleconference locations and conduct teleconference meetings in
27 a manner that protects the statutory and constitutional rights of the parties or the
28 public appearing before the legislative body of a local agency. Each teleconference
29 location shall be identified in the notice and agenda of the meeting or proceeding,
30 and each teleconference location shall be accessible to the public. During the
31 teleconference, at least a quorum of the members of the legislative body shall
32 participate from locations within the boundaries of the territory over which the local
33 agency exercises jurisdiction, except as provided in subdivision (d). The agenda
34 shall provide an opportunity for members of the public to address the legislative
35 body directly pursuant to Section 54954.3 at each teleconference location.

36 (4) For the purposes of this section, “teleconference” means a meeting of a
37 legislative body, the members of which are in different locations, connected by
38 electronic means, through either audio or video, or both. Nothing in this section
39 shall prohibit a local agency from providing the public with additional
40 teleconference locations.

41 (c)(1) No legislative body shall take action by secret ballot, whether preliminary
42 or final.

1 (2) The legislative body of a local agency shall publicly report any action taken
2 and the vote or abstention on that action of each member present for the action.

3 (3) Prior to taking final action, the legislative body shall orally report a summary
4 of a recommendation for a final action on the salaries, salary schedules, or
5 compensation paid in the form of fringe benefits of a local agency executive, as
6 defined in subdivision (d) of Section 3511.1, during the open meeting in which the
7 final action is to be taken. This paragraph shall not affect the public's right under
8 the California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of
9 Division 7 Division 10 (commencing with Section 7920.000) of Title 1) to inspect
10 or copy records created or received in the process of developing the
11 recommendation.

12 (d)(1) Notwithstanding the provisions relating to a quorum in paragraph (3) of
13 subdivision (b), if a health authority conducts a teleconference meeting, members
14 who are outside the jurisdiction of the authority may be counted toward the
15 establishment of a quorum when participating in the teleconference if at least 50
16 percent of the number of members that would establish a quorum are present within
17 the boundaries of the territory over which the authority exercises jurisdiction, and
18 the health authority provides a teleconference number, and associated access codes,
19 if any, that allows any person to call in to participate in the meeting and the number
20 and access codes are identified in the notice and agenda of the meeting.

21 (2) Nothing in this subdivision shall be construed as discouraging health authority
22 members from regularly meeting at a common physical site within the jurisdiction
23 of the authority or from using teleconference locations within or near the jurisdiction
24 of the authority. A teleconference meeting for which a quorum is established
25 pursuant to this subdivision shall be subject to all other requirements of this section.

26 (3) For purposes of this subdivision, a health authority means any entity created
27 pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and
28 14087.9605 of the Welfare and Institutions Code, any joint powers authority created
29 pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7
30 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and
31 Institutions Code, and any advisory committee to a county sponsored health plan
32 licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of
33 the Health and Safety Code if the advisory committee has 12 or more members.

34 **Comment.** Section 54953 is amended to reflect nonsubstantive recodification of the California
35 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
36 Reports __ (2019).

37 **§ 54953.5 (amended). Right to record open and public meeting of legislative body of local**
38 **agency**

39 SEC. ____. Section 54953.5 of the Government Code is amended to read:

40 54953.5. (a) Any person attending an open and public meeting of a legislative
41 body of a local agency shall have the right to record the proceedings with an audio
42 or video recorder or a still or motion picture camera in the absence of a reasonable

1 finding by the legislative body of the local agency that the recording cannot continue
2 without noise, illumination, or obstruction of view that constitutes, or would
3 constitute, a persistent disruption of the proceedings.

4 (b) Any audio or video recording of an open and public meeting made for
5 whatever purpose by or at the direction of the local agency shall be subject to
6 inspection pursuant to the California Public Records Act (~~Chapter 3.5 (commencing~~
7 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
8 of Title 1), but, notwithstanding Section 34090, may be erased or destroyed 30 days
9 after the recording. Any inspection of an audio or video recording shall be provided
10 without charge on equipment made available by the local agency.

11 **Comment.** Section 54953.5 is amended to reflect nonsubstantive recodification of the California
12 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
13 Reports __ (2019).

14 **§ 54956.9 (amended). Closed session of legislative body of local agency to discuss pending**
15 **litigation with its legal counsel**

16 SEC. ____. Section 54956.9 of the Government Code is amended to read:

17 54956.9. (a) Nothing in this chapter shall be construed to prevent a legislative
18 body of a local agency, based on advice of its legal counsel, from holding a closed
19 session to confer with, or receive advice from, its legal counsel regarding pending
20 litigation when discussion in open session concerning those matters would prejudice
21 the position of the local agency in the litigation.

22 (b) For purposes of this chapter, all expressions of the lawyer-client privilege
23 other than those provided in this section are hereby abrogated. This section is the
24 exclusive expression of the lawyer-client privilege for purposes of conducting
25 closed-session meetings pursuant to this chapter.

26 (c) For purposes of this section, “litigation” includes any adjudicatory proceeding,
27 including eminent domain, before a court, administrative body exercising its
28 adjudicatory authority, hearing officer, or arbitrator.

29 (d) For purposes of this section, litigation shall be considered pending when any
30 of the following circumstances exist:

31 (1) Litigation, to which the local agency is a party, has been initiated formally.

32 (2) A point has been reached where, in the opinion of the legislative body of the
33 local agency on the advice of its legal counsel, based on existing facts and
34 circumstances, there is a significant exposure to litigation against the local agency.

35 (3) Based on existing facts and circumstances, the legislative body of the local
36 agency is meeting only to decide whether a closed session is authorized pursuant to
37 paragraph (2).

38 (4) Based on existing facts and circumstances, the legislative body of the local
39 agency has decided to initiate or is deciding whether to initiate litigation.

40 (e) For purposes of paragraphs (2) and (3) of subdivision (d), “existing facts and
41 circumstances” shall consist only of one of the following:

1 (1) Facts and circumstances that might result in litigation against the local agency
2 but which the local agency believes are not yet known to a potential plaintiff or
3 plaintiffs, which facts and circumstances need not be disclosed.

4 (2) Facts and circumstances, including, but not limited to, an accident, disaster,
5 incident, or transactional occurrence that might result in litigation against the agency
6 and that are known to a potential plaintiff or plaintiffs, which facts or circumstances
7 shall be publicly stated on the agenda or announced.

8 (3) The receipt of a claim pursuant to the Government Claims Act (Division 3.6
9 (commencing with Section 810) of Title 1 of the Government Code) or some other
10 written communication from a potential plaintiff threatening litigation, which claim
11 or communication shall be available for public inspection pursuant to Section
12 54957.5.

13 (4) A statement made by a person in an open and public meeting threatening
14 litigation on a specific matter within the responsibility of the legislative body.

15 (5) A statement threatening litigation made by a person outside an open and public
16 meeting on a specific matter within the responsibility of the legislative body so long
17 as the official or employee of the local agency receiving knowledge of the threat
18 makes a contemporaneous or other record of the statement prior to the meeting,
19 which record shall be available for public inspection pursuant to Section 54957.5.
20 The records so created need not identify the alleged victim of unlawful or tortious
21 sexual conduct or anyone making the threat on their behalf, or identify a public
22 employee who is the alleged perpetrator of any unlawful or tortious conduct upon
23 which a threat of litigation is based, unless the identity of the person has been
24 publicly disclosed.

25 (f) Nothing in this section shall require disclosure of written communications that
26 are privileged and not subject to disclosure pursuant to the California Public
27 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
28 10 (commencing with Section 7920.000) of Title 1).

29 (g) Prior to holding a closed session pursuant to this section, the legislative body
30 of the local agency shall state on the agenda or publicly announce the paragraph of
31 subdivision (d) that authorizes the closed session. If the session is closed pursuant
32 to paragraph (1) of subdivision (d), the body shall state the title of or otherwise
33 specifically identify the litigation to be discussed, unless the body states that to do
34 so would jeopardize the agency's ability to effectuate service of process upon one
35 or more unserved parties, or that to do so would jeopardize its ability to conclude
36 existing settlement negotiations to its advantage.

37 (h) A local agency shall be considered to be a "party" or to have a "significant
38 exposure to litigation" if an officer or employee of the local agency is a party or has
39 significant exposure to litigation concerning prior or prospective activities or
40 alleged activities during the course and scope of that office or employment,
41 including litigation in which it is an issue whether an activity is outside the course
42 and scope of the office or employment.

1 **Comment.** Section 54956.9 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 **§ 54957.2 (amended). Minute book relating to closed sessions of legislative body of local**
5 **agency**

6 SEC. ____. Section 54957.2 of the Government Code is amended to read:

7 54957.2. (a) The legislative body of a local agency may, by ordinance or
8 resolution, designate a clerk or other officer or employee of the local agency who
9 shall then attend each closed session of the legislative body and keep and enter in a
10 minute book a record of topics discussed and decisions made at the meeting. The
11 minute book made pursuant to this section is not a public record subject to inspection
12 pursuant to the California Public Records Act (~~Chapter 3.5 (commencing with~~
13 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
14 Title 1), and shall be kept confidential. The minute book shall be available only to
15 members of the legislative body or, if a violation of this chapter is alleged to have
16 occurred at a closed session, to a court of general jurisdiction wherein the local
17 agency lies. ~~Such~~ The minute book may, but need not, consist of a recording of the
18 closed session.

19 (b) An elected legislative body of a local agency may require that each legislative
20 body all or a majority of whose members are appointed by or under the authority of
21 the elected legislative body keep a minute book as prescribed under subdivision (a).

22 **Comment.** Section 54957.2 is amended to reflect nonsubstantive recodification of the California
23 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
24 Reports __ (2019).

25 The section is also amended to make a technical change.

26 **§ 54957.5 (amended). Agendas and other writings distributed to members of legislative**
27 **body of local agency in connection with subject of public meeting**

28 SEC. ____. Section 54957.5 of the Government Code is amended to read:

29 54957.5. (a) Notwithstanding Section ~~6255~~ 7922.000 or any other law, agendas
30 of public meetings and any other writings, when distributed to all, or a majority of
31 all, of the members of a legislative body of a local agency by any person in
32 connection with a matter subject to discussion or consideration at an open meeting
33 of the body, are disclosable public records under the California Public Records Act
34 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
35 (commencing with Section 7920.000) of Title 1), and shall be made available upon
36 request without delay. However, this section shall not include any writing exempt
37 from public disclosure under Section ~~6253.5, 6254, 6254.3, 6254.7, 6254.15,~~
38 ~~6254.16, 6254.22, or 6254.26~~ 7924.100, 7924.105, 7924.110, 7924.510, 7924.700,
39 7926.205, 7927.410, 7927.605, 7928.300, or 7928.710, or any provision listed in
40 Section 7920.505.

41 (b)(1) If a writing that is a public record under subdivision (a), and that relates to
42 an agenda item for an open session of a regular meeting of the legislative body of a

1 local agency, is distributed less than 72 hours prior to that meeting, the writing shall
2 be made available for public inspection pursuant to paragraph (2) at the time the
3 writing is distributed to all, or a majority of all, of the members of the body.

4 (2) A local agency shall make any writing described in paragraph (1) available for
5 public inspection at a public office or location that the agency shall designate for
6 this purpose. Each local agency shall list the address of this office or location on the
7 agendas for all meetings of the legislative body of that agency. The local agency
8 also may post the writing on the local agency's Internet Web site in a position and
9 manner that makes it clear that the writing relates to an agenda item for an upcoming
10 meeting.

11 (3) This subdivision shall become operative on July 1, 2008.

12 (c) Writings that are public records under subdivision (a) and that are distributed
13 during a public meeting shall be made available for public inspection at the meeting
14 if prepared by the local agency or a member of its legislative body, or after the
15 meeting if prepared by some other person. These writings shall be made available
16 in appropriate alternative formats upon request by a person with a disability, as
17 required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C.
18 Sec. 12132), and the federal rules and regulations adopted in implementation
19 thereof.

20 (d) This chapter shall not be construed to prevent the legislative body of a local
21 agency from charging a fee or deposit for a copy of a public record pursuant to
22 Section ~~6253~~ 7922.530, except that a surcharge shall not be imposed on persons
23 with disabilities in violation of Section 202 of the Americans with Disabilities Act
24 of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in
25 implementation thereof.

26 (e) This section shall not be construed to limit or delay the public's right to inspect
27 or obtain a copy of any record required to be disclosed under the requirements of
28 the California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of
29 Division 7 Division 10 (commencing with Section 7920.000) of Title 1). This
30 chapter shall not be construed to require a legislative body of a local agency to place
31 any paid advertisement or any other paid notice in any publication.

32 **Comment.** Section 54957.5 is amended to reflect nonsubstantive recodification of the California
33 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
34 Reports __ (2019).

35 **§ 60201 (amended). Destruction or disposition of record by legislative body of district**

36 SEC. __. Section 60201 of the Government Code is amended to read:

37 60201. (a) For purposes of this section, "record" means any record consisting of
38 a "writing," as defined by ~~subdivision (f) of Section 6252~~ Section 7920.550.

39 (b) The legislative body of a district may destroy or dispose of any record that is
40 not expressly required by law to be filed and preserved through either of the
41 following procedures:

1 (1) The legislative body may authorize the destruction or disposition of any
2 category of records if it does both of the following:

3 (A) Adopts a resolution finding that destruction or disposition of this category of
4 records will not adversely affect any interest of the district or of the public.

5 (B) Maintains a list, by category, of the types of records destroyed or disposed of
6 that reasonably identifies the information contained in the records in each category.

7 (2) The legislative body may, by resolution, adopt and comply with a record
8 retention schedule that complies with guidelines provided by the Secretary of State
9 pursuant to Section 12236, that classifies all of the district's records by category,
10 and that establishes a standard protocol for destruction or disposition of records.

11 (c) A district is not required to photograph, reproduce, microfilm, or make a copy
12 of any record that is destroyed or disposed of pursuant to this section.

13 (d) Notwithstanding any other provision of this section or other provision of law,
14 a district may not destroy or dispose of any record that is any of the following:

15 (1) Relates to formation, change of organization, or reorganization of the district.

16 (2) An ordinance adopted by the district. However, an ordinance that has been
17 repealed or is otherwise invalid or unenforceable may be destroyed or disposed of
18 pursuant to this section five years after it was repealed or became invalid or
19 unenforceable.

20 (3) Minutes of any meeting of the legislative body of the district.

21 (4) Relates to any pending claim or litigation or any settlement or other disposition
22 of litigation within the past two years.

23 (5) Is the subject of any pending request made pursuant to the California Public
24 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
25 10 (commencing with Section 7920.000) of Title 1), whether or not the district
26 maintains that the record is exempt from disclosure, until the request has been
27 granted or two years have elapsed since the district provided written notice to the
28 requester that the request has been denied.

29 (6) Relates to any pending construction that the district has not accepted or as to
30 which a stop notice claim legally may be presented.

31 (7) Relates to any nondischarged debt of the district.

32 (8) Relates to the title to real property in which the district has an interest.

33 (9) Relates to any nondischarged contract to which the district is a party.

34 (10) Has not fulfilled the administrative, fiscal, or legal purpose for which it was
35 created or received.

36 (11) Is an unaccepted bid or proposal, which is less than two years old, for the
37 construction or installation of any building, structure, or other public work.

38 (12) Specifies the amount of compensation paid to district employees or officers
39 or to independent contractors providing personal or professional services to the
40 district, or relates to expense reimbursement to district officers or employees or to
41 the use of district paid credit cards or any travel compensation mechanism.
42 However, a record described in this paragraph may be destroyed or disposed of
43 pursuant to this section seven years after the date of payment.

1 **Comment.** Section 60201 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
3 Reports __ (2019).

4 The amendment also corrects a cross-reference to subdivision (f) of former Section 6252, which
5 became obsolete when subdivision (f) was relabeled as subdivision (g). *Compare* 2004 Cal. Stat.
6 ch. 362, § 1 (amending Section 60201 to cross-refer to “a ‘writing’ as defined by subdivision (f) of
7 Section 6252”) with 2002 Cal. Stat. ch. 1073, § 1.5 (version of former Section 6252 in place when
8 Section 60201 was amended to cross-refer to “a ‘writing’ as defined by subdivision (f) of Section
9 6252”); see also 2004 Cal. Stat. ch. 937, § 1 (relabeling definition of “writing” as subdivision (g));
10 2015 Cal. Stat. ch. 537, § 20 (version of former Section 6252 repealed by CPRA Recodification
11 Act of 2020); Section 7920.550 (continuing former Section 6252(g)’s definition of “writing”).

12 **§ 62001 (amended). Community revitalization and investment authority**

13 SEC. _____. Section 62001 of the Government Code is amended to read:

14 62001. (a) A community revitalization and investment authority is a public body,
15 corporate and politic, with jurisdiction to carry out a community revitalization plan
16 within a community revitalization and investment area. The authority shall be
17 deemed to be the “agency” described in subdivision (b) of Section 16 of Article XVI
18 of the California Constitution for purposes of receiving tax increment revenues. The
19 authority shall have only those powers and duties specifically set forth in Section
20 62002.

21 (b)(1) An authority may be created in any one of the following ways:

22 (A) A city, county, or city and county may adopt a resolution creating an
23 authority. The composition of the governing board shall be comprised as set forth
24 in subdivision (c).

25 (B) A city, county, city and county, and special district, as special district is
26 defined in subdivision (m) of Section 95 of the Revenue and Taxation Code, or any
27 combination thereof, may create an authority by entering into a joint powers
28 agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of
29 Title 1.

30 (2)(A) A school entity, as defined in subdivision (f) of Section 95 of the Revenue
31 and Taxation Code, may not participate in an authority created pursuant to this part.

32 (B) A successor agency, as defined in subdivision (j) of Section 34171 of the
33 Health and Safety Code, may not participate in an authority created pursuant to this
34 part, and an entity created pursuant to this part shall not receive any portion of the
35 property tax revenues or other moneys distributed pursuant to Section 34188 of the
36 Health and Safety Code.

37 (3) An authority formed by a city or county that created a redevelopment agency
38 that was dissolved pursuant to Part 1.85 (commencing with Section 34170) of
39 Division 24 of the Health and Safety Code shall not become effective until the
40 successor agency or designated local authority for the former redevelopment agency
41 has adopted findings of fact stating all of the following:

42 (A) The agency has received a finding of completion from the Department of
43 Finance pursuant to Section 34179.7 of the Health and Safety Code.

1 (B) Former redevelopment agency assets ~~which~~ that are the subject of litigation
2 against the state, where the city or county or its successor agency or designated local
3 authority are a named plaintiff, have not been or will not be used to benefit any
4 efforts of an authority formed under this part unless the litigation has been resolved
5 by entry of a final judgment by any court of competent jurisdiction and any appeals
6 have been exhausted.

7 (C) The agency has complied with all orders of the Controller pursuant to Section
8 34167.5 of the Health and Safety Code.

9 (c)(1) The governing board of an authority created pursuant to subparagraph (A)
10 of paragraph (1) of subdivision (b) shall be appointed by the legislative body of the
11 city, county, or city and county that created the authority and shall include three
12 members of the legislative body of the city, county, or city and county that created
13 the authority and two public members. The appointment of the two public members
14 shall be subject to Section 54974. The two public members shall live or work within
15 the community revitalization and investment area.

16 (2) The governing body of the authority created pursuant to subparagraph (B) of
17 paragraph (1) of subdivision (b) shall be comprised of a majority of members from
18 the legislative bodies of the public agencies that created the authority and a
19 minimum of two public members who live or work within the community
20 revitalization and investment area. The majority of the board shall appoint the public
21 members to the governing body. The appointment of the public members shall be
22 subject to Section 54974.

23 (d) An authority may carry out a community revitalization plan within a
24 community revitalization and investment area. Not less than 80 percent of the land
25 calculated by census tracts, census block groups, as defined by the United States
26 Census Bureau, or any combination of both within the area shall be characterized
27 by both of the following conditions:

28 (1) An annual median household income that is less than, at the option of the
29 authority, 80 percent of the statewide, countywide, or citywide annual median
30 income.

31 (2) Three of the following four conditions:

32 (A) An unemployment rate that is at least 3 percentage points higher than the
33 statewide average annual unemployment rate, as defined by the report on labor
34 market information published by the Employment Development Department in
35 March of the year in which the community revitalization plan is prepared. In
36 determining the unemployment rate within the community revitalization and
37 investment area, an authority may use unemployment data from the periodic
38 American Community Survey published by the United States Census Bureau.

39 (B) Crime rates, as documented by records maintained by the law enforcement
40 agency that has jurisdiction in the proposed plan area for violent or property crime
41 offenses, that are at least 5 percent higher than the statewide average crime rate for
42 violent or property crime offenses, as defined by the most recent annual report of
43 the Criminal Justice Statistics Center within the Department of Justice, when data

1 is available on the Attorney General’s Internet Web site. The crime rate shall be
2 calculated by taking the local crime incidents for violent or property crimes, or any
3 offense within those categories, for the most recent calendar year for which the
4 Department of Justice maintains data, divided by the total population of the
5 proposed plan area, multiplied by 100,000. If the local crime rate for the proposed
6 plan area exceeds the statewide average rate for either violent or property crime, or
7 any offense within these categories, by more than 5 percent, then the condition
8 described in this subparagraph shall be met.

9 (C) Deteriorated or inadequate infrastructure, including streets, sidewalks, water
10 supply, sewer treatment or processing, and parks.

11 (D) Deteriorated commercial or residential structures.

12 (e) As an alternative to subdivision (d), an authority may also carry out a
13 community revitalization plan within a community revitalization and investment
14 area if it meets either of the following conditions:

15 (1) The area is established within a former military base that is principally
16 characterized by deteriorated or inadequate infrastructure and structures.
17 Notwithstanding subdivision (c), the governing board of an authority established
18 within a former military base shall include a member of the military base closure
19 commission as a public member.

20 (2) The census tracts or census block groups, as defined by the United States
21 Census Bureau, within the area are situated within a disadvantaged community as
22 described in Section 39711 of the Health and Safety Code.

23 (f) An authority created pursuant to this part shall be a local public agency subject
24 to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1
25 of Division 2 of Title 5), the California Public Records Act (~~Chapter 3.5~~
26 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
27 Section 7920.000) of Title 1), and the Political Reform Act of 1974 (Title 9
28 (commencing with Section 81000)).

29 (g)(1) At any time after the authority is authorized to transact business and
30 exercise its powers, the legislative body or bodies of the local government or
31 governments that created the authority may appropriate the amounts the legislative
32 body or bodies deem necessary for the administrative expenses and overhead of the
33 authority.

34 (2) The money appropriated may be paid to the authority as a grant to defray the
35 expenses and overhead, or as a loan to be repaid upon the terms and conditions as
36 the legislative body may provide. If appropriated as a loan, the property owners and
37 residents within the plan area shall be made third-party beneficiaries of the
38 repayment of the loan. In addition to the common understanding and usual
39 interpretation of the term, “administrative expense” includes, but is not limited to,
40 expenses of planning and dissemination of information.

41 **Comment.** Section 62001 is amended to reflect nonsubstantive recodification of the California
42 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
43 Reports __ (2019).

1 The section is also amended to make a grammatical correction.

2 **§ 62262 (amended). Application of Ralph M. Brown Act, CPRA, and Political Reform Act**

3 SEC. ____ . Section 62262 of the Government Code is amended to read:

4 62262. An authority created pursuant to this division shall be a local public agency
5 subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950)
6 of Part 1 of Division 2 of Title 5), the California Public Records Act (~~Chapter 3.5~~
7 ~~(commencing with Section 6250)~~ of Division 7 Division 10 (commencing with
8 Section 7920.000) of Title 1), and the Political Reform Act of 1974 (Title 9
9 (commencing with Section 81000)).

10 **Comment.** Section 62262 is amended to reflect nonsubstantive recodification of the California
11 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
12 Reports __ (2019).

13 **§ 63048.63 (amended). Legislative findings and declarations relating to financial and legal**
14 **records of California Indian tribes and tribal business enterprises**

15 SEC. ____ . Section 63048.63 of the Government Code is amended to read:

16 63048.63. (a) The Legislature hereby finds and declares:

17 (1) The financial and legal records of California Indian tribes and tribal business
18 enterprises are records of a sovereign nation and are not subject to disclosure by
19 private citizens or the state. This is explicitly recognized in amendments to tribal-
20 state gaming compacts ratified by the Legislature, which provide for the
21 securitization of annual payments to be received from the tribes by the state or by
22 an agency, trust, fund, or entity specified by the state.

23 (2) In order to review the records of any Indian tribe relative to this securitization,
24 the compacts require the execution of nondisclosure agreements.

25 (3) State entities statutorily charged with participating in the bond sale cannot
26 perform those duties in the absence of that agreement, and the Legislature hereby
27 acknowledges and agrees that documents containing tribal information are not
28 public records, shall not be discussed in an open meeting, and that state officials
29 privy to that information may execute nondisclosure agreements.

30 (b) Nothing in ~~Chapter 3.5 of Division 7 of Title 1 (commencing with Section~~
31 ~~6250)~~ Division 10 (commencing with Section 7920.000) of Title 1 or any other
32 provision of law shall permit the disclosure of any records of an Indian tribe received
33 by the state, or by an agency, trust fund, or entity specified by the state, in connection
34 with the sale of any portions of the designated tribal-state gaming compact assets or
35 the issuance of bonds, or any summaries or analyses thereof. The transmission of
36 the records, or the information contained in those records in an alternative form, to
37 the state or the special purpose trust shall not constitute a waiver of exemption from
38 disclosure, and the records and information once transmitted to the state or special
39 purpose trust shall be subject to this same exemption from disclosure.

1 (c) The state and the special purpose trust are authorized to enter into
2 nondisclosure agreements with Indian tribes agreeing not to disclose the materials
3 described in subdivision (b).

4 (d) The nondisclosure agreements may include provisions limiting the
5 representatives of the state and the special purpose trust authorized to review or
6 receive records of the Indian tribe to those individuals directly working on the sale
7 of portions of the designated compact assets or the issuance of the bonds.

8 (e) Nothing in Article 9 (commencing with Section 11120) of Chapter 1 of Part 1
9 of Division 3 of Title 2 of the Government Code shall be construed to prevent the
10 bank from conducting a closed session to consider any records or information of an
11 Indian tribe or any summaries or analyses thereof received by the state in connection
12 with the sale of any portion of the compact assets or the issuance of bonds.

13 **Comment.** Section 63048.63 is amended to reflect nonsubstantive recodification of the
14 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
15 Comm'n Reports __ (2019).

16 **§ 65913.4 (amended). Streamlined, ministerial approval process for development**
17 **application**

18 SEC. ____ . Section 65913.4 of the Government Code is amended to read:

19 65913.4. (a) A development proponent may submit an application for a
20 development that is subject to the streamlined, ministerial approval process
21 provided by subdivision (b) and is not subject to a conditional use permit if the
22 development satisfies all of the following objective planning standards:

23 (1) The development is a multifamily housing development that contains two or
24 more residential units.

25 (2) The development is located on a site that satisfies all of the following:

26 (A) A site that is a legal parcel or parcels located in a city if, and only if, the city
27 boundaries include some portion of either an urbanized area or urban cluster, as
28 designated by the United States Census Bureau, or, for unincorporated areas, a legal
29 parcel or parcels wholly within the boundaries of an urbanized area or urban cluster,
30 as designated by the United States Census Bureau.

31 (B) A site in which at least 75 percent of the perimeter of the site adjoins parcels
32 that are developed with urban uses. For the purposes of this section, parcels that are
33 only separated by a street or highway shall be considered to be adjoined.

34 (C) A site that is zoned for residential use or residential mixed-use development,
35 or has a general plan designation that allows residential use or a mix of residential
36 and nonresidential uses, with at least two-thirds of the square footage of the
37 development designated for residential use.

38 (3)(A) The development proponent has committed to record, prior to the issuance
39 of the first building permit, a land use restriction or covenant providing that any
40 lower income housing units required pursuant to subparagraph (B) of paragraph (4)
41 shall remain available at affordable housing costs or rent to persons and families of
42 lower income for no less than the following periods of time:

1 (i) Fifty-five years for units that are rented.

2 (ii) Forty-five years for units that are owned.

3 (B) The city or county shall require the recording of covenants or restrictions
4 implementing this paragraph for each parcel or unit of real property included in the
5 development.

6 (4) The development satisfies both of the following:

7 (A) Is located in a locality that the department has determined is subject to this
8 subparagraph on the basis that the number of units that have been issued building
9 permits is less than the locality's share of the regional housing needs, by income
10 category, for that reporting period. A locality shall remain eligible under this
11 subparagraph until the department's determination for the next reporting period.

12 (B) The development is subject to a requirement mandating a minimum
13 percentage of below market rate housing based on one of the following:

14 (i) The locality did not submit its latest production report to the department by the
15 time period required by Section 65400, or that production report reflects that there
16 were fewer units of above moderate-income housing issued building permits than
17 were required for the regional housing needs assessment cycle for that reporting
18 period. In addition, if the project contains more than 10 units of housing, the project
19 seeking approval dedicates a minimum of 10 percent of the total number of units to
20 housing affordable to households making below 80 percent of the area median
21 income. If the locality has adopted a local ordinance that requires that greater than
22 10 percent of the units be dedicated to housing affordable to households making
23 below 80 percent of the area median income, that local ordinance applies.

24 (ii) The locality's latest production report reflects that there were fewer units of
25 housing issued building permits affordable to either very low income or low-income
26 households by income category than were required for the regional housing needs
27 assessment cycle for that reporting period, and the project seeking approval
28 dedicates 50 percent of the total number of units to housing affordable to households
29 making below 80 percent of the area median income, unless the locality has adopted
30 a local ordinance that requires that greater than 50 percent of the units be dedicated
31 to housing affordable to households making below 80 percent of the area median
32 income, in which case that local ordinance applies.

33 (iii) The locality did not submit its latest production report to the department by
34 the time period required by Section 65400, or if the production report reflects that
35 there were fewer units of housing affordable to both income levels described in
36 clauses (i) and (ii) that were issued building permits than were required for the
37 regional housing needs assessment cycle for that reporting period, the project
38 seeking approval may choose between utilizing clause (i) or (ii).

39 (5) The development, excluding any additional density or any other concessions,
40 incentives, or waivers of development standards granted pursuant to the Density
41 Bonus Law in Section 65915, is consistent with objective zoning standards,
42 objective subdivision standards, and objective design review standards in effect at
43 the time that the development is submitted to the local government pursuant to this

1 section. For purposes of this paragraph, “objective zoning standards,” “objective
2 subdivision standards,” and “objective design review standards” mean standards
3 that involve no personal or subjective judgment by a public official and are
4 uniformly verifiable by reference to an external and uniform benchmark or criterion
5 available and knowable by both the development applicant or proponent and the
6 public official before submittal. These standards may be embodied in alternative
7 objective land use specifications adopted by a city or county, and may include, but
8 are not limited to, housing overlay zones, specific plans, inclusionary zoning
9 ordinances, and density bonus ordinances, subject to the following:

10 (A) A development shall be deemed consistent with the objective zoning
11 standards related to housing density, as applicable, if the density proposed is
12 compliant with the maximum density allowed within that land use designation,
13 notwithstanding any specified maximum unit allocation that may result in fewer
14 units of housing being permitted.

15 (B) In the event that objective zoning, general plan, subdivision, or design review
16 standards are mutually inconsistent, a development shall be deemed consistent with
17 the objective zoning and subdivision standards pursuant to this subdivision if the
18 development is consistent with the standards set forth in the general plan.

19 (C) The amendments to this subdivision made by the act adding this subparagraph
20 do not constitute a change in, but are declaratory of, existing law.

21 (6) The development is not located on a site that is any of the following:

22 (A) A coastal zone, as defined in Division 20 (commencing with Section 30000)
23 of the Public Resources Code.

24 (B) Either prime farmland or farmland of statewide importance, as defined
25 pursuant to United States Department of Agriculture land inventory and monitoring
26 criteria, as modified for California, and designated on the maps prepared by the
27 Farmland Mapping and Monitoring Program of the Department of Conservation, or
28 land zoned or designated for agricultural protection or preservation by a local ballot
29 measure that was approved by the voters of that jurisdiction.

30 (C) Wetlands, as defined in the United States Fish and Wildlife Service Manual,
31 Part 660 FW 2 (June 21, 1993).

32 (D) Within a very high fire hazard severity zone, as determined by the Department
33 of Forestry and Fire Protection pursuant to Section 51178, or within a high or very
34 high fire hazard severity zone as indicated on maps adopted by the Department of
35 Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code.
36 This subparagraph does not apply to sites excluded from the specified hazard zones
37 by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have
38 adopted fire hazard mitigation measures pursuant to existing building standards or
39 state fire mitigation measures applicable to the development.

40 (E) A hazardous waste site that is listed pursuant to Section 65962.5 or a
41 hazardous waste site designated by the Department of Toxic Substances Control
42 pursuant to Section 25356 of the Health and Safety Code, unless the Department of

1 Toxic Substances Control has cleared the site for residential use or residential mixed
2 uses.

3 (F) Within a delineated earthquake fault zone as determined by the State
4 Geologist in any official maps published by the State Geologist, unless the
5 development complies with applicable seismic protection building code standards
6 adopted by the California Building Standards Commission under the California
7 Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13
8 of the Health and Safety Code), and by any local building department under Chapter
9 12.2 (commencing with Section 8875) of Division 1 of Title 2.

10 (G) Within a special flood hazard area subject to inundation by the 1 percent
11 annual chance flood (100-year flood) as determined by the Federal Emergency
12 Management Agency in any official maps published by the Federal Emergency
13 Management Agency. If a development proponent is able to satisfy all applicable
14 federal qualifying criteria in order to provide that the site satisfies this subparagraph
15 and is otherwise eligible for streamlined approval under this section, a local
16 government shall not deny the application on the basis that the development
17 proponent did not comply with any additional permit requirement, standard, or
18 action adopted by that local government that is applicable to that site. A
19 development may be located on a site described in this subparagraph if either of the
20 following are met:

21 (i) The site has been subject to a Letter of Map Revision prepared by the Federal
22 Emergency Management Agency and issued to the local jurisdiction.

23 (ii) The site meets Federal Emergency Management Agency requirements
24 necessary to meet minimum flood plain management criteria of the National Flood
25 Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60
26 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the
27 Code of Federal Regulations.

28 (H) Within a regulatory floodway as determined by the Federal Emergency
29 Management Agency in any official maps published by the Federal Emergency
30 Management Agency, unless the development has received a no-rise certification in
31 accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.
32 If a development proponent is able to satisfy all applicable federal qualifying criteria
33 in order to provide that the site satisfies this subparagraph and is otherwise eligible
34 for streamlined approval under this section, a local government shall not deny the
35 application on the basis that the development proponent did not comply with any
36 additional permit requirement, standard, or action adopted by that local government
37 that is applicable to that site.

38 (I) Lands identified for conservation in an adopted natural community
39 conservation plan pursuant to the Natural Community Conservation Planning Act
40 (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game
41 Code), habitat conservation plan pursuant to the federal Endangered Species Act of
42 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection
43 plan.

1 (J) Habitat for protected species identified as candidate, sensitive, or species of
2 special status by state or federal agencies, fully protected species, or species
3 protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et
4 seq.), the California Endangered Species Act (Chapter 1.5 (commencing with
5 Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant
6 Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the
7 Fish and Game Code).

8 (K) Lands under conservation easement.

9 (7) The development is not located on a site where any of the following apply:

10 (A) The development would require the demolition of the following types of
11 housing:

12 (i) Housing that is subject to a recorded covenant, ordinance, or law that restricts
13 rents to levels affordable to persons and families of moderate, low, or very low
14 income.

15 (ii) Housing that is subject to any form of rent or price control through a public
16 entity's valid exercise of its police power.

17 (iii) Housing that has been occupied by tenants within the past 10 years.

18 (B) The site was previously used for housing that was occupied by tenants that
19 was demolished within 10 years before the development proponent submits an
20 application under this section.

21 (C) The development would require the demolition of a historic structure that was
22 placed on a national, state, or local historic register.

23 (D) The property contains housing units that are occupied by tenants, and units at
24 the property are, or were, subsequently offered for sale to the general public by the
25 subdivider or subsequent owner of the property.

26 (8) The development proponent has done both of the following, as applicable:

27 (A) Certified to the locality that either of the following is true, as applicable:

28 (i) The entirety of the development is a public work for purposes of Chapter 1
29 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

30 (ii) If the development is not in its entirety a public work, that all construction
31 workers employed in the execution of the development will be paid at least the
32 general prevailing rate of per diem wages for the type of work and geographic area,
33 as determined by the Director of Industrial Relations pursuant to Sections 1773 and
34 1773.9 of the Labor Code, except that apprentices registered in programs approved
35 by the Chief of the Division of Apprenticeship Standards may be paid at least the
36 applicable apprentice prevailing rate. If the development is subject to this
37 subparagraph, then for those portions of the development that are not a public work
38 all of the following shall apply:

39 (I) The development proponent shall ensure that the prevailing wage requirement
40 is included in all contracts for the performance of the work.

41 (II) All contractors and subcontractors shall pay to all construction workers
42 employed in the execution of the work at least the general prevailing rate of per
43 diem wages, except that apprentices registered in programs approved by the Chief

1 of the Division of Apprenticeship Standards may be paid at least the applicable
2 apprentice prevailing rate.

3 (III) Except as provided in subclause (V), all contractors and subcontractors shall
4 maintain and verify payroll records pursuant to Section 1776 of the Labor Code and
5 make those records available for inspection and copying as provided therein.

6 (IV) Except as provided in subclause (V), the obligation of the contractors and
7 subcontractors to pay prevailing wages may be enforced by the Labor
8 Commissioner through the issuance of a civil wage and penalty assessment pursuant
9 to Section 1741 of the Labor Code, which may be reviewed pursuant to Section
10 1742 of the Labor Code, within 18 months after the completion of the development,
11 by an underpaid worker through an administrative complaint or civil action, or by a
12 joint labor-management committee through a civil action under Section 1771.2 of
13 the Labor Code. If a civil wage and penalty assessment is issued, the contractor,
14 subcontractor, and surety on a bond or bonds issued to secure the payment of wages
15 covered by the assessment shall be liable for liquidated damages pursuant to Section
16 1742.1 of the Labor Code.

17 (V) Subclauses (III) and (IV) shall not apply if all contractors and subcontractors
18 performing work on the development are subject to a project labor agreement that
19 requires the payment of prevailing wages to all construction workers employed in
20 the execution of the development and provides for enforcement of that obligation
21 through an arbitration procedure. For purposes of this clause, “project labor
22 agreement” has the same meaning as set forth in paragraph (1) of subdivision (b) of
23 Section 2500 of the Public Contract Code.

24 (VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the
25 requirement that employer payments not reduce the obligation to pay the hourly
26 straight time or overtime wages found to be prevailing shall not apply if otherwise
27 provided in a bona fide collective bargaining agreement covering the worker. The
28 requirement to pay at least the general prevailing rate of per diem wages does not
29 preclude use of an alternative workweek schedule adopted pursuant to Section 511
30 or 514 of the Labor Code.

31 (B)(i) For developments for which any of the following conditions apply, certified
32 that a skilled and trained workforce shall be used to complete the development if
33 the application is approved:

34 (I) On and after January 1, 2018, until December 31, 2021, the development
35 consists of 75 or more units with a residential component that is not 100 percent
36 subsidized affordable housing and will be located within a jurisdiction located in a
37 coastal or bay county with a population of 225,000 or more.

38 (II) On and after January 1, 2022, until December 31, 2025, the development
39 consists of 50 or more units with a residential component that is not 100 percent
40 subsidized affordable housing and will be located within a jurisdiction located in a
41 coastal or bay county with a population of 225,000 or more.

42 (III) On and after January 1, 2018, until December 31, 2019, the development
43 consists of 75 or more units with a residential component that is not 100 percent

1 subsidized affordable housing and will be located within a jurisdiction with a
2 population of fewer than 550,000 and that is not located in a coastal or bay county.

3 (IV) On and after January 1, 2020, until December 31, 2021, the development
4 consists of more than 50 units with a residential component that is not 100 percent
5 subsidized affordable housing and will be located within a jurisdiction with a
6 population of fewer than 550,000 and that is not located in a coastal or bay county.

7 (V) On and after January 1, 2022, until December 31, 2025, the development
8 consists of more than 25 units with a residential component that is not 100 percent
9 subsidized affordable housing and will be located within a jurisdiction with a
10 population of fewer than 550,000 and that is not located in a coastal or bay county.

11 (ii) For purposes of this section, “skilled and trained workforce” has the same
12 meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of
13 Division 2 of the Public Contract Code.

14 (iii) If the development proponent has certified that a skilled and trained
15 workforce will be used to complete the development and the application is
16 approved, the following shall apply:

17 (I) The applicant shall require in all contracts for the performance of work that
18 every contractor and subcontractor at every tier will individually use a skilled and
19 trained workforce to complete the development.

20 (II) Every contractor and subcontractor shall use a skilled and trained workforce
21 to complete the development.

22 (III) Except as provided in subclause (IV), the applicant shall provide to the
23 locality, on a monthly basis while the development or contract is being performed,
24 a report demonstrating compliance with Chapter 2.9 (commencing with Section
25 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report
26 provided to the locality pursuant to this subclause shall be a public record under the
27 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of~~
28 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1) and shall
29 be open to public inspection. An applicant that fails to provide a monthly report
30 demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of
31 Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty
32 of ten thousand dollars (\$10,000) per month for each month for which the report has
33 not been provided. Any contractor or subcontractor that fails to use a skilled and
34 trained workforce shall be subject to a civil penalty of two hundred dollars (\$200)
35 per day for each worker employed in contravention of the skilled and trained
36 workforce requirement. Penalties may be assessed by the Labor Commissioner
37 within 18 months of completion of the development using the same procedures for
38 issuance of civil wage and penalty assessments pursuant to Section 1741 of the
39 Labor Code, and may be reviewed pursuant to the same procedures in Section 1742
40 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement
41 Fund.

42 (IV) Subclause (III) shall not apply if all contractors and subcontractors
43 performing work on the development are subject to a project labor agreement that

1 requires compliance with the skilled and trained workforce requirement and
2 provides for enforcement of that obligation through an arbitration procedure. For
3 purposes of this subparagraph, “project labor agreement” has the same meaning as
4 set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract
5 Code.

6 (C) Notwithstanding subparagraphs (A) and (B), a development that is subject to
7 approval pursuant to this section is exempt from any requirement to pay prevailing
8 wages or use a skilled and trained workforce if it meets both of the following:

9 (i) The project includes 10 or fewer units.

10 (ii) The project is not a public work for purposes of Chapter 1 (commencing with
11 Section 1720) of Part 7 of Division 2 of the Labor Code.

12 (9) The development did not or does not involve a subdivision of a parcel that is,
13 or, notwithstanding this section, would otherwise be, subject to the Subdivision Map
14 Act (Division 2 (commencing with Section 66410)) or any other applicable law
15 authorizing the subdivision of land, unless the development is consistent with all
16 objective subdivision standards in the local subdivision ordinance, and either of the
17 following apply:

18 (A) The development has received or will receive financing or funding by means
19 of a low-income housing tax credit and is subject to the requirement that prevailing
20 wages be paid pursuant to subparagraph (A) of paragraph (8).

21 (B) The development is subject to the requirement that prevailing wages be paid,
22 and a skilled and trained workforce used, pursuant to paragraph (8).

23 (10) The development shall not be upon an existing parcel of land or site that is
24 governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with
25 Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational
26 Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of
27 Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part
28 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety
29 Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section
30 18860) of Division 13 of the Health and Safety Code).

31 (b)(1) If a local government determines that a development submitted pursuant to
32 this section is in conflict with any of the objective planning standards specified in
33 subdivision (a), it shall provide the development proponent written documentation
34 of which standard or standards the development conflicts with, and an explanation
35 for the reason or reasons the development conflicts with that standard or standards,
36 as follows:

37 (A) Within 60 days of submittal of the development to the local government
38 pursuant to this section if the development contains 150 or fewer housing units.

39 (B) Within 90 days of submittal of the development to the local government
40 pursuant to this section if the development contains more than 150 housing units.

41 (2) If the local government fails to provide the required documentation pursuant
42 to paragraph (1), the development shall be deemed to satisfy the objective planning
43 standards specified in subdivision (a).

1 (c)(1) Any design review or public oversight of the development may be
2 conducted by the local government’s planning commission or any equivalent board
3 or commission responsible for review and approval of development projects, or the
4 city council or board of supervisors, as appropriate. That design review or public
5 oversight shall be objective and be strictly focused on assessing compliance with
6 criteria required for streamlined projects, as well as any reasonable objective design
7 standards published and adopted by ordinance or resolution by a local jurisdiction
8 before submission of a development application, and shall be broadly applicable to
9 development within the jurisdiction. That design review or public oversight shall be
10 completed as follows and shall not in any way inhibit, chill, or preclude the
11 ministerial approval provided by this section or its effect, as applicable:

12 (A) Within 90 days of submittal of the development to the local government
13 pursuant to this section if the development contains 150 or fewer housing units.

14 (B) Within 180 days of submittal of the development to the local government
15 pursuant to this section if the development contains more than 150 housing units.

16 (2) If the development is consistent with the requirements of subparagraph (A) or
17 (B) of paragraph (9) of subdivision (a) and is consistent with all objective
18 subdivision standards in the local subdivision ordinance, an application for a
19 subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with
20 Section 66410)) shall be exempt from the requirements of the California
21 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
22 Public Resources Code) and shall be subject to the public oversight timelines set
23 forth in paragraph (1).

24 (d)(1) Notwithstanding any other law, a local government, whether or not it has
25 adopted an ordinance governing automobile parking requirements in multifamily
26 developments, shall not impose automobile parking standards for a streamlined
27 development that was approved pursuant to this section in any of the following
28 instances:

29 (A) The development is located within one-half mile of public transit.

30 (B) The development is located within an architecturally and historically
31 significant historic district.

32 (C) When on-street parking permits are required but not offered to the occupants
33 of the development.

34 (D) When there is a car share vehicle located within one block of the development.

35 (2) If the development does not fall within any of the categories described in
36 paragraph (1), the local government shall not impose automobile parking
37 requirements for streamlined developments approved pursuant to this section that
38 exceed one parking space per unit.

39 (e)(1) If a local government approves a development pursuant to this section, then,
40 notwithstanding any other law, that approval shall not expire if the project includes
41 public investment in housing affordability, beyond tax credits, where 50 percent of
42 the units are affordable to households making below 80 percent of the area median
43 income.

1 (2) If a local government approves a development pursuant to this section and the
2 project does not include 50 percent of the units affordable to households making
3 below 80 percent of the area median income, that approval shall automatically
4 expire after three years except that a project may receive a one-time, one-year
5 extension if the project proponent can provide documentation that there has been
6 significant progress toward getting the development construction ready, such as
7 filing a building permit application.

8 (3) If a local government approves a development pursuant to this section, that
9 approval shall remain valid for three years from the date of the final action
10 establishing that approval and shall remain valid thereafter for a project so long as
11 vertical construction of the development has begun and is in progress. Additionally,
12 the development proponent may request, and the local government shall have
13 discretion to grant, an additional one-year extension to the original three-year
14 period. The local government's action and discretion in determining whether to
15 grant the foregoing extension shall be limited to considerations and process set forth
16 in this section.

17 (f) A local government shall not adopt any requirement, including, but not limited
18 to, increased fees or inclusionary housing requirements, that applies to a project
19 solely or partially on the basis that the project is eligible to receive ministerial or
20 streamlined approval pursuant to this section.

21 (g) This section shall not affect a development proponent's ability to use any
22 alternative streamlined by right permit processing adopted by a local government,
23 including the provisions of subdivision (i) of Section 65583.2.

24 (h) The California Environmental Quality Act (Division 13 (commencing with
25 Section 21000) of the Public Resources Code) does not apply to actions taken by a
26 state agency or local government to lease, convey, or encumber land owned by the
27 local government or to facilitate the lease, conveyance, or encumbrance of land
28 owned by the local government, or to provide financial assistance to a development
29 that receives streamlined approval pursuant to this section that is to be used for
30 housing for persons and families of very low, low, or moderate income, as defined
31 in Section 50093 of the Health and Safety Code.

32 (i) For purposes of this section, the following terms have the following meanings:

33 (1) "Affordable housing cost" has the same meaning as set forth in Section
34 50052.5 of the Health and Safety Code.

35 (2) "Affordable rent" has the same meaning as set forth in Section 50053 of the
36 Health and Safety Code.

37 (3) "Department" means the Department of Housing and Community
38 Development.

39 (4) "Development proponent" means the developer who submits an application
40 for streamlined approval pursuant to this section.

41 (5) "Completed entitlements" means a housing development ~~which~~ that has
42 received all the required land use approvals or entitlements necessary for the
43 issuance of a building permit.

1 (6) “Locality” or “local government” means a city, including a charter city, a
2 county, including a charter county, or a city and county, including a charter city and
3 county.

4 (7) “Production report” means the information reported pursuant to subparagraph
5 (H) of paragraph (2) of subdivision (a) of Section 65400.

6 (8) “State agency” includes every state office, officer, department, division,
7 bureau, board, and commission, but does not include the California State University
8 or the University of California.

9 (9) “Subsidized” means units that are price or rent restricted ~~such~~ so that the units
10 are permanently affordable to households meeting the definitions of very low and
11 lower income, as defined in Sections 50079.5 and 50105 of the Health and Safety
12 Code.

13 (10) “Reporting period” means either of the following:

14 (A) The first half of the regional housing needs assessment cycle.

15 (B) The last half of the regional housing needs assessment cycle.

16 (11) “Urban uses” means any current or former residential, commercial, public
17 institutional, transit or transportation passenger facility, or retail use, or any
18 combination of those uses.

19 (j) The department may review, adopt, amend, and repeal guidelines to implement
20 uniform standards or criteria that supplement or clarify the terms, references, or
21 standards set forth in this section. Any guidelines or terms adopted pursuant to this
22 subdivision shall not be subject to Chapter 3.5 (commencing with Section 11340)
23 of Part 1 of Division 3 of Title 2 of the Government Code.

24 (k) The determination of whether an application for a development is subject to
25 the streamlined ministerial approval process provided by subdivision (b) is not a
26 “project” as defined in Section 21065 of the Public Resources Code.

27 (l) It is the policy of the state that this section be interpreted and implemented in
28 a manner to afford the fullest possible weight to the interest of, and the approval and
29 provision of, increased housing supply.

30 (m) This section shall remain in effect only until January 1, 2026, and as of that
31 date is repealed.

32 **Comment.** Section 65913.4 is amended to reflect nonsubstantive recodification of the California
33 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
34 Reports __ (2019).

35 The section is also amended to make technical changes.

36 **§ 66024 (amended). Judicial action or proceeding contending that development fee is special**
37 **tax**

38 SEC. ____. Section 66024 of the Government Code is amended to read:

39 66024. (a) In any judicial action or proceeding to validate, attack, review, set
40 aside, void, or annul any ordinance or resolution providing for the imposition of a
41 development fee by any city, county, or district in which there is at issue whether
42 the development fee is a special tax within the meaning of Section 50076, the city,

1 county, or district has the burden of producing evidence to establish that the
2 development fee does not exceed the cost of the service, facility, or regulatory
3 activity for which it is imposed.

4 (b) No party may initiate any action or proceeding pursuant to subdivision (a)
5 unless both of the following requirements are met:

6 (1) The development fee was directly imposed on the party as a condition of
7 project approval.

8 (2) At least 30 days prior to initiating the action or proceeding, the party requests
9 the city, county, or district to provide a copy of the documents ~~which~~ that establish
10 that the development fee does not exceed the cost of the service, facility, or
11 regulatory activity for which it is imposed. In accordance with Section ~~6257~~
12 7922.530, the city, county, or district may charge a fee for copying the documents
13 requested pursuant to this paragraph.

14 (c) For purposes of this section, costs shall be determined in accordance with
15 fundamental fairness and consistency of method as to the allocation of costs,
16 expenses, revenues, and other items included in the calculation.

17 **Comment.** Section 66024 is amended to reflect nonsubstantive recodification of the California
18 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
19 Reports __ (2019).

20 The amendment also corrects a cross-reference to "Section 6257." That cross-reference became
21 obsolete when former Section 6257 (1981 Cal. Stat. ch. 968, § 3.5) was repealed by 1998 Cal. Stat.
22 ch. 620, § 10. At that time, the substance of former Section 6257 was relocated to newly-added
23 Section 6253 (see 1998 Cal. Stat. ch. 620, § 5). Pursuant to the CPRA Recodification Act of 2020,
24 Section 6253 has in turn been repealed and recodified; the fee-related material from former Section
25 6257 is now located in Section 7922.530.

26 The section is also amended to make a grammatical correction.

27 **§ 66201 (amended). Housing sustainability district**

28 SEC. _____. Section 66201 of the Government Code is amended to read:

29 66201. (a) A city, county, or city and county, upon receipt of preliminary approval
30 by the department pursuant to Section 66202, may establish by ordinance a housing
31 sustainability district in accordance with this chapter. The city, county, or city and
32 county shall adopt the ordinance in accordance with the requirements of Chapter 4
33 (commencing with Section 65800).

34 (b) An area proposed to be designated a housing sustainability district pursuant to
35 this chapter shall satisfy all of the following requirements:

36 (1) The area is an eligible location, including any adjacent area served by existing
37 infrastructure and utilities.

38 (2) The area is zoned to permit residential use through the ministerial issuance of
39 a permit. Other uses may be permitted by conditional use or other discretionary
40 permit, provided that the use is consistent with residential use.

41 (3) Density ranges for multifamily housing for which the minimum densities shall
42 not be less than those deemed appropriate to accommodate housing for lower
43 income households as set forth in subparagraph (B) of paragraph (3) of subdivision
44 (c) of Section 65583.2, and a density range for single-family attached or detached

1 housing for which the minimum densities shall not be less than 10 units to the acre.
2 A density range shall provide the minimum dwelling units per acre and the
3 maximum dwelling units per acre.

4 (4) The development of housing is permitted, consistent with neighborhood
5 building and use patterns and any applicable building codes.

6 (5) Limitations or moratoriums on residential use do not apply to any of the area,
7 other than any limitation or moratorium imposed by court order.

8 (6) The area is not subject to any general age or other occupancy restrictions,
9 except that the city, county, or city and county may allow for the development of
10 specific projects exclusively for the elderly or the disabled or for assisted living.

11 (7) Housing units comply with all applicable federal, state, and local fair housing
12 laws.

13 (8) The area of the proposed housing sustainability district does not exceed 15
14 percent of the total land area under the jurisdiction of the city, county, or city and
15 county unless the department approves a larger area in furtherance of the purposes
16 of this chapter.

17 (9) The total area of all housing sustainability districts within the city, county, or
18 city and county does not exceed 30 percent of the total land area under the
19 jurisdiction of the city, county, or city and county.

20 (10) The housing sustainability district ordinance provides for the manner of
21 review by an approving authority, as designated by the ordinance, pursuant to
22 Section 66205 and in accordance with the rules and regulations adopted by the
23 department.

24 (11) Development projects in the area comply with the requirements of Section
25 66208, regarding the replacement of affordable housing units affected by the
26 development.

27 (c) The city, county, or city and county may apply uniform development policies
28 or standards that will apply to all projects within the housing sustainability district,
29 including parking ordinances, public access ordinances, grading ordinances, hillside
30 development ordinances, flood plain ordinances, habitat or conservation ordinances,
31 view protection ordinances, and requirements for reducing greenhouse gas
32 emissions.

33 (d) The city, county, or city and county may provide for mixed-use development
34 within the housing sustainability district.

35 (e) An amendment or repeal of a housing sustainability district ordinance shall not
36 become effective unless the department provides written approval to the city,
37 county, or city and county. The city, county, or city and county may request approval
38 of a proposed amendment or repeal by submitting a written request to the
39 department. The department shall evaluate the proposed amendment or repeal for
40 the effect of that amendment or repeal on the city's, county's, or city and county's
41 housing element. If the department does not respond to a written request for
42 amendment or repeal of an ordinance within 60 days of receipt of that request, the
43 request shall be deemed approved.

1 (f) The housing sustainability district ordinance shall do all of the following:

2 (1) Provide for an approving authority to review permit applications for
3 development within the housing sustainability district in accordance with Section
4 66205.

5 (2)(A) Subject to subparagraph (B), require that at least 20 percent of the
6 residential units constructed within the housing sustainability district be affordable
7 to very low, low-, and moderate-income households and subject to a recorded
8 affordability restriction for at least 55 years. A development that is affordable to
9 persons and families whose income exceeds the income limit for persons and
10 families of moderate income shall include no less than 10 percent of the units for
11 lower income households at affordable housing cost, as defined by Section 50052.5
12 of the Health and Safety Code, unless the city, county, or city and county has
13 adopted a local ordinance that requires that a greater percentage of the units be for
14 lower income households, in which case that ordinance shall apply.

15 (B) For a city, county, or city and county that includes its entire regional housing
16 needs allocation pursuant to Section 65584 within the housing sustainability district,
17 the percentages of the total units constructed or substantially rehabilitated within the
18 housing sustainability district shall match the percentages in each income category
19 of the city's, county's, or city and county's regional housing need allocation.

20 (C) This section does not expand or contract the authority of a local government
21 to adopt an ordinance, charter amendment, general plan amendment, specific plan,
22 resolution, or other land use policy or regulation requiring that any housing
23 development contain a fixed percentage of affordable housing units.

24 (3) Specify that a project is not deemed to be for residential use if it is infeasible
25 for actual use as a single or multifamily residence.

26 (4) Require that an applicant for a permit for a project within the housing
27 sustainability district do the following, as applicable:

28 (A) Certify to the approving authority that either of the following is true, as
29 applicable:

30 (i) That the entirety of the project is a public work for purposes of Chapter 1
31 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

32 (ii) If the project is not in its entirety a public work, that all construction workers
33 employed in the execution of the project will be paid at least the general prevailing
34 rate of per diem wages for the type of work and geographic area, as determined by
35 the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the
36 Labor Code, except that apprentices registered in programs approved by the Chief
37 of the Division of Apprenticeship Standards may be paid at least the applicable
38 apprentice prevailing rate. If the approving authority approves the application, then
39 for those portions of the project that are not a public work all of the following shall
40 apply:

41 (I) The applicant shall include the prevailing wage requirement in all contracts for
42 the performance of the work.

1 (II) All contractors and subcontractors shall pay to all construction workers
2 employed in the execution of the work at least the general prevailing rate of per
3 diem wages, except that apprentices registered in programs approved by the Chief
4 of the Division of Apprenticeship Standards may be paid at least the applicable
5 apprentice prevailing rate.

6 (III) Except as provided in subclause (V), all contractors and subcontractors shall
7 maintain and verify payroll records pursuant to Section 1776 of the Labor Code and
8 make those records available for inspection and copying as provided in therein.

9 (IV) Except as provided in subclause (V), the obligation of the contractors and
10 subcontractors to pay prevailing wages may be enforced by the Labor
11 Commissioner through the issuance of a civil wage and penalty assessment pursuant
12 to Section 1741 of the Labor Code, which may be reviewed pursuant to Section
13 1742 of the Labor Code, within 18 months after the completion of the project, by an
14 underpaid worker through an administrative complaint or civil action, or by a joint
15 labor-management committee through a civil action under Section 1771.2 of the
16 Labor Code. If a civil wage and penalty assessment is issued, the contractor,
17 subcontractor, and surety on a bond or bonds issued to secure the payment of wages
18 covered by the assessment shall be liable for liquidated damages pursuant to Section
19 1742.1 of the Labor Code.

20 (V) Subclauses (III) and (IV) do not apply if all contractors and subcontractors
21 performing work on the project are subject to a project labor agreement that requires
22 the payment of prevailing wages to all construction workers employed in the
23 execution of the project and provides for enforcement of that obligation through an
24 arbitration procedure. For purposes of this subclause, “project labor agreement” has
25 the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of
26 the Public Contract Code.

27 (VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the
28 requirement that employer payments not reduce the obligation to pay the hourly
29 straight time or overtime wages found to be prevailing shall not apply if otherwise
30 provided in a bona fide collective bargaining agreement covering the worker. The
31 requirement to pay at least the general prevailing rate of per diem wages does not
32 preclude use of an alternative workweek schedule adopted pursuant to Section 511
33 or 514 of the Labor Code.

34 (B)(i) For projects for which any of the following conditions apply, certify to the
35 approving authority that a skilled and trained workforce will be used to complete
36 the project if the approving authority approves the project application:

37 (I) On and after January 1, 2018, until December 31, 2021, the project consists of
38 75 or more units that are not 100 percent subsidized affordable housing and will be
39 located within a jurisdiction located in a coastal or bay county with a population of
40 225,000 or more.

41 (II) On and after January 1, 2022, until December 31, 2025, the project consists
42 of 50 or more units that are not 100 percent subsidized affordable housing and will

1 be located within a jurisdiction located in a coastal or bay county with a population
2 of 225,000 or more.

3 (III) On and after January 1, 2018, until December 31, 2019, the project consists
4 of 75 or more units that are not 100 percent subsidized affordable housing and will
5 be located within a jurisdiction with a population of fewer than 550,000 and that is
6 not located in a coastal or bay county.

7 (IV) On and after January 1, 2020, until December 31, 2021, the project consists
8 of more than 50 units and will be located within a jurisdiction with a population of
9 fewer than 550,000 and that is not located in a coastal or bay county.

10 (V) On and after January 1, 2022, until December 31, 2025, the project consists
11 of more than 25 units and will be located within a jurisdiction with a population of
12 fewer than 550,000 and that is not located in a coastal bay county.

13 (ii) For purposes of this section, “skilled and trained workforce” has the same
14 meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of
15 Division 2 of the Public Contract Code.

16 (iii) If the applicant has certified that a skilled and trained workforce will be used
17 to complete the development and the application is approved, the following shall
18 apply:

19 (I) The applicant shall require in all contracts for the performance of work that
20 every contractor and subcontractor at every tier will individually use a skilled and
21 trained workforce to complete the project.

22 (II) Every contractor and subcontractor shall use a skilled and trained workforce
23 to complete the project.

24 (III) Except as provided in subclause (IV), the applicant shall provide to the
25 approving authority, on a monthly basis while the project or contract is being
26 performed, a report demonstrating compliance with Chapter 2.9 (commencing with
27 Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report
28 provided to the approving authority pursuant to this subclause is a public record
29 under the California Public Records Act (~~Chapter 3.5 (commencing with Section~~
30 ~~6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1)
31 and shall be open to public inspection. An applicant that fails to provide a monthly
32 report demonstrating compliance with Chapter 2.9 (commencing with Section 2600)
33 of Part 1 of Division 2 of the Public Contract Code is subject to a civil penalty of
34 ten thousand dollars (\$10,000) per month for each month for which the report has
35 not been provided. Any contractor or subcontractor that fails to use a skilled and
36 trained workforce is subject to a civil penalty of two hundred dollars (\$200) per day
37 for each worker employed in contravention of the skilled and trained workforce
38 requirement. Penalties may be assessed by the Labor Commissioner within 18
39 months of completion of the project using the same procedures for issuance of civil
40 wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may
41 be reviewed pursuant to the same procedures in Section 1742 of the Labor Code.
42 Penalties shall be paid to the State Public Works Enforcement Fund.

1 (IV) Subclause (III) does not apply if all contractors and subcontractors
2 performing work on the project are subject to a project labor agreement that requires
3 compliance with the skilled and trained workforce requirement and provides for
4 enforcement of that obligation through an arbitration procedure. For purposes of this
5 subparagraph, “project labor agreement” has the same meaning as set forth in
6 paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

7 (C) Notwithstanding subparagraphs (A) and (B), a project within a housing
8 sustainability district that is subject to approval by the approving authority is exempt
9 from any requirement to pay prevailing wages or use a skilled and trained workforce
10 if it meets both of the following:

11 (i) The project includes 10 or fewer units.

12 (ii) The project is not a public work for purposes of Chapter 1 (commencing with
13 Section 1720) of Part 7 of Division 2 of the Labor Code.

14 (5) Provide that a project is not eligible for approval from the approving authority
15 if it involved or involves a subdivision that is, or, notwithstanding this chapter,
16 would otherwise be, subject to the Subdivision Map Act (Division 2 (commencing
17 with Section 66410)) or any other applicable law authorizing the subdivision of
18 land, unless either of the following apply:

19 (A) The project has received or will receive financing or funding by means of a
20 low-income housing tax credit and is subject to the requirement that prevailing
21 wages be paid pursuant to subparagraph (A) of paragraph (4).

22 (B) The project is subject to the requirement that prevailing wages be paid, and a
23 skilled and trained workforce used, pursuant to paragraph (4).

24 (6) Provide for relocation assistance for persons and families displaced from their
25 residences due to development within the housing sustainability district.

26 (g) A housing sustainability district ordinance adopted pursuant to this section
27 shall remain in effect for no more than 10 years, except that the city, county, or city
28 and county may renew the housing sustainability district ordinance, for an additional
29 period not exceeding 10 years, before the date upon which it would otherwise be
30 repealed pursuant to this subdivision.

31 (h) This section shall not be construed to affect the authority of a city, county, or
32 city and county to amend its zoning regulations pursuant to Chapter 4 (commencing
33 with Section 65800), except to the extent that an amendment affects a housing
34 sustainability district.

35 (i) The city, county, or city and county shall comply with Chapter 4.3
36 (commencing with Section 21155.10) of Division 13 of the Public Resources Code.

37 **Comment.** Section 66201 is amended to reflect nonsubstantive recodification of the California
38 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
39 Reports __ (2019).

40 **§ 66704.3 (amended). Application of CPRA to San Francisco Bay Restoration Authority**

41 SEC. _____. Section 66704.3 of the Government Code is amended to read:

1 66704.3. All records prepared, owned, used, or retained by the authority are public
2 records for purposes of the California Public Records Act (~~Chapter 3.5~~
3 ~~(commencing with Section 6250)~~ of ~~Division 7~~ Division 10 (commencing with
4 Section 7920.000) of Title 1 of the Government Code).

5 **Comment.** Section 66704.3 is amended to reflect nonsubstantive recodification of the California
6 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
7 Reports __ (2019).

8 **§ 100508 (amended). Access to records of California Health Benefit Exchange**

9 SEC. _____. Section 100508 of the Government Code is amended to read:

10 100508. (a) Records of the Exchange that reveal any of the following shall be
11 exempt from disclosure under the California Public Records Act (~~Chapter 3.5~~
12 ~~(commencing with Section 6250)~~ of ~~Division 7~~ Division 10 (commencing with
13 Section 7920.000) of Title 1):

14 The deliberative processes, discussions, communications, or any other portion of
15 the negotiations with entities contracting or seeking to contract with the Exchange,
16 entities with which the Exchange is considering a contract, or entities with which
17 the Exchange is considering or enters into any other arrangement under which the
18 Exchange provides, receives, or arranges services or reimbursement.

19 (b) The following records of the Exchange shall be exempt from disclosure under
20 the California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of
21 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1) as follows:

22 (1)(A) Except for the portion of a contract that contains the rates of payments,
23 contracts with participating carriers entered into pursuant to this title on or after the
24 date the act that added this subparagraph becomes effective, shall be open to
25 inspection one year after the effective dates of the contracts.

26 (B) If contracts with participating carriers entered into pursuant to this title are
27 amended, the amendments shall be open to inspection one year after the effective
28 date of the amendments.

29 (c) Three years after a contract or amendment is open to inspection pursuant to
30 subdivision (b), the portion of the contract or amendment containing the rates of
31 payment shall be open to inspection.

32 (d) Notwithstanding any other law, entire contracts with participating carriers or
33 amendments to contracts with participating carriers shall be open to inspection by
34 the Joint Legislative Audit Committee. The committee shall maintain the
35 confidentiality of the contracts and amendments until the contracts or amendments
36 to a contract are open to inspection pursuant to subdivisions (b) and (c).

37 **Comment.** Section 100508 is amended to reflect nonsubstantive recodification of the California
38 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
39 Reports __ (2019).

HEALTH AND SAFETY CODE

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§ 1255.7 (amended). Safe surrender site for newborn child

SEC. ____ . Section 1255.7 of the Health and Safety Code is amended to read:

1255.7. (a)(1) For purposes of this section, “safe-surrender site” means either of the following:

(A) A location designated by the board of supervisors of a county or by a local fire agency, upon the approval of the appropriate local governing body of the agency, to be responsible for accepting physical custody of a minor child who is 72 hours old or younger from a parent or individual who has lawful custody of the child and who surrenders the child pursuant to Section 271.5 of the Penal Code. Before designating a location as a safe-surrender site pursuant to this subdivision, the designating entity shall consult with the governing body of a city, if the site is within the city limits, and with representatives of a fire department and a child welfare agency that may provide services to a child who is surrendered at the site, if that location is selected.

(B) A location within a public or private hospital that is designated by that hospital to be responsible for accepting physical custody of a minor child who is 72 hours old or younger from a parent or individual who has lawful custody of the child and who surrenders the child pursuant to Section 271.5 of the Penal Code.

(2) For purposes of this section, “parent” means a birth parent of a minor child who is 72 hours old or younger.

(3) For purposes of this section, “personnel” means a person who is an officer or employee of a safe-surrender site or who has staff privileges at the site.

(4) A hospital and a safe-surrender site designated by the county board of supervisors or by a local fire agency, upon the approval of the appropriate local governing body of the agency, shall post a sign displaying a statewide logo that has been adopted by the State Department of Social Services that notifies the public of the location where a minor child 72 hours old or younger may be safely surrendered pursuant to this section.

(b) Personnel on duty at a safe-surrender site shall accept physical custody of a minor child 72 hours old or younger pursuant to this section if a parent or other individual having lawful custody of the child voluntarily surrenders physical custody of the child to personnel who are on duty at the safe-surrender site. Safe-surrender site personnel shall ensure that a qualified person does all of the following:

(1) Places a coded, confidential ankle bracelet on the child.

(2) Provides, or makes a good faith effort to provide, to the parent or other individual surrendering the child a copy of a unique, coded, confidential ankle bracelet identification in order to facilitate reclaiming the child pursuant to subdivision (f). However, possession of the ankle bracelet identification, in and of itself, does not establish parentage or a right to custody of the child.

(3) Provides, or makes a good faith effort to provide, to the parent or other individual surrendering the child a medical information questionnaire, which may

1 be declined, voluntarily filled out and returned at the time the child is surrendered,
2 or later filled out and mailed in the envelope provided for this purpose. This medical
3 information questionnaire shall not require identifying information about the child
4 or the parent or individual surrendering the child, other than the identification code
5 provided in the ankle bracelet placed on the child. Every questionnaire provided
6 pursuant to this section shall begin with the following notice in no less than 12-point
7 type:

8 NOTICE: THE BABY YOU HAVE BROUGHT IN TODAY MAY HAVE
9 SERIOUS MEDICAL NEEDS IN THE FUTURE THAT WE DON'T KNOW
10 ABOUT TODAY. SOME ILLNESSES, INCLUDING CANCER, ARE BEST
11 TREATED WHEN WE KNOW ABOUT FAMILY MEDICAL HISTORIES. IN
12 ADDITION, SOMETIMES RELATIVES ARE NEEDED FOR LIFE-SAVING
13 TREATMENTS. TO MAKE SURE THIS BABY WILL HAVE A HEALTHY
14 FUTURE, YOUR ASSISTANCE IN COMPLETING THIS QUESTIONNAIRE
15 FULLY IS ESSENTIAL. THANK YOU.

16 (c) Personnel of a safe-surrender site that has physical custody of a minor child
17 pursuant to this section shall ensure that a medical screening examination and any
18 necessary medical care is provided to the minor child. Notwithstanding any other
19 provision of law, the consent of the parent or other relative shall not be required to
20 provide that care to the minor child.

21 (d)(1) As soon as possible, but in no event later than 48 hours after the physical
22 custody of a child has been accepted pursuant to this section, personnel of the safe-
23 surrender site that has physical custody of the child shall notify child protective
24 services or a county agency providing child welfare services pursuant to Section
25 16501 of the Welfare and Institutions Code, that the safe-surrender site has physical
26 custody of the child pursuant to this section. In addition, medical information
27 pertinent to the child's health, including, but not limited to, information obtained
28 pursuant to the medical information questionnaire described in paragraph (3) of
29 subdivision (b) that has been received by or is in the possession of the safe-surrender
30 site shall be provided to that child protective services or county agency.

31 (2) Any personal identifying information that pertains to a parent or individual
32 who surrenders a child that is obtained pursuant to the medical information
33 questionnaire is confidential and shall be exempt from disclosure by the child
34 protective services or county agency under the California Public Records Act
35 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
36 (commencing with Section 7920.000) of Title 1 of the Government Code). Personal
37 identifying information that pertains to a parent or individual who surrenders a child
38 shall be redacted from any medical information provided to child protective services
39 or the county agency providing child welfare services.

40 (e) Child protective services or the county agency providing child welfare services
41 pursuant to Section 16501 of the Welfare and Institutions Code shall assume
42 temporary custody of the child pursuant to Section 300 of the Welfare and
43 Institutions Code immediately upon receipt of notice under subdivision (d). Child

1 protective services or the county agency providing child welfare services pursuant
2 to Section 16501 of the Welfare and Institutions Code shall immediately investigate
3 the circumstances of the case and file a petition pursuant to Section 311 of the
4 Welfare and Institutions Code. Child protective services or the county agency
5 providing child welfare services pursuant to Section 16501 of the Welfare and
6 Institutions Code shall immediately notify the State Department of Social Services
7 of each child to whom this subdivision applies upon taking temporary custody of
8 the child pursuant to Section 300 of the Welfare and Institutions Code. As soon as
9 possible, but no later than 24 hours after temporary custody is assumed, child
10 protective services or the county agency providing child welfare services pursuant
11 to Section 16501 of the Welfare and Institutions Code shall report all known
12 identifying information concerning the child, except personal identifying
13 information pertaining to the parent or individual who surrendered the child, to the
14 California Missing Children Clearinghouse and to the National Crime Information
15 Center.

16 (f) If, prior to the filing of a petition under subdivision (e), a parent or individual
17 who has voluntarily surrendered a child pursuant to this section requests that the
18 safe-surrender site that has physical custody of the child pursuant to this section
19 return the child and the safe-surrender site still has custody of the child, personnel
20 of the safe-surrender site shall either return the child to the parent or individual or
21 contact a child protective agency if any personnel at the safe-surrender site knows
22 or reasonably suspects that the child has been the victim of child abuse or neglect.
23 The voluntary surrender of a child pursuant to this section is not in and of itself a
24 sufficient basis for reporting child abuse or neglect. The terms “child abuse,” “child
25 protective agency,” “mandated reporter,” “neglect,” and “reasonably suspects” shall
26 be given the same meanings as in Article 2.5 (commencing with Section 11164) of
27 Title 1 of Part 4 of the Penal Code.

28 (g) Subsequent to the filing of a petition under subdivision (e), if within 14 days
29 of the voluntary surrender described in this section, the parent or individual who
30 surrendered custody returns to claim physical custody of the child, the child welfare
31 agency shall verify the identity of the parent or individual, conduct an assessment
32 of his or her circumstances and ability to parent, and request that the juvenile court
33 dismiss the petition for dependency and order the release of the child, if the child
34 welfare agency determines that none of the conditions described in subdivisions (a)
35 to (d), inclusive, of Section 319 of the Welfare and Institutions Code currently exist.

36 (h) A safe-surrender site, or the personnel of a safe-surrender site, shall not have
37 liability of any kind for a surrendered child prior to taking actual physical custody
38 of the child. A safe-surrender site, or personnel of the safe-surrender site, that
39 accepts custody of a surrendered child pursuant to this section shall not be subject
40 to civil, criminal, or administrative liability for accepting the child and caring for
41 the child in the good faith belief that action is required or authorized by this section,
42 including, but not limited to, instances where the child is older than 72 hours or the
43 parent or individual surrendering the child did not have lawful physical custody of

1 the child. A safe-surrender site, or the personnel of a safe-surrender site, shall not
2 be subject to civil, criminal, or administrative liability for a surrendered child prior
3 to the time that the site or its personnel know, or should know, that the child has
4 been surrendered. This subdivision does not confer immunity from liability for
5 personal injury or wrongful death, including, but not limited to, injury resulting from
6 medical malpractice.

7 (i)(1) In order to encourage assistance to persons who voluntarily surrender
8 physical custody of a child pursuant to this section or Section 271.5 of the Penal
9 Code, no person who, without compensation and in good faith, provides assistance
10 for the purpose of effecting the safe surrender of a minor 72 hours old or younger
11 shall be civilly liable for injury to or death of the minor child as a result of his or her
12 acts or omissions. This immunity does not apply to an act or omission constituting
13 gross negligence, recklessness, or willful misconduct.

14 (2) For purposes of this section, “assistance” means transporting the minor child
15 to the safe-surrender site as a person with lawful custody, or transporting or
16 accompanying the parent or person with lawful custody at the request of that parent
17 or person to effect the safe surrender, or performing any other act in good faith for
18 the purpose of effecting the safe surrender of the minor.

19 (j) For purposes of this section, “lawful custody” means physical custody of a
20 minor 72 hours old or younger accepted by a person from a parent of the minor, who
21 the person believes in good faith is the parent of the minor, with the specific intent
22 and promise of effecting the safe surrender of the minor.

23 (k) Any identifying information that pertains to a parent or individual who
24 surrenders a child pursuant to this section, that is obtained as a result of the
25 questionnaire described in paragraph (3) of subdivision (b) or in any other manner,
26 is confidential, shall be exempt from disclosure under the California Public Records
27 Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
28 (commencing with Section 7920.000) of Title 1 of the Government Code), and shall
29 not be disclosed by any personnel of a safe-surrender site that accepts custody of a
30 child pursuant to this section.

31 **Comment.** Section 1255.7 is amended to reflect nonsubstantive recodification of the California
32 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
33 Reports __ (2019).

34 **§ 1280.20 (amended). Recommendation for further investigation or discipline of licensee**

35 SEC. _____. Section 1280.20 of the Health and Safety Code is amended to read:

36 1280.20. Notwithstanding any other law, the director may send a recommendation
37 for further investigation of, or discipline for, a potential violation of the licensee’s
38 relevant licensing authority. The recommendation shall include all documentary
39 evidence collected by the director in evaluating whether or not to make that
40 recommendation. The recommendation and accompanying evidence shall be
41 deemed in the nature of an investigative communication and be protected by ~~Section~~
42 ~~6254~~ the provisions listed in Section 7920.505 of the Government Code. The

1 licensing authority of the provider of health care shall review all evidence submitted
2 by the director and may take action for further investigation or discipline of the
3 licensee.

4 **Comment.** Section 1280.20 is amended to reflect nonsubstantive recodification of the California
5 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
6 Reports __ (2019).

7 **§ 1368 (amended). Grievance system and mediation**

8 SEC. ____. Section 1368 of the Health and Safety Code is amended to read:

9 1368. (a) Every plan shall do all of the following:

10 (1) Establish and maintain a grievance system approved by the department under
11 which enrollees may submit their grievances to the plan. Each system shall provide
12 reasonable procedures in accordance with department regulations that shall ensure
13 adequate consideration of enrollee grievances and rectification when appropriate.

14 (2) Inform its subscribers and enrollees upon enrollment in the plan and annually
15 thereafter of the procedure for processing and resolving grievances. The information
16 shall include the location and telephone number where grievances may be
17 submitted.

18 (3) Provide forms for grievances to be given to subscribers and enrollees who
19 wish to register written grievances. The forms used by plans licensed pursuant to
20 Section 1353 shall be approved by the director in advance as to format.

21 (4)(A) Provide for a written acknowledgment within five calendar days of the
22 receipt of a grievance, except as noted in subparagraph (B). The acknowledgment
23 shall advise the complainant of the following:

24 (i) That the grievance has been received.

25 (ii) The date of receipt.

26 (iii) The name of the plan representative and the telephone number and address of
27 the plan representative who may be contacted about the grievance.

28 (B)(i) Grievances received by telephone, by facsimile, by email, or online through
29 the plan's Internet Web site pursuant to Section 1368.015, that are not coverage
30 disputes, disputed health care services involving medical necessity, or experimental
31 or investigational treatment and that are resolved by the next business day following
32 receipt are exempt from the requirements of subparagraph (A) and paragraph (5).
33 The plan shall maintain a log of all these grievances. The log shall be periodically
34 reviewed by the plan and shall include the following information for each
35 complaint:

36 (I) The date of the call.

37 (II) The name of the complainant.

38 (III) The complainant's member identification number.

39 (IV) The nature of the grievance.

40 (V) The nature of the resolution.

41 (VI) The name of the plan representative who took the call and resolved the
42 grievance.

1 (ii) For health plan contracts in the individual, small group, or large group
2 markets, a health care service plan's response to grievances subject to Section
3 1367.24 shall also comply with subdivision (c) of Section 156.122 of Title 45 of the
4 Code of Federal Regulations. This paragraph shall not apply to Medi-Cal managed
5 care health care service plan contracts or any entity that enters into a contract with
6 the State Department of Health Care Services pursuant to Chapter 7 (commencing
7 with Section 14000), Chapter 8 (commencing with Section 14200), or Chapter 8.75
8 (commencing with Section 14591) of Part 3 of Division 9 of the Welfare and
9 Institutions Code.

10 (5) Provide subscribers and enrollees with written responses to grievances, with a
11 clear and concise explanation of the reasons for the plan's response. For grievances
12 involving the delay, denial, or modification of health care services, the plan response
13 shall describe the criteria used and the clinical reasons for its decision, including all
14 criteria and clinical reasons related to medical necessity. If a plan, or one of its
15 contracting providers, issues a decision delaying, denying, or modifying health care
16 services based in whole or in part on a finding that the proposed health care services
17 are not a covered benefit under the contract that applies to the enrollee, the decision
18 shall clearly specify the provisions in the contract that exclude that coverage.

19 (6) For grievances involving the cancellation, rescission, or nonrenewal of a
20 health care service plan contract, the health care service plan shall continue to
21 provide coverage to the enrollee or subscriber under the terms of the health care
22 service plan contract until a final determination of the enrollee's or subscriber's
23 request for review has been made by the health care service plan or the director
24 pursuant to Section 1365 and this section. This paragraph shall not apply if the
25 health care service plan cancels or fails to renew the enrollee's or subscriber's health
26 care service plan contract for nonpayment of premiums pursuant to paragraph (1) of
27 subdivision (a) of Section 1365.

28 (7) Keep in its files all copies of grievances, and the responses thereto, for a period
29 of five years.

30 (b)(1)(A) After either completing the grievance process described in subdivision
31 (a), or participating in the process for at least 30 days, a subscriber or enrollee may
32 submit the grievance to the department for review. In any case determined by the
33 department to be a case involving an imminent and serious threat to the health of
34 the patient, including, but not limited to, severe pain, the potential loss of life, limb,
35 or major bodily function, cancellations, rescissions, or the nonrenewal of a health
36 care service plan contract, or in any other case where the department determines that
37 an earlier review is warranted, a subscriber or enrollee shall not be required to
38 complete the grievance process or to participate in the process for at least 30 days
39 before submitting a grievance to the department for review.

40 (B) A grievance may be submitted to the department for review and resolution
41 prior to any arbitration.

42 (C) Notwithstanding subparagraphs (A) and (B), the department may refer any
43 grievance that does not pertain to compliance with this chapter to the State

1 Department of Public Health, the California Department of Aging, the federal
2 Health Care Financing Administration, or any other appropriate governmental entity
3 for investigation and resolution.

4 (2) If the subscriber or enrollee is a minor, or is incompetent or incapacitated, the
5 parent, guardian, conservator, relative, or other designee of the subscriber or
6 enrollee, as appropriate, may submit the grievance to the department as the agent of
7 the subscriber or enrollee. Further, a provider may join with, or otherwise assist, a
8 subscriber or enrollee, or the agent, to submit the grievance to the department. In
9 addition, following submission of the grievance to the department, the subscriber or
10 enrollee, or the agent, may authorize the provider to assist, including advocating on
11 behalf of the subscriber or enrollee. For purposes of this section, a “relative”
12 includes the parent, stepparent, spouse, adult son or daughter, grandparent, brother,
13 sister, uncle, or aunt of the subscriber or enrollee.

14 (3) The department shall review the written documents submitted with the
15 subscriber’s or the enrollee’s request for review, or submitted by the agent on behalf
16 of the subscriber or enrollee. The department may ask for additional information,
17 and may hold an informal meeting with the involved parties, including providers
18 who have joined in submitting the grievance or who are otherwise assisting or
19 advocating on behalf of the subscriber or enrollee. If after reviewing the record, the
20 department concludes that the grievance, in whole or in part, is eligible for review
21 under the independent medical review system established pursuant to Article 5.55
22 (commencing with Section 1374.30), the department shall immediately notify the
23 subscriber or enrollee, or agent, of that option and shall, if requested orally or in
24 writing, assist the subscriber or enrollee in participating in the independent medical
25 review system.

26 (4) If after reviewing the record of a grievance, the department concludes that a
27 health care service eligible for coverage and payment under a health care service
28 plan contract has been delayed, denied, or modified by a plan, or by one of its
29 contracting providers, in whole or in part due to a determination that the service is
30 not medically necessary, and that determination was not communicated to the
31 enrollee in writing along with a notice of the enrollee’s potential right to participate
32 in the independent medical review system, as required by this chapter, the director
33 shall, by order, assess administrative penalties. A proceeding for the issuance of an
34 order assessing administrative penalties shall be subject to appropriate notice of, and
35 the opportunity for, a hearing with regard to the person affected in accordance with
36 Section 1397. The administrative penalties shall not be deemed an exclusive remedy
37 available to the director. These penalties shall be paid to the Managed Care
38 Administrative Fines and Penalties Fund and shall be used for the purposes specified
39 in Section 1341.45.

40 (5) The department shall send a written notice of the final disposition of the
41 grievance, and the reasons therefor, to the subscriber or enrollee, the agent, to any
42 provider that has joined with or is otherwise assisting the subscriber or enrollee, and
43 to the plan, within 30 calendar days of receipt of the request for review unless the

1 director, in ~~his or her~~ the director's discretion, determines that additional time is
2 reasonably necessary to fully and fairly evaluate the relevant grievance. In any case
3 not eligible for the independent medical review system established pursuant to
4 Article 5.55 (commencing with Section 1374.30), the department's written notice
5 shall include, at a minimum, the following:

6 (A) A summary of its findings and the reasons why the department found the plan
7 to be, or not to be, in compliance with any applicable laws, regulations, or orders of
8 the director.

9 (B) A discussion of the department's contact with any medical provider, or any
10 other independent expert relied on by the department, along with a summary of the
11 views and qualifications of that provider or expert.

12 (C) If the enrollee's grievance is sustained in whole or in part, information about
13 any corrective action taken.

14 (6) In any department review of a grievance involving a disputed health care
15 service, as defined in subdivision (b) of Section 1374.30, that is not eligible for the
16 independent medical review system established pursuant to Article 5.55
17 (commencing with Section 1374.30), in which the department finds that the plan
18 has delayed, denied, or modified health care services that are medically necessary,
19 based on the specific medical circumstances of the enrollee, and those services are
20 a covered benefit under the terms and conditions of the health care service plan
21 contract, the department's written notice shall do either of the following:

22 (A) Order the plan to promptly offer and provide those health care services to the
23 enrollee.

24 (B) Order the plan to promptly reimburse the enrollee for any reasonable costs
25 associated with urgent care or emergency services, or other extraordinary and
26 compelling health care services, when the department finds that the enrollee's
27 decision to secure those services outside of the plan network was reasonable under
28 the circumstances.

29 The department's order shall be binding on the plan.

30 (7) Distribution of the written notice shall not be deemed a waiver of any
31 exemption or privilege under existing law, including, but not limited to, Section
32 ~~6254.5~~ 7921.505 of the Government Code, for any information in connection with
33 and including the written notice, nor shall any person employed or in any way
34 retained by the department be required to testify as to that information or notice.

35 (8) The director shall establish and maintain a system of aging of grievances that
36 are pending and unresolved for 30 days or more that shall include a brief explanation
37 of the reasons each grievance is pending and unresolved for 30 days or more.

38 (9) A subscriber or enrollee, or the agent acting on behalf of a subscriber or
39 enrollee, may also request voluntary mediation with the plan prior to exercising the
40 right to submit a grievance to the department. The use of mediation services shall
41 not preclude the right to submit a grievance to the department upon completion of
42 mediation. In order to initiate mediation, the subscriber or enrollee, or the agent
43 acting on behalf of the subscriber or enrollee, and the plan shall voluntarily agree to

1 mediation. Expenses for mediation shall be borne equally by both sides. The
2 department shall have no administrative or enforcement responsibilities in
3 connection with the voluntary mediation process authorized by this paragraph.

4 (c) The plan’s grievance system shall include a system of aging of grievances that
5 are pending and unresolved for 30 days or more. The plan shall provide a quarterly
6 report to the director of grievances pending and unresolved for 30 or more days with
7 separate categories of grievances for Medicare enrollees and Medi-Cal enrollees.
8 The plan shall include with the report a brief explanation of the reasons each
9 grievance is pending and unresolved for 30 days or more. The plan may include the
10 following statement in the quarterly report that is made available to the public by
11 the director:

12
13 “Under Medicare and Medi-Cal law, Medicare enrollees and Medi-Cal enrollees
14 each have separate avenues of appeal that are not available to other enrollees.
15 Therefore, grievances pending and unresolved may reflect enrollees pursuing their
16 Medicare or Medi-Cal appeal rights.”

17
18 If requested by a plan, the director shall include this statement in a written report
19 made available to the public and prepared by the director that describes or compares
20 grievances that are pending and unresolved with the plan for 30 days or more.
21 Additionally, the director shall, if requested by a plan, append to that written report
22 a brief explanation, provided in writing by the plan, of the reasons why grievances
23 described in that written report are pending and unresolved for 30 days or more. The
24 director shall not be required to include a statement or append a brief explanation to
25 a written report that the director is required to prepare under this chapter, including
26 Sections 1380 and 1397.5.

27 (d) Subject to subparagraph (C) of paragraph (1) of subdivision (b), the grievance
28 or resolution procedures authorized by this section shall be in addition to any other
29 procedures that may be available to any person, and failure to pursue, exhaust, or
30 engage in the procedures described in this section shall not preclude the use of any
31 other remedy provided by law.

32 (e) Nothing in this section shall be construed to allow the submission to the
33 department of any provider grievance under this section. However, as part of a
34 provider’s duty to advocate for medically appropriate health care for ~~his or her~~ the
35 provider’s patients pursuant to Sections 510 and 2056 of the Business and
36 Professions Code, nothing in this subdivision shall be construed to prohibit a
37 provider from contacting and informing the department about any concerns ~~he or~~
38 ~~she~~ the provider has regarding compliance with or enforcement of this chapter.

39 (f) To the extent required by Section 2719 of the federal Public Health Service
40 Act (42 U.S.C. Sec. 300gg-19) and any subsequent rules or regulations, there shall
41 be an independent external review pursuant to the standards required by the United
42 States Secretary of Health and Human Services of a health care service plan’s
43 cancellation, rescission, or nonrenewal of an enrollee’s or subscriber’s coverage.

1 **Comment.** Section 1368 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 The section is also amended to eliminate gendered pronouns.

5 **§ 1371.31 (amended). Reimbursement rates**

6 SEC. ____. Section 1371.31 of the Health and Safety Code is amended to read:

7 1371.31. (a)(1) For services rendered subject to Section 1371.9, effective July 1,
8 2017, unless otherwise agreed to by the noncontracting individual health
9 professional and the plan, the plan shall reimburse the greater of the average
10 contracted rate or 125 percent of the amount Medicare reimburses on a fee-for-
11 service basis for the same or similar services in the general geographic region in
12 which the services were rendered. For the purposes of this section, “average
13 contracted rate” means the average of the contracted commercial rates paid by the
14 health plan or delegated entity for the same or similar services in the geographic
15 region. This subdivision does not apply to subdivision (c) of Section 1371.9 or
16 subdivision (b) of this section.

17 (2)(A) By July 1, 2017, each health care service plan and its delegated entities
18 shall provide to the department all of the following:

19 (i) Data listing its average contracted rates for the plan for services most
20 frequently subject to Section 1371.9 in each geographic region in which the services
21 are rendered for the calendar year 2015.

22 (ii) Its methodology for determining the average contracted rate for the plan for
23 services subject to Section 1371.9. The methodology to determine an average
24 contracted rate shall ensure that the plan includes the highest and lowest contracted
25 rates for the calendar year 2015.

26 (iii) The policies and procedures used to determine the average contracted rates
27 under this subdivision.

28 (B) For each calendar year after the plan’s initial submission of the average
29 contracted rate as specified in subparagraph (A) and until the standardized
30 methodology under paragraph (3) is specified, a health care service plan and the
31 plan’s delegated entities shall adjust the rate initially established pursuant to this
32 subdivision by the Consumer Price Index for Medical Care Services, as published
33 by the United States Bureau of Labor Statistics.

34 (3)(A) By January 1, 2019, the department shall specify a methodology that plans
35 and delegated entities shall use to determine the average contracted rates for services
36 most frequently subject to Section 1371.9. This methodology shall take into
37 account, at a minimum, information from the independent dispute resolution
38 process, the specialty of the individual health professional, and the geographic
39 region in which the services are rendered. The methodology to determine an average
40 contracted rate shall ensure that the plan includes the highest and lowest contracted
41 rates.

1 (B) Health care service plans and delegated entities shall provide to the
2 department the policies and procedures used to determine the average contracted
3 rates in compliance with subparagraph (A).

4 (C) If, based on the health care service plan's model, a health care service plan
5 does not pay a statistically significant number or dollar amount of claims for
6 services covered under Section 1371.9, the health care service plan shall
7 demonstrate to the department that it has access to a statistically credible database
8 reflecting rates paid to noncontracting individual health professionals for services
9 provided in a geographic region and shall use that database to determine an average
10 contracted rate required pursuant to paragraph (1).

11 (D) The department shall review the information filed pursuant to this subdivision
12 as part of its examination of fiscal and administrative affairs pursuant to Section
13 1382.

14 (E) The average contracted rate data submitted pursuant to this section shall be
15 confidential and not subject to disclosure under the California Public Records Act
16 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
17 (commencing with Section 7920.000) of Title 1 of the Government Code).

18 (F) In developing the standardized methodology under this subdivision, the
19 department shall consult with interested parties throughout the process of
20 developing the standards, including the Department of Insurance, representatives of
21 health plans, insurers, health care providers, hospitals, consumer advocates, and
22 other stakeholders it deems appropriate. The department shall hold the first
23 stakeholder meeting no later than July 1, 2017.

24 (4) A health care service plan shall include in its reports submitted to the
25 department pursuant to Section 1367.035 and regulations adopted pursuant to that
26 section, in a manner specified by the department, the number of payments made to
27 noncontracting individual health professionals for services at a contracting health
28 facility and subject to Section 1371.9, as well as other data sufficient to determine
29 the proportion of noncontracting individual health professionals to contracting
30 individual health professionals at contracting health facilities, as defined in
31 subdivision (f) of Section 1371.9. The department shall include a summary of this
32 information in its January 1, 2019, report required pursuant to subdivision (k) of
33 Section 1371.30 and its findings regarding the impact of the act that added this
34 section on health care service plan contracting and network adequacy.

35 (5) A health care service plan that provides services subject to Section 1371.9
36 shall meet the network adequacy requirements set forth in this chapter, including,
37 but not limited to, subdivisions (d) and (e) of Section 1367 of this code and in
38 Exhibits (H) and (I) of subdivision (d) of Section 1300.51 of, and Sections 1300.67.2
39 and 1300.67.2.1 of, Title 28 of the California Code of Regulations, including, but
40 not limited to, inpatient hospital services and specialist physician services, and if
41 necessary, the department may adopt additional regulations related to those services.
42 This section shall not be construed to limit the director's authority under this
43 chapter.

1 (6) For purposes of this section for Medicare fee-for-service reimbursement,
2 geographic regions shall be the geographic regions specified for physician
3 reimbursement for Medicare fee-for-service by the United States Department of
4 Health and Human Services.

5 (7) A health care service plan shall authorize and permit assignment of the
6 enrollee's right, if any, to any reimbursement for health care services covered under
7 the plan contract to a noncontracting individual health professional who furnishes
8 the health care services rendered subject to Section 1371.9. Lack of assignment
9 pursuant to this paragraph shall not be construed to limit the applicability of this
10 section, Section 1371.30, or Section 1371.9.

11 (8) A noncontracting individual health professional, health care service plan, or
12 health care service plan's delegated entity who disputes the claim reimbursement
13 under this section shall utilize the independent dispute resolution process described
14 in Section 1371.30.

15 (b) If nonemergency services are provided by a noncontracting individual health
16 professional consistent with subdivision (c) of Section 1371.9 to an enrollee who
17 has voluntarily chosen to use his or her out-of-network benefit for services covered
18 by a plan that includes coverage for out-of-network benefits, unless otherwise
19 agreed to by the plan and the noncontracting individual health professional, the
20 amount paid by the health care service plan shall be the amount set forth in the
21 enrollee's evidence of coverage. This payment is not subject to the independent
22 dispute resolution process described in Section 1371.30.

23 (c) If a health care service plan delegates the responsibility for payment of claims
24 to a contracted entity, including, but not limited to, a medical group or independent
25 practice association, then the entity to which that responsibility is delegated shall
26 comply with the requirements of this section.

27 (d)(1) A payment made by the health care service plan to the noncontracting
28 health care professional for nonemergency services as required by Section 1371.9
29 and this section, in addition to the applicable cost sharing owed by the enrollee, shall
30 constitute payment in full for nonemergency services rendered unless either party
31 uses the independent dispute resolution process or other lawful means pursuant to
32 Section 1371.30.

33 (2) Notwithstanding any other law, the amounts paid by a plan for services under
34 this section shall not constitute the prevailing or customary charges, the usual fees
35 to the general public, or other charges for other payers for an individual health
36 professional.

37 (3) This subdivision shall not preclude the use of the independent dispute
38 resolution process pursuant to Section 1371.30.

39 (e) This section shall not apply to a Medi-Cal managed health care service plan or
40 any other entity that enters into a contract with the State Department of Health Care
41 Services pursuant to Chapter 7 (commencing with Section 14000), Chapter 8
42 (commencing with Section 14200), and Chapter 8.75 (commencing with Section
43 14591) of Part 3 of Division 9 of the Welfare and Institutions Code.

1 (f) This section shall not apply to emergency services and care, as defined in
2 Section 1317.1.

3 (g) The definitions in subdivision (f) of Section 1371.9 shall apply for purposes
4 of this section.

5 (h) This section shall not be construed to alter a health care service plan's
6 obligations pursuant to Sections 1371 and 1371.4.

7 **Comment.** Section 1371.31 is amended to reflect nonsubstantive recodification of the California
8 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
9 Reports __ (2019).

10 **§ 1380 (amended). Onsite medical survey of health delivery system**

11 SEC. ____. Section 1380 of the Health and Safety Code is amended to read:

12 1380. (a) The department shall conduct periodically an onsite medical survey of
13 the health delivery system of each plan. The survey shall include a review of the
14 procedures for obtaining health services, the procedures for regulating utilization,
15 peer review mechanisms, internal procedures for assuring quality of care, and the
16 overall performance of the plan in providing health care benefits and meeting the
17 health needs of the subscribers and enrollees.

18 (b) The survey shall be conducted by a panel of qualified health professionals
19 experienced in evaluating the delivery of prepaid health care. The department shall
20 be authorized to contract with professional organizations or outside personnel to
21 conduct medical surveys and these contracts shall be on a noncompetitive bid basis
22 and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of
23 Division 2 of the Public Contract Code. These organizations or personnel shall have
24 demonstrated the ability to objectively evaluate the delivery of health care by plans
25 or health maintenance organizations.

26 (c) Surveys performed pursuant to this section shall be conducted as often as
27 deemed necessary by the director to assure the protection of subscribers and
28 enrollees, but not less frequently than once every three years. Nothing in this section
29 shall be construed to require the survey team to visit each clinic, hospital office, or
30 facility of the plan. To avoid duplication, the director shall employ, but is not bound
31 by, the following:

32 (1) For hospital-based health care service plans, to the extent necessary to satisfy
33 the requirements of this section, the findings of inspections conducted pursuant to
34 Section 1279.

35 (2) For health care service plans contracting with the State Department of Health
36 Services pursuant to the Waxman-Duffy Prepaid Health Plan Act, the findings of
37 reviews conducted pursuant to Section 14456 of the Welfare and Institutions Code.

38 (3) To the extent feasible, reviews of providers conducted by professional
39 standards review organizations, and surveys and audits conducted by other
40 governmental entities.

41 (d) Nothing in this section shall be construed to require the medical survey team
42 to review peer review proceedings and records conducted and compiled under

1 Section 1370 or medical records. However, the director shall be authorized to
2 require onsite review of these peer review proceedings and records or medical
3 records where necessary to determine that quality health care is being delivered to
4 subscribers and enrollees. Where medical record review is authorized, the survey
5 team shall insure that the confidentiality of physician-patient relationship is
6 safeguarded in accordance with existing law and neither the survey team nor the
7 director or the director's staff may be compelled to disclose this information except
8 in accordance with the physician-patient relationship. The director shall ensure that
9 the confidentiality of the peer review proceedings and records is maintained. The
10 disclosure of the peer review proceedings and records to the director or the medical
11 survey team shall not alter the status of the proceedings or records as privileged and
12 confidential communications pursuant to Sections 1370 and 1370.1.

13 (e) The procedures and standards utilized by the survey team shall be made
14 available to the plans prior to the conducting of medical surveys.

15 (f) During the survey the members of the survey team shall examine the complaint
16 files kept by the plan pursuant to Section 1368. The survey report issued pursuant
17 to subdivision (i) shall include a discussion of the plan's record for handling
18 complaints.

19 (g) During the survey the members of the survey team shall offer ~~such~~ advice and
20 assistance to the plan as deemed appropriate.

21 (h)(1) Survey results shall be publicly reported by the director as quickly as
22 possible but no later than 180 days following the completion of the survey unless
23 the director determines, in ~~his or her~~ the director's discretion, that additional time is
24 reasonably necessary to fully and fairly report the survey results. The director shall
25 provide the plan with an overview of survey findings and notify the plan of
26 deficiencies found by the survey team at least 90 days prior to the release of the
27 public report.

28 (2) Reports on all surveys, deficiencies, and correction plans shall be open to
29 public inspection except that no surveys, deficiencies, or correction plans shall be
30 made public unless the plan has had an opportunity to review the report and file a
31 response within 45 days of the date that the department provided the report to the
32 plan. After reviewing the plan's response, the director shall issue a final report that
33 excludes any survey information and legal findings and conclusions determined by
34 the director to be in error, describes compliance efforts, identifies deficiencies that
35 have been corrected by the plan by the time of the director's receipt of the plan's
36 45-day response, and describes remedial actions for deficiencies requiring longer
37 periods to the remedy required by the director or proposed by the plan.

38 (3) The final report shall not include a description of "acceptable" or of
39 "compliance" for any uncorrected deficiency.

40 (4) Upon making the final report available to the public, a single copy of a
41 summary of the final report's findings shall be made available free of charge by the
42 department to members of the public, upon request. Additional copies of the
43 summary may be provided at the department's cost. The summary shall include a

1 discussion of compliance efforts, corrected deficiencies, and proposed remedial
2 actions.

3 (5) If requested by the plan, the director shall append the plan's response to the
4 final report issued pursuant to paragraph (2), and shall append to the summary
5 issued pursuant to paragraph (4) a brief statement provided by the plan summarizing
6 its response to the report. The plan may modify its response or statement at any time
7 and provide modified copies to the department for public distribution no later than
8 10 days from the date of notification from the department that the final report will
9 be made available to the public. The plan may file an addendum to its response or
10 statement at any time after the final report has been made available to the public.
11 The addendum to the response or statement shall also be made available to the
12 public.

13 (6) Any information determined by the director to be confidential pursuant to
14 statutes relating to the disclosure of records, including the California Public Records
15 Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
16 (commencing with Section 7920.000) of Title 1 of the Government Code), shall not
17 be made public.

18 (i)(1) The director shall give the plan a reasonable time to correct deficiencies.
19 Failure on the part of the plan to comply to the director's satisfaction shall constitute
20 cause for disciplinary action against the plan.

21 (2) No later than 18 months following release of the final report required by
22 subdivision (h), the department shall conduct a follow-up review to determine and
23 report on the status of the plan's efforts to correct deficiencies. The department's
24 follow-up report shall identify any deficiencies reported pursuant to subdivision (h)
25 that have not been corrected to the satisfaction of the director.

26 (3) If requested by the plan, the director shall append the plan's response to the
27 follow-up report issued pursuant to paragraph (2). The plan may modify its response
28 at any time and provide modified copies to the department for public distribution no
29 later than 10 days from the date of notification from the department that the follow-
30 up report will be made available to the public. The plan may file an addendum to its
31 response at any time after the follow-up report has been made available to the public.
32 The addendum to the response or statement shall also be made available to the
33 public.

34 (j) The director shall provide to the plan and to the executive officer of the Board
35 of Dental Examiners a copy of information relating to the quality of care of any
36 licensed dental provider contained in any report described in subdivisions (h) and
37 (i) that, in the judgment of the director, indicates clearly excessive treatment,
38 incompetent treatment, grossly negligent treatment, repeated negligent acts, or
39 unnecessary treatment. Any confidential information provided by the director shall
40 not be made public pursuant to this subdivision. Notwithstanding any other
41 provision of law, the disclosure of this information to the plan and to the executive
42 officer shall not operate as a waiver of confidentiality. There shall be no liability on
43 the part of, and no cause of action of any nature shall arise against, the State of

1 California, the Department of Managed Health Care, the Director of the Department
2 of Managed Health Care, the Board of Dental Examiners, or any officer, agent,
3 employee, consultant, or contractor of the state or the department or the board for
4 the release of any false or unauthorized information pursuant to this section, unless
5 the release of that information is made with knowledge and malice.

6 (k) Nothing in this section shall be construed as affecting the director's authority
7 pursuant to Article 7 (commencing with Section 1386) or Article 8 (commencing
8 with Section 1390) of this chapter.

9 **Comment.** Section 1380 is amended to reflect nonsubstantive recodification of the California
10 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
11 Reports __ (2019).

12 The section is also amended to eliminate gendered pronouns and make a technical change.

13 **§ 1382 (amended). Examination of fiscal and administrative affairs of health care service**
14 **plan**

15 SEC. _____. Section 1382 of the Health and Safety Code is amended to read:

16 1382. (a) The director shall conduct an examination of the fiscal and
17 administrative affairs of any health care service plan, and each person with whom
18 the plan has made arrangements for administrative, management, or financial
19 services, as often as deemed necessary to protect the interest of subscribers or
20 enrollees, but not less frequently than once every five years.

21 (b) The expense of conducting any additional or nonroutine examinations
22 pursuant to this section, and the expense of conducting any additional or nonroutine
23 medical surveys pursuant to Section 1380 shall be charged against the plan being
24 examined or surveyed. The amount shall include the actual salaries or compensation
25 paid to the persons making the examination or survey, the expenses incurred in the
26 course thereof, and overhead costs in connection therewith as fixed by the director.
27 In determining the cost of examinations or surveys, the director may use the
28 estimated average hourly cost for all persons performing examinations or surveys
29 of plans for the fiscal year. The amount charged shall be remitted by the plan to the
30 director. If recovery of these costs cannot be made from the plan, these costs may
31 be added to, but subject to the limitation of, the assessment provided for in
32 subdivision (b) of Section 1356.

33 (c) Reports of all examinations shall be open to public inspection, except that no
34 examination shall be made public, unless the plan has had an opportunity to review
35 the examination report and file a statement or response within 45 days of the date
36 that the department provided the report to the plan. After reviewing the plan's
37 response, the director shall issue a final report that excludes any survey information,
38 legal findings, or conclusions determined by the director to be in error, describes
39 compliance efforts, identifies deficiencies that have been corrected by the plan on
40 or before the time the director receives the plan's response, and describes remedial
41 actions for deficiencies requiring longer periods for the remedy required by the
42 director or proposed by the plan.

1 (d) If requested in writing by the plan, the director shall append the plan's
2 response to the final report issued pursuant to subdivision (c). The plan may modify
3 its response or statement at any time and provide modified copies to the department
4 for public distribution not later than 10 days from the date of notification from the
5 department that the final report will be made available to the public. The addendum
6 to the response or statement shall also be made available to the public.

7 (e) Notwithstanding subdivision (c), any health care service plan that contracts
8 with the State Department of Health Services to provide service to Medi-Cal
9 beneficiaries pursuant to Chapter 8 (commencing with Section 14200) of Part 3 of
10 Division 9 of the Welfare and Institutions Code may make a written request to the
11 director to permit the State Department of Health Services to review its examination
12 report.

13 (f) Upon receipt of the written request described in subdivision (e), the director
14 may, consistent with Section ~~6254.5~~ 7921.505 of the Government Code, permit the
15 State Department of Health Services to review the plan's examination report.

16 (g) Nothing in this section shall be construed as affecting the director's authority
17 pursuant to Article 7 (commencing with Section 1386) or Article 8 (commencing
18 with Section 1390).

19 **Comment.** Section 1382 is amended to reflect nonsubstantive recodification of the California
20 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
21 Reports __ (2019).

22 **§ 1385.07 (amended). Confidentiality and disclosure of records**

23 SEC. _____. Section 1385.07 of the Health and Safety Code is amended to read:

24 1385.07. (a) Notwithstanding ~~Chapter 3.5 (commencing with Section 6250) of~~
25 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
26 Government Code, all information submitted under this article shall be made
27 publicly available by the department except as provided in subdivision (b).

28 (b)(1) The contracted rates between a health care service plan and a provider shall
29 be deemed confidential information that shall not be made public by the department
30 and are exempt from disclosure under the California Public Records Act (~~Chapter~~
31 ~~3.5 (commencing with Section 6250) of Division 7~~ Division 10 (commencing with
32 Section 7920.000) of Title 1 of the Government Code). The contracted rates
33 between a health care service plan and a provider shall not be disclosed by a health
34 care service plan to a large group purchaser that receives information pursuant to
35 Section 1385.10.

36 (2) The contracted rates between a health care service plan and a large group shall
37 be deemed confidential information that shall not be made public by the department
38 and are exempt from disclosure under the California Public Records Act (~~Chapter~~
39 ~~3.5 (commencing with Section 6250) of Division 7~~ Division 10 (commencing with
40 Section 7920.000) of Title 1 of the Government Code). Information provided to a
41 large group purchaser pursuant to Section 1385.10 shall be deemed confidential
42 information that shall not be made public by the department and shall be exempt

1 from disclosure under the California Public Records Act (~~Chapter 3.5 (commencing~~
2 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
3 of Title 1 of the Government Code).

4 (c) All information submitted to the department under this article shall be
5 submitted electronically in order to facilitate review by the department and the
6 public.

7 (d) In addition, the department and the health care service plan shall, at a
8 minimum, make the following information readily available to the public on their
9 Internet Web sites, in plain language and in a manner and format specified by the
10 department, except as provided in subdivision (b). For individual and small group
11 health care service plan contracts, the information shall be made public for 120 days
12 prior to the implementation of the rate increase. For large group health care service
13 plan contracts, the information shall be made public for 60 days prior to the
14 implementation of the rate increase. The information shall include:

15 (1) Justifications for any unreasonable rate increases, including all information
16 and supporting documentation as to why the rate increase is justified.

17 (2) A plan's overall annual medical trend factor assumptions in each rate filing
18 for all benefits.

19 (3) A health plan's actual costs, by aggregate benefit category to include hospital
20 inpatient, hospital outpatient, physician services, prescription drugs and other
21 ancillary services, laboratory, and radiology.

22 (4) The amount of the projected trend attributable to the use of services, price
23 inflation, or fees and risk for annual plan contract trends by aggregate benefit
24 category, such as hospital inpatient, hospital outpatient, physician services,
25 prescription drugs and other ancillary services, laboratory, and radiology. A health
26 plan that exclusively contracts with no more than two medical groups in the state to
27 provide or arrange for professional medical services for the enrollees of the plan
28 shall instead disclose the amount of its actual trend experience for the prior contract
29 year by aggregate benefit category, using benefit categories that are, to the
30 maximum extent possible, the same or similar to those used by other plans.

31 **Comment.** Section 1385.07 is amended to reflect nonsubstantive recodification of the California
32 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
33 Reports __ (2019).

34 **§ 1397.5 (amended). Records of grievances**

35 SEC. _____. Section 1397.5 of the Health and Safety Code is amended to read:

36 1397.5. (a) The director shall make and file annually with the Department of
37 Managed Health Care as a public record, an aggregate summary of grievances
38 against plans filed with the director by enrollees or subscribers. This summary shall
39 include at least all of the following information:

40 (1) The total number of grievances filed.

41 (2) The types of grievances.

1 (b) The summary set forth in subdivision (a) shall include the following
2 disclaimer:

3 THIS INFORMATION IS PROVIDED FOR STATISTICAL PURPOSES ONLY.
4 THE DIRECTOR OF THE DEPARTMENT OF MANAGED CARE HAS
5 NEITHER INVESTIGATED NOR DETERMINED WHETHER THE
6 GRIEVANCES COMPILED WITHIN THIS SUMMARY ARE REASONABLE
7 OR VALID.

8 (c) Nothing in this section shall require or authorize the disclosure of grievances
9 filed with or received by the director and made confidential pursuant to any other
10 provision of law including, but not limited to, the California Public Records Act
11 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
12 (commencing with Section 7920.000) of Title 1 of the Government Code) and the
13 Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of
14 Title 1.8 of Part 4 of Division 3 of the Civil Code). Nothing in this section shall
15 affect any other provision of law including, but not limited to, the California Public
16 Records Act and the Information Practices Act of 1977.

17 **Comment.** Section 1397.5 is amended to reflect nonsubstantive recodification of the California
18 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
19 Reports __ (2019).

20 **§ 1399.72 (amended). Conversion of health care service plan from non-profit to for-profit**
21 **status**

22 SEC. ____ . Section 1399.72 of the Health and Safety Code is amended to read:

23 1399.72. (a) Any health care service plan that intends to convert from nonprofit
24 to for-profit status, as defined in subdivision (b), shall, prior to the conversion,
25 secure approval from the director.

26 (b) For the purposes of this section, a “conversion” or “convert” by a nonprofit
27 health care service plan means the transformation of the plan from nonprofit to for-
28 profit status, as determined by the director.

29 (c) Prior to approving a conversion, the director shall find that the conversion
30 proposal meets all of the following charitable trust requirements:

31 (1) The fair market value of the nonprofit plan is set aside for appropriate
32 charitable purposes. In determining fair market value, the director shall consider,
33 but not be bound by, any market-based information available concerning the plan.

34 (2) The set-aside shall be dedicated and transferred to one or more existing or new
35 tax-exempt charitable organizations operating pursuant to Section 501(c)(3) (26
36 U.S.C.A. Sec. 501(c)(3)) of the federal Internal Revenue Code. The director shall
37 consider requiring that a portion of the set-aside include equity ownership in the
38 plan. Further, the director may authorize the use of a federal Internal Revenue Code
39 Section 501(c)(4) organization (26 U.S.C.A. Sec. 501(c)(4)) if, in the director’s
40 view, it is necessary to ensure effective management and monetization of equity
41 ownership in the plan and if the plan agrees that the Section 501(c)(4) organization
42 will be limited exclusively to these functions, that funds generated by the

1 monetization shall be transferred to the Section 501(c)(3) organization except to the
2 extent necessary to fund the level of activity of the Section 501(c)(4) organization
3 as may be necessary to preserve the organization’s tax status, that no funds or other
4 resources controlled by the Section 501(c)(4) organization shall be expended for
5 campaign contributions, lobbying, or other political activities, and that the Section
6 501(c)(4) organization shall comply with reporting requirements that are applicable
7 to Section 501(c)(3) organizations, and that the 501(c)(4) organization shall be
8 subject to any other requirements imposed upon 501(c)(3) organizations that the
9 director determines to be appropriate.

10 (3) Each 501(c)(3) or 501(c)(4) organization receiving a set-aside, its directors
11 and officers, and its assets including any plan stock, shall be independent of any
12 influence or control by the health care service plan and its directors, officers,
13 subsidiaries, or affiliates.

14 (4) The charitable mission and grant-making functions of the charitable
15 organization receiving any set-aside shall be dedicated to serving the health care
16 needs of the people of California.

17 (5) Every 501(c)(3) or 501(c)(4) organization that receives a set-aside under this
18 section shall have in place procedures and policies to prohibit conflicts of interest,
19 including those associated with grant-making activities that may benefit the plan,
20 including the directors, officers, subsidiaries, or affiliates of the plan.

21 (6) Every 501(c)(3) or 501(c)(4) organization that receives a set-aside under this
22 section shall demonstrate that its directors and officers have sufficient experience
23 and judgment to administer grant-making and other charitable activities to serve the
24 state’s health care needs.

25 (7) Every 501(c)(3) or 501(c)(4) organization that receives a set-aside under this
26 section shall provide the director and the Attorney General with an annual report
27 that includes a detailed description of its grant-making and other charitable activities
28 related to its use of the set-aside received from the health care service plan. The
29 annual report shall be made available by the director and the Attorney General for
30 public inspection, notwithstanding the California Public Records Act (~~Chapter 3.5~~
31 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
32 Section 7920.000) of Title 1 of the Government Code). Each organization shall
33 submit the annual report for its immediately preceding fiscal year within 120 days
34 after the close of that fiscal year. When requested by the director or the Attorney
35 General, the organization shall promptly supplement the report to include any
36 additional information that the director or the Attorney General deems necessary to
37 ascertain compliance with this article.

38 (8) The plan has satisfied the requirements of this chapter, and a disciplinary
39 action pursuant to Section 1386 is not warranted against the plan.

40 (d) The plan shall not file any forms or documents required by the Secretary of
41 State in connection with any conversion or restructuring until the plan has received
42 an order of the director approving the conversion or restructuring, or unless
43 authorized to do so by the director.

1 **Comment.** Section 1399.72 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 **§ 1399.74 (amended). Restructuring or conversion of nonprofit health care service plan**

5 SEC. ____. Section 1399.74 of the Health and Safety Code is amended to read:

6 1399.74. (a) By July 1, 1996, the director shall adopt regulations, on an
7 emergency basis, that specify the application procedures and requirements for the
8 restructuring or conversion of nonprofit health care service plans. This subdivision
9 shall not be construed to limit or otherwise restrict the director's authority to adopt
10 regulations under Section 1344, including, but not limited to, any additional
11 regulations to implement this article.

12 (b) Upon receiving an application to restructure or convert, the director shall
13 publish a notice in one or more newspapers of general circulation in the plan's
14 service area describing the name of the applicant, the nature of the application, and
15 the date of receipt of the application. The notice shall indicate that the director will
16 be soliciting public comments and will hold a public hearing on the application. The
17 director shall require the plan to publish a written notice concerning the application
18 pursuant to conditions imposed by rule or order.

19 (c) Any applications, reports, plans, or other documents under this article shall be
20 public records, subject to the California Public Records Act (~~Chapter 3.5~~
21 ~~(commencing with Section 6250)~~ of ~~Division 7~~ Division 10 (commencing with
22 Section 7920.000) of Title 1 of the Government Code) and regulations adopted by
23 the director thereunder. The director shall provide the public with prompt and
24 reasonable access to public records relating to the restructuring and conversion of
25 health care service plans. Access to public records covered by this section shall be
26 made available no later than one month prior to any solicitation for public comments
27 or public hearing scheduled pursuant to this article.

28 (d) Prior to approving any conversion or restructuring, the director shall solicit
29 public comments in written form and shall hold at least one public hearing
30 concerning the plan's proposal to comply with the set-aside and other conditions
31 required under this article.

32 (e) The director may disapprove any application to restructure or convert if the
33 application does not meet the requirements of this chapter or of the Nonprofit
34 Corporation Law (Div. 2 (commencing with Sec. 5000), Title 1, Corp. C.), including
35 any requirements imposed by rule or order of the director.

36 **Comment.** Section 1399.74 is amended to reflect nonsubstantive recodification of the California
37 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
38 Reports __ (2019).

39 **§ 1416.28 (amended). Required information and reporting relating to nursing home**
40 **administrator license**

41 SEC. ____. Section 1416.28 of the Health and Safety Code is amended to read:

1 1416.28. (a) Notwithstanding any other law, the program shall at the time of
2 application, issuance, or renewal of a nursing home administrator license require
3 that the applicant or licensee provide ~~his or her~~ the federal employer identification
4 number or ~~his or her~~ social security number of the applicant or licensee.

5 (b) Any applicant or licensee failing to provide ~~his or her~~ a federal identification
6 number or social security number shall be reported by the program to the Franchise
7 Tax Board and, if failing to provide after notification pursuant to paragraph (1) of
8 subdivision (b) of Section 19528 of the Revenue and Taxation Code, shall be subject
9 to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the
10 Revenue and Taxation Code.

11 (c) In addition to the penalty specified in subdivision (b), the program may not
12 process any application, original license, or renewal of a license unless the applicant
13 or licensee provides ~~his or her~~ a federal employer identification number or social
14 security number where requested on the application.

15 (d) The program shall, upon request of the Franchise Tax Board, furnish to the
16 Franchise Tax Board the following information with respect to every licensee:

17 (1) Name.

18 (2) Address or addresses of record.

19 (3) Federal employer identification number or social security number.

20 (4) Type of license.

21 (5) Effective date of license or renewal.

22 (6) Expiration date of license.

23 (7) Whether license is active or inactive, if known.

24 (8) Whether license is new or a renewal.

25 (e) The reports required under this section shall be filed on magnetic media or in
26 other machine-readable form, according to standards furnished by the Franchise Tax
27 Board.

28 (f) The program shall provide to the Franchise Tax Board the information required
29 by this section at a time that the Franchise Tax Board may require.

30 (g) Notwithstanding ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
31 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
32 Code, the social security number and federal employer identification number
33 furnished pursuant to this section shall not be deemed to be a public record and shall
34 not be open to the public for inspection.

35 (h) Any deputy, agent, clerk, officer, or employee of the program described in this
36 chapter, any former officer or employee, or other individual who in the course of
37 ~~his or her~~ employment or duty has or has had access to the information required to
38 be furnished under this chapter, may not disclose or make known in any manner that
39 information, except as provided in this section to the Franchise Tax Board or as
40 provided in subdivision (j).

41 (i) It is the intent of the Legislature in enacting this section to utilize the social
42 security account number or federal employer identification number for the purpose
43 of establishing the identification of persons affected by state tax laws and for

1 purposes of compliance with Section 17520 of the Family Code and, to that end, the
2 information furnished pursuant to this section shall be used exclusively for those
3 purposes.

4 (j) If the program utilizes a national examination to issue a license, and if a
5 reciprocity agreement or comity exists between California and the state requesting
6 release of the social security number, any deputy, agent, clerk, officer, or employee
7 of the program described in this chapter may release a social security number to an
8 examination or licensing entity, only for the purpose of verification of licensure or
9 examination status.

10 **Comment.** Section 1416.28 is amended to reflect nonsubstantive recodification of the California
11 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
12 Reports __ (2019).

13 The section is also amended to eliminate gendered pronouns.

14 **§ 1439 (amended). Access to writing received, owned, used, or retained by state department**
15 **in connection with chapter**

16 SEC. __. Section 1439 of the Health and Safety Code is amended to read:

17 1439. Any writing received, owned, used, or retained by the state department in
18 connection with the provisions of this chapter is a public record within the meaning
19 of ~~subdivision (d) of Section 6252~~ Section 7920.530 of the Government Code, and,
20 as ~~such a public record~~, is open to public inspection pursuant to ~~the provision of~~
21 ~~Sections 6253, 6256, 6257, and 6258~~ Sections 7922.500 to 7922.545, inclusive,
22 7923.000, and 7923.005 of the Government Code. However, the names of any
23 persons contained in ~~such~~ those records, except the names of duly authorized
24 officers, employees, or agents of the state department conducting an investigation
25 or inspection in response to a complaint filed pursuant to this chapter, shall not be
26 open to public inspection and copies of ~~such~~ the records provided for public
27 inspection shall have ~~such~~ those names deleted.

28 **Comment.** Section 1439 is amended to reflect nonsubstantive recodification of the California
29 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
30 Reports __ (2019).

31 The amendment also corrects a cross-reference to subdivision (d) of former Government Code
32 Section 6252, which became obsolete when subdivision (d) was relabeled as subdivision (e).
33 *Compare* 1973 Cal. Stat. ch. 1057, § 1 (original version of Section 1439, which cross-refers to “a
34 public record within the meaning of subdivision (d) of Section 6252 of the Government Code”)
35 *with* 1970 Cal. Stat. ch. 575, § 2 (version of former Gov’t Code § 6252 in place when Section 1439
36 was enacted); see also 1998 Cal. Stat. ch. 620, § 2 (relabeling definition of “public records” as
37 subdivision (e)); 2015 Cal. Stat. ch. 537, § 20 (version of former Gov’t Code § 6252 repealed by
38 CPRA Recodification Act of 2020); Gov’t Code § 7920.530 (continuing former Section 6252(e)’s
39 definition of “public records”).

40 In addition, the amendment corrects cross-references to former Government Code Sections 6256
41 and 6257, which became obsolete when those sections were repealed in 1998 (see 1998 Cal. Stat.
42 ch. 620, §§ 7, 10). Most of their substance was continued in newly added Government Code Section
43 6253, which also continued the pertinent part of the previous version of Government Code Section
44 6253. See 1998 Cal. Stat. ch. 620, § 5; Gov. Reorg. Plan No. 1 of 1991, § 7. Pursuant to the CPRA
45 Recodification Act of 2020, Government Code Section 6253 has in turn been repealed and
46 recodified in Government Code Sections 7922.500-7922.545.

1 The amendment also makes technical changes.

2 **§ 1457 (amended). Patient records of county hospital**

3 SEC. ____ . Section 1457 of the Health and Safety Code is amended to read:

4 1457. (a) The State Department of Health Services, with the advice of the State
5 Department of Social Services, shall prescribe the records to be kept by county
6 hospitals of persons received into or discharged from these institutions, including,
7 but not limited to, records for the admission and processing of county hospital
8 patients.

9 (b) The records shall be preserved and maintained pursuant to regulations adopted
10 by the department, or at the request of the county physician or other person in charge
11 of the county hospital, the board of supervisors of the county may authorize the
12 destruction of any record, paper or document prescribed by the department
13 following compliance with the conditions prescribed in Section 26205 of the
14 Government Code.

15 (c)(1) Notwithstanding any other provision of law, those records of a hospital, or
16 any other county medical facility, subject to this chapter that reveal the rates of
17 payment for health care services rendered by or purchased by the hospital or other
18 medical facility, or the deliberative processes, discussions, communications, or any
19 other portion or aspect of the negotiations leading to those payment rates, shall not
20 be considered public records subject to disclosure pursuant to the California Public
21 Records Act, ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
22 10 (commencing with Section 7920.000) of Title 1 of the Government Code, nor
23 shall they be subject to public disclosure pursuant to any other law requiring the
24 disclosure of records, for a period of three years following execution of a related
25 contract establishing rates of payment.

26 (2) Notwithstanding paragraph (1), public disclosure or nondisclosure of records
27 relating to any matters or activities connected with selective provider contracts
28 entered into pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7
29 of Part 3 of Division 9 of the Welfare and Institutions Code shall be determined
30 pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 3 of
31 Division 9 of the Welfare and Institutions Code and ~~subdivision (c) of Section 6254~~
32 Section 7926.220 of the Government Code, and other applicable provisions of
33 ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
34 (commencing with Section 7920.000) of Title 1 of the Government Code.

35 **Comment.** Section 1457 is amended to reflect nonsubstantive recodification of the California
36 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
37 Reports __ (2019).

38 **§ 1536 (amended). List of licensed community care facilities**

39 SEC. ____ . Section 1536 of the Health and Safety Code is amended to read:

1 1536. (a)(1) At least annually, the department shall publish and make available to
2 interested persons a list or lists covering all licensed community care facilities and
3 the services for which each facility has been licensed or issued a special permit.

4 (2) For a group home, transitional housing placement provider, community
5 treatment facility, runaway and homeless youth shelter, temporary shelter care
6 facility, transitional shelter care facility, or short-term residential therapeutic
7 program, the list shall include both of the following:

8 (A) The number of licensing complaints, types of complaint, and outcomes of
9 complaints, including citations, fines, exclusion orders, license suspensions,
10 revocations, and surrenders.

11 (B) The number, types, and outcomes of law enforcement contacts made by the
12 facility staff or children, as reported pursuant to subdivision (a) of Section 1538.7.

13 (3) This subdivision does not apply to foster family homes or the certified family
14 homes or resource families of foster family agencies.

15 (b) Subject to subdivision (c), to protect the personal privacy of foster family
16 homes and the certified family homes and resource families of foster family
17 agencies, and to preserve the security and confidentiality of the placements in the
18 homes, the names, addresses, and other identifying information of facilities licensed
19 as foster family homes and certified family homes and resource families of foster
20 family agencies shall be considered personal information for purposes of the
21 Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of
22 Title 1.8 of Part 4 of Division 3 of the Civil Code). This information shall not be
23 disclosed by any state or local agency pursuant to the California Public Records Act
24 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
25 (commencing with Section 7920.000) of Title 1 of the Government Code), except
26 as necessary for administering the licensing program, facilitating the placement of
27 children in these facilities, and providing names and addresses, upon request, only
28 to bona fide professional foster parent organizations and to professional
29 organizations educating foster parents, including the Foster and Kinship Care
30 Education Program of the California Community Colleges.

31 (c)(1) Notwithstanding subdivision (b), the department, a county, or a foster
32 family agency may request information from, or divulge information to, the
33 department, a county, or a foster family agency, regarding a prospective certified
34 parent, foster parent, or relative caregiver for the purpose of, and as necessary to,
35 conduct a reference check to determine whether it is safe and appropriate to license,
36 certify, or approve an applicant to be a certified parent, foster parent, or relative
37 caregiver.

38 (2) This subdivision shall apply only to applications received on or before
39 December 31, 2016, in accordance with Section 1517 or 1517.1 of this code or
40 Section 16519.5 of the Welfare and Institutions Code.

41 (d) The department may issue a citation and, after the issuance of that citation,
42 may assess a civil penalty of fifty dollars (\$50) per day for each instance of a foster
43 family agency's failure to provide the department with a log of certified and

1 decertified homes or a log of resource families that were approved or had approval
2 rescinded during the month by the 10th day of the following month.

3 (e) The Legislature encourages the department, when funds are available for this
4 purpose, to develop a database that would include all of the following information:

5 (1) Monthly reports by a foster family agency regarding certified family homes
6 and resource families.

7 (2) A log of certified and decertified family homes, approved resource families,
8 and resource families for which approval was rescinded, provided by a foster family
9 agency to the department.

10 (3) Notification by a foster family agency to the department informing the
11 department of a foster family agency's determination to decertify a certified family
12 home or rescind the approval of a resource family due to any of the following actions
13 by the certified family parent or resource family:

14 (A) Violating licensing rules and regulations.

15 (B) Aiding, abetting, or permitting the violation of licensing rules and regulations.

16 (C) Conducting oneself in a way that is inimical to the health, morals, welfare, or
17 safety of a child placed in that certified family home, or for a resource family,
18 engaging in conduct that poses a risk or threat to the health and safety, protection,
19 or well-being of a child or nonminor dependent.

20 (D) Being convicted of a crime while a certified family parent or resource family.

21 (E) Knowingly allowing any child to have illegal drugs or alcohol.

22 (F) Committing an act of child abuse or neglect or an act of violence against
23 another person.

24 (f) At least annually, the department shall post on its Internet Web site a statewide
25 summary of the information gathered pursuant to Sections 1538.8 and 1538.9. The
26 summary shall include only deidentified and aggregate information that does not
27 violate the confidentiality of a child's identity and records.

28 **Comment.** Section 1536 is amended to reflect nonsubstantive recodification of the California
29 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
30 Reports __ (2019).

31 **§ 1776.6 (amended). Public information and confidential data**

32 SEC. ____. Section 1776.6 of the Health and Safety Code is amended to read:

33 1776.6. (a) Pursuant to the California Public Records Act (~~Chapter 3.5~~
34 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
35 Section 7920.000) of Title 1 of the Government Code) and the Information Practices
36 Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of
37 Division 3 of the Civil Code), the following documents are public information and
38 shall be provided by the department upon request: audited financial statements,
39 annual reports and accompanying documents, compliance or noncompliance with
40 reserve requirements, whether an application for a permit to accept deposits and
41 certificate of authority has been filed, whether a permit or certificate has been
42 granted or denied, and the type of care offered by the provider.

1 (b) The department shall regard resident data used in the calculation of reserves
2 as confidential.

3 **Comment.** Section 1776.6 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
5 Reports __ (2019).

6 **§ 1798.200 (amended). Discipline of EMT-I, EMT-II, or EMT-P**

7 SEC. ____. Section 1798.200 of the Health and Safety Code is amended to read:

8 1798.200. (a)(1)(A) Except as provided in paragraph (2), an employer of an EMT-
9 I or EMT-II may conduct investigations, as necessary, and take disciplinary action
10 against an EMT-I or EMT-II who is employed by that employer for conduct in
11 violation of subdivision (c). The employer shall notify the medical director of the
12 local EMS agency that has jurisdiction in the county in which the alleged violation
13 occurred within three days when an allegation has been validated as a potential
14 violation of subdivision (c).

15 (B) Each employer of an EMT-I or EMT-II employee shall notify the medical
16 director of the local EMS agency that has jurisdiction in the county in which a
17 violation related to subdivision (c) occurred within three days after the EMT-I or
18 EMT-II is terminated or suspended for a disciplinary cause, the EMT-I or EMT-II
19 resigns following notification of an impending investigation based upon evidence
20 that would indicate the existence of a disciplinary cause, or the EMT-I or EMT-II is
21 removed from EMT-related duties for a disciplinary cause after the completion of
22 the employer's investigation.

23 (C) At the conclusion of an investigation, the employer of an EMT-I or EMT-II
24 may develop and implement, in accordance with the guidelines for disciplinary
25 orders, temporary suspensions, and conditions of probation adopted pursuant to
26 Section 1797.184, a disciplinary plan for the EMT-I or EMT-II. Upon adoption of
27 the disciplinary plan, the employer shall submit that plan to the local EMS agency
28 within three working days. The employer's disciplinary plan may include a
29 recommendation that the medical director of the local EMS agency consider taking
30 action against the holder's certificate pursuant to paragraph (3).

31 (2) If an EMT-I or EMT-II is not employed by an ambulance service licensed by
32 the Department of the California Highway Patrol or a public safety agency or if that
33 ambulance service or public safety agency chooses not to conduct an investigation
34 pursuant to paragraph (1) for conduct in violation of subdivision (c), the medical
35 director of a local EMS agency shall conduct the investigations, and, upon a
36 determination of disciplinary cause, take disciplinary action as necessary against the
37 EMT-I or EMT-II. At the conclusion of these investigations, the medical director
38 shall develop and implement, in accordance with the recommended guidelines for
39 disciplinary orders, temporary orders, and conditions of probation adopted pursuant
40 to Section 1797.184, a disciplinary plan for the EMT-I or EMT-II. The medical
41 director's disciplinary plan may include action against the holder's certificate
42 pursuant to paragraph (3).

1 (3) The medical director of the local EMS agency may, upon a determination of
2 disciplinary cause and in accordance with regulations for disciplinary processes
3 adopted pursuant to Section 1797.184, deny, suspend, or revoke any EMT-I or
4 EMT-II certificate issued under this division, or may place any EMT-I or EMT-II
5 certificate holder on probation, upon the finding by that medical director of the
6 occurrence of any of the actions listed in subdivision (c) and the occurrence of one
7 of the following:

8 (A) The EMT-I or EMT-II employer, after conducting an investigation, failed to
9 impose discipline for the conduct under investigation, or the medical director makes
10 a determination that the discipline imposed was not according to the guidelines for
11 disciplinary orders and conditions of probation and the conduct of the EMT-I or
12 EMT-II certificate holder constitutes grounds for disciplinary action against the
13 certificate.

14 (B) Either the employer of an EMT-I or EMT-II further determines, after an
15 investigation conducted under paragraph (1), or the medical director determines
16 after an investigation conducted under paragraph (2), that the conduct requires
17 disciplinary action against the certificate.

18 (4) The medical director of the local EMS agency, after consultation with the
19 employer of an EMT-I or EMT-II, may temporarily suspend, prior to a hearing, any
20 EMT-I or EMT-II certificate or both EMT-I and EMT-II certificates upon a
21 determination that both of the following conditions have been met:

22 (A) The certificate holder has engaged in acts or omissions that constitute grounds
23 for revocation of the EMT-I or EMT-II certificate.

24 (B) Permitting the certificate holder to continue to engage in the certified activity
25 without restriction would pose an imminent threat to the public health or safety.

26 (5) If the medical director of the local EMS agency temporarily suspends a
27 certificate, the local EMS agency shall notify the certificate holder that ~~his or her~~
28 the holder's EMT-I or EMT-II certificate is suspended and shall identify the reasons
29 therefor. Within three working days of the initiation of the suspension by the local
30 EMS agency, the agency and employer shall jointly investigate the allegation in
31 order for the agency to make a determination of the continuation of the temporary
32 suspension. All investigatory information not otherwise protected by law held by
33 the agency and employer shall be shared between the parties via facsimile
34 transmission or overnight mail relative to the decision to temporarily suspend. The
35 local EMS agency shall decide, within 15 calendar days, whether to serve the
36 certificate holder with an accusation pursuant to Chapter 5 (commencing with
37 Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. If the
38 certificate holder files a notice of defense, the hearing shall be held within 30 days
39 of the local EMS agency's receipt of the notice of defense. The temporary
40 suspension order shall be deemed vacated if the local EMS agency fails to make a
41 final determination on the merits within 15 days after the administrative law judge
42 renders the proposed decision.

1 (6) The medical director of the local EMS agency shall refer, for investigation and
2 discipline, any complaint received on an EMT-I or EMT-II to the relevant employer
3 within three days of receipt of the complaint, pursuant to subparagraph (A) of
4 paragraph (1) of subdivision (a).

5 (b) The authority may deny, suspend, or revoke any EMT-P license issued under
6 this division, or may place any EMT-P license issued under this division, or may
7 place any EMT-P licenseholder on probation upon the finding by the director of the
8 occurrence of any of the actions listed in subdivision (c). Proceedings against any
9 EMT-P license or licenseholder shall be held in accordance with Chapter 5
10 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
11 Government Code.

12 (c) Any of the following actions shall be considered evidence of a threat to the
13 public health and safety and may result in the denial, suspension, or revocation of a
14 certificate or license issued under this division, or in the placement on probation of
15 a certificate holder or licenseholder under this division:

16 (1) Fraud in the procurement of any certificate or license under this division.

17 (2) Gross negligence.

18 (3) Repeated negligent acts.

19 (4) Incompetence.

20 (5) The commission of any fraudulent, dishonest, or corrupt act that is
21 substantially related to the qualifications, functions, and duties of prehospital
22 personnel.

23 (6) Conviction of any crime ~~which~~ that is substantially related to the
24 qualifications, functions, and duties of prehospital personnel. The record of
25 conviction or a certified copy of the record shall be conclusive evidence of the
26 conviction.

27 (7) Violating or attempting to violate directly or indirectly, or assisting in or
28 abetting the violation of, or conspiring to violate, any provision of this division or
29 the regulations adopted by the authority pertaining to prehospital personnel.

30 (8) Violating or attempting to violate any federal or state statute or regulation that
31 regulates narcotics, dangerous drugs, or controlled substances.

32 (9) Addiction to, the excessive use of, or the misuse of, alcoholic beverages,
33 narcotics, dangerous drugs, or controlled substances.

34 (10) Functioning outside the supervision of medical control in the field care
35 system operating at the local level, except as authorized by any other license or
36 certification.

37 (11) Demonstration of irrational behavior or occurrence of a physical disability to
38 the extent that a reasonable and prudent person would have reasonable cause to
39 believe that the ability to perform the duties normally expected may be impaired.

40 (12) Unprofessional conduct exhibited by any of the following:

41 (A) The mistreatment or physical abuse of any patient resulting from force in
42 excess of what a reasonable and prudent person trained and acting in a similar
43 capacity while engaged in the performance of his or her duties would use if

1 confronted with a similar circumstance. Nothing in this section shall be deemed to
2 prohibit an EMT-I, EMT-II, or EMT-P from assisting a peace officer, or a peace
3 officer who is acting in the dual capacity of peace officer and EMT-I, EMT-II, or
4 EMT-P, from using that force that is reasonably necessary to effect a lawful arrest
5 or detention.

6 (B) The failure to maintain confidentiality of patient medical information, except
7 as disclosure is otherwise permitted or required by law in Part 2.6 (commencing
8 with Section 56) of Division 1 of the Civil Code.

9 (C) The commission of any sexually related offense specified under Section 290
10 of the Penal Code.

11 (d) The information shared among EMT-I, EMT-II, and EMT-P employers,
12 medical directors of local EMS agencies, the authority, and EMT-I and EMT-II
13 certifying entities shall be deemed to be an investigative communication that is
14 exempt from public disclosure as a public record pursuant to ~~subdivision (f) of~~
15 Section 6254 Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5
16 of Division 10 of Title 1 of the Government Code. A formal disciplinary action
17 against an EMT-I, EMT-II, or EMT-P shall be considered a public record available
18 to the public, unless otherwise protected from disclosure pursuant to state or federal
19 law.

20 (e) For purposes of this section, “disciplinary cause” means an act that is
21 substantially related to the qualifications, functions, and duties of an EMT-I, EMT-
22 II, or EMT-P and is evidence of a threat to the public health and safety described in
23 subdivision (c).

24 **Comment.** Section 1798.200 is amended to reflect nonsubstantive recodification of the
25 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
26 Comm’n Reports __ (2019).

27 The section is also amended to eliminate gendered pronouns and make a grammatical correction.

28 **§ 1798.201 (amended). Investigation or discipline of EMT-P licenseholder**

29 SEC. ____. Section 1798.201 of the Health and Safety Code is amended to read:

30 1798.201. (a) When information comes to the attention of the medical director of
31 the local EMS agency that an EMT-P licenseholder has committed any act or
32 omission that appears to constitute grounds for disciplinary action under this
33 division, the medical director of the local EMS agency may evaluate the information
34 to determine if there is reason to believe that disciplinary action may be necessary.

35 (b) If the medical director sends a recommendation to the authority for further
36 investigation or discipline of the licenseholder, the recommendation shall include
37 all documentary evidence collected by the medical director in evaluating whether
38 or not to make that recommendation. The recommendation and accompanying
39 evidence shall be deemed in the nature of an investigative communication and be
40 protected by ~~Section 6254~~ the provisions listed in Section 7920.505 of the
41 Government Code. In deciding what level of disciplinary action is appropriate in the
42 case, the authority shall consult with the medical director of the local EMS agency.

1 **Comment.** Section 1798.201 is amended to reflect nonsubstantive recodification of the
2 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
3 Comm'n Reports __ (2019).

4 **§ 1799.112 (amended). Mandatory reporting by EMT-P employer**

5 SEC. ____. Section 1799.112 of the Health and Safety Code is amended to read:

6 1799.112. (a) EMT-P employers shall report in writing to the local EMS agency
7 medical director and the authority and provide all supporting documentation within
8 30 days of whenever any of the following actions are taken:

9 (1) An EMT-P is terminated or suspended for disciplinary cause or reason.

10 (2) An EMT-P resigns following notice of an impending investigation based upon
11 evidence indicating disciplinary cause or reason.

12 (3) An EMT-P is removed from paramedic duties for disciplinary cause or reason
13 following the completion of an internal investigation.

14 (b) The reporting requirements of subdivision (a) do not require or authorize the
15 release of information or records of an EMT-P who is also a peace officer protected
16 by Section 832.7 of the Penal Code.

17 (c) For purposes of this section, “disciplinary cause or reason” means only an
18 action that is substantially related to the qualifications, functions, and duties of a
19 paramedic and is considered evidence of a threat to the public health and safety as
20 identified in subdivision (c) of Section 1798.200.

21 (d) Pursuant to subdivision (i) of Section 1798.24 of the Civil Code, upon
22 notification to the paramedic, the authority may share the results of its investigation
23 into a paramedic’s misconduct with the paramedic’s employer, prospective
24 employer when requested in writing as part of a preemployment background check,
25 and the local EMS agency.

26 (e) The information reported or disclosed in this section shall be deemed in the
27 nature of an investigative communication and is exempt from disclosure as a public
28 record by ~~subdivision (f) of Section 6254~~ Article 1 (commencing with Section
29 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.

30 (f) A paramedic applicant or licensee to whom the information pertains may view
31 the contents, as set forth in subdivision (a) of Section 1798.24 of the Civil Code, of
32 a closed investigation file upon request during the regular business hours of the
33 authority.

34 **Comment.** Section 1799.112 is amended to reflect nonsubstantive recodification of the
35 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
36 Comm'n Reports __ (2019).

37 **§ 11605 (amended). Biennial survey of drug and alcohol use of pupils enrolled in grades 7, 9,**
38 **and 11**

39 SEC. ____. Section 11605 of the Health and Safety Code is amended to read:

40 11605. (a) Commencing with the 1991–92 fiscal year, the Attorney General, in
41 consultation with the Governor’s Policy Council on Alcohol and Drug Abuse, shall

1 conduct a biennial survey of drug and alcohol use among pupils enrolled in grades
2 7, 9, and 11. The survey shall assess all of the following:

3 (1) The frequency and type of substance abuse.

4 (2) The age of first use and intoxication.

5 (3) Pertinent attitudes and experiences of pupils.

6 (4) The experience of pupils with school-based drug and alcohol prevention
7 programs.

8 (5) As an optional component, the survey may examine the risk factors associated
9 with school dropouts.

10 (b) The biennial survey shall be based on a statewide sample of pupils enrolled in
11 grades 7, 9, and 11 and shall be consistent with the surveys conducted by the office
12 of the Attorney General in the 1985–86, 1987–88, and 1989–90 fiscal years.

13 (c) The Attorney General shall release the findings of the survey on or before May
14 of each even-numbered year and shall prepare and distribute a report on the survey
15 to the Legislature, the Governor, the Superintendent of Public Instruction, law
16 enforcement agencies, school districts, and interested members of the general
17 public.

18 (d) In conducting the survey, the Attorney General shall ensure that the
19 confidentiality of participating school districts and pupils shall be maintained. Pupil
20 questionnaires and answer sheets shall be exempt from the public disclosure
21 requirements prescribed by ~~Chapter 3.5 (commencing with Section 6250) of~~
22 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
23 Government Code.

24 (e) Persons reporting data pursuant to the requirements of this article shall not be
25 liable for damages in any action based upon the use or misuse of pupil surveys that
26 are mailed or otherwise transmitted to the Attorney General, or ~~his or her~~ the
27 Attorney General's designee.

28 (f) The requirements prescribed by this article shall continue to be funded with
29 the existing resources of the Attorney General.

30 **Comment.** Section 11605 is amended to reflect nonsubstantive recodification of the California
31 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
32 Reports __ (2019).

33 The section is also amended to eliminate gendered pronouns.

34 **§ 25152.5 (amended). Access to public records**

35 SEC. ____. Section 25152.5 of the Health and Safety Code is amended to read:

36 25152.5. (a) For purposes of this section, the following definitions apply:

37 (1) “Unusual circumstances” means only the following:

38 (A) The need to search for and collect the requested records from field facilities
39 or other establishments that are separate from the office processing the request.

40 (B) The need to search for, collect, and appropriately examine a voluminous
41 amount of separate and distinct records ~~which~~ that are demanded in a single request.

1 (C) The need to consult with another agency having a substantial interest in the
2 determination of whether to respond to the request.

3 (2) “Public records” means any public record, as defined in Section ~~6252~~
4 7920.530 of the Government Code, of the department relating to this chapter,
5 Chapter 6.7 (commencing with Section 25280), or Chapter 6.8 (commencing with
6 Section 25300). “Public records” includes unprinted information relating to this
7 chapter, Chapter 6.7 (commencing with Section 25280), or Chapter 6.8
8 (commencing with Section 25300) ~~which that~~ is stored in data or word processing
9 equipment either owned by an employee and located on premises under control of
10 the department or owned by the department.

11 (b) Notwithstanding any other provision of law, the department shall not limit the
12 hours during the normal working day or limit the number of working days during
13 which public records are open for inspection.

14 (c)~~(1)~~ Notwithstanding any other provision of law, the department shall make
15 public records ~~which that~~ are not exempt from disclosure by law, including ~~Chapter~~
16 ~~3.5 (commencing with Section 6250) of Division 7~~ Division 10 (commencing with
17 Section 7920.000) of Title 1 of the Government Code, promptly available to any
18 person, within the time limits specified in ~~Section 6256~~ subdivision (a) of Section
19 7922.535 of the Government Code, upon payment of a fee established by the
20 department to cover the direct costs of duplication, as specified in subdivision (f).
21 In addition, a person requesting copies by mail may be required to pay the mailing
22 costs.

23 (2) If any portion of a record is exempt from disclosure, ~~that part which the part~~
24 that is not exempt shall be provided as prescribed in this section.

25 (d) Any person may request access to, or copies of, public records of the
26 department in person or by mail. A request shall reasonably describe an identifiable
27 record or information to be produced therefrom.

28 (e) If the department determines that an unusual circumstance exists, the
29 department shall comply with the notification procedures and the time limits
30 specified in ~~Section 6256.1 of the Government Code~~ subdivisions (b) and (c) of
31 Section 7922.535.

32 (f) The department shall, upon request, provide any person with the facts upon
33 which it bases its determination of the direct costs of copying for each page ~~which~~
34 that is requested. The department shall not impose a minimum fee for a copy of a
35 public record ~~which that~~ is greater than its direct per page copying costs and the
36 department shall not impose limits on the types or amounts of public records ~~which~~
37 that the department will provide to persons requesting these records, upon payment
38 of any fees covering the direct costs of duplication by the department.

39 (g) This section does not authorize the department, or any employee of the
40 department, to delay access for purposes of inspecting or obtaining copies of public
41 records, unless there are unusual circumstances.

42 (h) Any denial of a request for records shall set forth in writing the reasons for the
43 denial and the names and titles or positions of each person responsible for the denial.

1 This written response shall be provided to the requester within five working days of
2 the denial.

3 **Comment.** Section 25152.5 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
5 Reports __ (2019).

6 The amendment also corrects a cross-reference to “Section 6256 of the Government Code.” That
7 cross-reference became obsolete when former Government Code Section 6256 (1981 Cal. Stat. ch.
8 968, § 3.1) was repealed by 1998 Cal. Stat. ch. 620, § 7. At that time, the substance of former
9 Government Code Section 6256 was relocated with revisions to newly-added Government Code
10 Section 6253 (see 1998 Cal. Stat. ch. 620, § 5). Pursuant to the CPRA Recodification Act of 2020,
11 Government Code Section 6253 has in turn been repealed and recodified; the notification
12 procedures and time limits from former Government Code Section 6256 are now located in
13 Government Code Section 7922.535(a).

14 Similarly, the amendment corrects a cross-reference to “Section 6256.1 of the Government
15 Code.” That cross-reference became obsolete when former Government Code Section 6256.1 (1981
16 Cal. Stat. ch. 968, § 3.2) was repealed by 1998 Cal. Stat. ch. 620, § 8. At that time, the substance
17 of former Government Code Section 6256.1 was relocated to newly-added Government Code
18 Section 6253 (see 1998 Cal. Stat. ch. 620, § 5). Pursuant to the CPRA Recodification Act of 2020,
19 Government Code Section 6253 has in turn been repealed and recodified; the material now
20 comparable to former Government Code Section 6256.1 is Government Code Section 7922.535(b)-
21 (c).

22 The section is also amended to insert paragraph labels and make grammatical corrections.

23 **§ 25186.5 (amended). Disclosure statement and other information gathering**

24 SEC. _____. Section 25186.5 of the Health and Safety Code is amended to read:

25 25186.5. (a) In making a determination pursuant to Section 25186, the director
26 may contact the district attorney, local agencies, the Attorney General, the United
27 States Department of Justice, the Environmental Protection Agency, or other
28 agencies outside of the state ~~which~~ that have, or have had, regulatory or enforcement
29 jurisdiction over the applicant in connection with any hazardous waste or hazardous
30 materials activities.

31 (b) Every hazardous waste licenseholder or applicant, other than a federal, state,
32 or local agency, who is not otherwise required to file a disclosure statement on or
33 before January 1, 1989, shall file a disclosure statement with the department on or
34 before January 1, 1989.

35 (c) If changes or additions of information regarding majority ownership, the
36 business name, or the information required by paragraphs (6) and (8) of subdivision
37 (a) of Section 25112.5 occur after the filing of the statement, the licenseholder or
38 applicant shall provide that information to the department, in writing, within 30 days
39 of the change or addition.

40 (d) Any person submitting a disclosure statement shall pay a fee set by the
41 department in an amount adequate to defray the costs of implementing this section,
42 per person, officer, director, or partner required to be listed in the disclosure
43 statement, in addition to any other fees required. The department shall deposit these
44 fees in the Hazardous Waste Control Account. The fees shall be made available,
45 upon appropriation by the Legislature, to cover the costs of conducting the necessary
46 background searches.

1 (e) Any person who knowingly makes any false statement or misrepresentation in
2 a disclosure statement filed pursuant to the requirements of this chapter is, upon
3 conviction, subject to the penalties specified in Sections 25189 and 25189.2 and
4 subdivision (a) of Section 25191.

5 (f) The disclosure statement submitted pursuant to subdivision (b) is exempt from
6 the requirements of the California Public Records Act (~~Chapter 3.5 (commencing~~
7 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
8 of Title 1 of the Government Code).

9 **Comment.** Section 25186.5 is amended to reflect nonsubstantive recodification of the California
10 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
11 Reports __ (2019).

12 The section is also amended to make a grammatical correction.

13 **§ 25200.3 (amended). Grant of conditional authorization**

14 SEC. _____. Section 25200.3 of the Health and Safety Code is amended to read:

15 25200.3. (a) A generator who uses the following methods for treating RCRA or
16 non-RCRA hazardous waste in tanks or containers, which is generated onsite, and
17 which do not require a hazardous waste facilities permit under the federal act, shall,
18 for those activities, be deemed to be operating pursuant to a grant of conditional
19 authorization without obtaining a hazardous waste facilities permit or other grant of
20 authorization and a generator is deemed to be granted conditional authorization
21 pursuant to this section, upon compliance with the notification requirements
22 specified in subdivision (e), if the treatment complies with the applicable
23 requirements of this section:

24 (1) The treatment of aqueous wastes ~~which~~ that are hazardous solely due to the
25 presence of inorganic constituents, except asbestos, listed in subparagraph (B) of
26 paragraph (1) and subparagraph (A) of paragraph (2) of subdivision (a) of Section
27 66261.24 of Title 22 of the California Code of Regulations, and ~~which~~ that contain
28 not more than 1400 ppm total of these constituents, using the following treatment
29 technologies:

30 (A) Phase separation, including precipitation, by filtration, centrifugation, or
31 gravity settling, including the use of demulsifiers and flocculants in those
32 processes.

33 (B) Ion exchange, including metallic replacement.

34 (C) Reverse osmosis.

35 (D) Adsorption.

36 (E) pH adjustment of aqueous waste with a pH of between 2.0 and 12.5.

37 (F) Electrowinning of solutions, if those solutions do not contain hydrochloric
38 acid.

39 (G) Reduction of solutions ~~which~~ that are hazardous solely due to the presence of
40 hexavalent chromium, to trivalent chromium with sodium bisulfite, sodium
41 metabisulfite, sodium thiosulfite, ferrous chloride, ferrous sulfate, ferrous sulfide,

1 or sulfur dioxide, provided that the solution contains less than 750 ppm of
2 hexavalent chromium.

3 (2) Treatment of aqueous wastes ~~which~~ that are hazardous solely due to the
4 presence of organic constituents listed in subparagraph (B) of paragraph (1), or
5 subparagraph (B) of paragraph (2), of subdivision (a) of Section 66261.24 of Title
6 22 of the California Code of Regulations and ~~which~~ that contain not more than 750
7 ppm total of those constituents, using either of the following treatment
8 technologies:

9 (A) Phase separation by filtration, centrifugation, or gravity settling, but
10 excluding supercritical fluid extraction.

11 (B) Adsorption.

12 (3) Treatment of wastes ~~which~~ that are sludges resulting from wastewater
13 treatment, solid metal objects, and metal workings ~~which~~ that contain or are
14 contaminated with, and are hazardous solely due to the presence of, constituents,
15 except asbestos, listed in subparagraph (B) of paragraph (1) of, and subparagraph
16 (A) of paragraph (2) of, subdivision (a) of Section 66261.24 of Title 22 of the
17 California Code of Regulations, or treatment of wastes ~~which~~ that are dusts ~~which~~
18 that contain, or are contaminated with, and are hazardous solely due to the presence
19 of, not more than 750 ppm total of those constituents, except asbestos, listed in
20 subparagraph (B) of paragraph (1) of, and subparagraph (A) of paragraph (2) of,
21 subdivision (a) of Section 66261.24 of Title 22 of the California Code of
22 Regulations, using any of the following treatment technologies:

23 (A) Physical processes ~~which~~ that constitute treatment only because they change
24 the physical properties of the waste, such as filtration, centrifugation, gravity
25 settling, grinding, shredding, crushing, or compacting.

26 (B) Drying to remove water.

27 (C) Separation based on differences in physical properties, such as size,
28 magnetism, or density.

29 (4) Treatment of alum, gypsum, lime, sulfur, or phosphate sludges, using either
30 of the following treatment technologies:

31 (A) Drying to remove water.

32 (B) Phase separation by filtration, centrifugation, or gravity settling.

33 (5) Treatment of wastes listed in Section 66261.120 of Title 22 of the California
34 Code of Regulations, which meet the criteria and requirements for special waste
35 classification in Section 66261.122 of Title 22 of the California Code of
36 Regulations, using any of the following treatment technologies, if the waste is
37 hazardous solely due to the presence of constituents, except asbestos, listed in
38 subparagraph (B) of paragraph (1) of, and subparagraph (A) of paragraph (2) of,
39 subdivision (a) of Section 66261.24 of Title 22 of the California Code of
40 Regulations and the waste contains not more than 750 ppm total of those
41 constituents:

42 (A) Drying to remove water.

43 (B) Phase separation by filtration, centrifugation, or gravity settling.

- 1 (C) Screening to separate components based on size.
- 2 (D) Separation based on differences in physical properties, such as size,
3 magnetism, or density.
- 4 (6) Treatment of wastes, except asbestos, ~~which~~ that have been classified by the
5 department as special wastes pursuant to Section 66261.24 of Title 22 of the
6 California Code of Regulations, using any of the following treatment technologies,
7 if the waste is hazardous solely due to the presence of constituents, except asbestos,
8 listed in subparagraph (B) of paragraph (1) of, and subparagraph (A) of paragraph
9 (2) of, subdivision (a) of Section 66261.24 of Title 22 of the California Code of
10 Regulations and the waste contains not more than 750 ppm of those constituents:
- 11 (A) Drying to remove water.
- 12 (B) Phase separation by filtration, centrifugation, or gravity settling.
- 13 (C) Magnetic separation.
- 14 (7) Treatment of soils ~~which~~ that are hazardous solely due to the presence of
15 metals listed in subparagraph (A) of paragraph (2) of subdivision (a) of Section
16 66261.24 of Title 22 of the California Code of Regulations, using either of the
17 following treatment technologies:
- 18 (A) Screening to separate components based on size.
- 19 (B) Magnetic separation.
- 20 (8) Except as provided in Section 25201.5, treatment of oil mixed with water and
21 oil/water separation sludges, using any of the following treatment technologies:
- 22 (A) Phase separation by filtration, centrifugation, or gravity settling, but excluding
23 supercritical fluid extraction. This phase separation may include the use of
24 demulsifiers and flocculants in those processes, even if the processes involve the
25 application of heat, if the heat is applied in totally enclosed tanks and containers,
26 and if it does not exceed 160 degrees Fahrenheit, or any lower temperature ~~which~~
27 that may be set by the department.
- 28 (B) Separation based on differences in physical properties, such as size,
29 magnetism, or density.
- 30 (C) Reverse osmosis.
- 31 (9) Neutralization of acidic or alkaline wastes that are hazardous only due to
32 corrosivity or toxicity that results only from the acidic or alkaline material, in
33 elementary neutralization units, as defined in Section 66260.10 of Title 22 of the
34 California Code of Regulations, if the wastes contain less than 10 percent acid or
35 base constituents by weight, and are treated in tanks or containers and piping,
36 constructed of materials compatible with the range of temperatures and pH levels,
37 and subject to appropriate pH and temperature controls. If the waste contains more
38 than 10 percent acid or base constituents by weight, the volume treated in a single
39 batch at any one time shall not exceed 500 gallons.
- 40 (10) Treatment of spent cleaners and conditioners ~~which~~ that are hazardous solely
41 due to the presence of copper or copper compounds, subject to the following:
- 42 (A) The following requirements are met, in addition to all other requirements of
43 this section:

- 1 (i) The waste stream does not contain more than 5000 ppm total copper.
- 2 (ii) The generator does not generate for treatment any more than 1000 gallons of
3 the waste stream per month.
- 4 (iii) The treatment technologies employed are limited to those set forth in
5 paragraph (1) for metallic wastes.
- 6 (iv) The generator keeps records documenting compliance with this subdivision,
7 including records indicating the volume and concentration of wastes treated, and the
8 management of related solutions ~~which~~ that are not cleaners or conditioners.
- 9 (B) Cleaners and conditioners, for purposes of this paragraph, are solutions
10 containing surfactants and detergents to remove dirt and foreign objects. Cleaners
11 and conditioners do not include microetch, etchant, plating, or metal stripping
12 solutions or solutions containing oxidizers, or any cleaner based on organic
13 solvents.
- 14 (C) A grant of conditional authorization under this paragraph shall expire on
15 January 1, 1998, unless extended by the department pursuant to this section.
- 16 (D) The department shall evaluate the treatment activities described in this
17 paragraph and shall designate, by regulation, not later than January 1, 1997, those
18 activities eligible for conditional authorization and those activities subject to permit-
19 by-rule. In adopting regulations under this subparagraph, the department shall
20 consider all of the following:
- 21 (i) The volume of waste being treated.
- 22 (ii) The concentration of the hazardous waste constituents.
- 23 (iii) The characteristics of the hazardous waste being treated.
- 24 (iv) The risks of the operation, and breakdown, of the treatment process.
- 25 (11) Any waste stream technology combination certified by the department,
26 pursuant to Section 25200.1.5, as suitable for authorization pursuant to this section,
27 that operates pursuant to the conditions imposed on that certification.
- 28 (b) Any treatment performed pursuant to this section shall comply with all of the
29 following, except as to generators, who are treating hazardous waste pursuant to
30 paragraph (11) of subdivision (a), who shall also comply with any additional
31 conditions of the specified certification if those conditions are different from those
32 set forth in this subdivision:
- 33 (1) The total volume of hazardous waste treated in the unit in any calendar month
34 shall not exceed 5,000 gallons or 45,000 pounds, whichever is less, unless the waste
35 is a dilute aqueous waste described in paragraph (1), (2), or (9) of subdivision (a) or
36 oily wastes as described in paragraph (8) of subdivision (a). The department may,
37 by regulation, impose volume limitations on wastes ~~which~~ that have no limitations
38 under this section, as may be necessary to protect human health and safety or the
39 environment.
- 40 (2) The treatment is conducted in tanks or containers.
- 41 (3) The treatment does not consist of the use of any of the following:
- 42 (A) Chemical additives, except for pH adjustment, chrome reduction, oil/water
43 separation, and precipitation with the use of flocculants, as allowed by this section.

1 (B) Radiation.

2 (C) Electrical current except in the use of electrowinning, as allowed by this
3 section.

4 (D) Pressure, except for reverse osmosis, filtration, and crushing, as allowed by
5 this section.

6 (E) Application of heat, except for drying to remove water or demulsification, as
7 allowed by this section.

8 (4) All treatment residuals and effluents are managed and disposed of in
9 accordance with applicable federal, state, and local requirements.

10 (5) The treatment process does not do either of the following:

11 (A) Result in the release of hazardous waste into the environment as a means of
12 treatment or disposal.

13 (B) Result in the emission of volatile hazardous waste constituents or toxic air
14 contaminants, unless the emission is in compliance with the rules and regulations of
15 the air pollution control district or air quality management district.

16 (6) The generator unit complies with any additional requirements set forth in
17 regulations adopted pursuant to this section.

18 (c) A generator operating pursuant to subdivision (a) shall comply with all of the
19 following requirements:

20 (1) Except as provided in paragraph (4), the generator shall comply with the
21 standards applicable to generators specified in Chapter 12 (commencing with
22 Section 66262.10) of Division 4.5 of Title 22 of the California Code of Regulations
23 and with the applicable requirements in Sections 66265.12, 66265.14, and 66265.17
24 of Title 22 of the California Code of Regulations.

25 (2) The generator shall comply with Section 25202.9 by making an annual waste
26 minimization certification.

27 (3) The generator shall comply with the environmental assessment procedures
28 required pursuant to subdivisions (a) to (e), inclusive, of Section 25200.14. If that
29 assessment reveals that there is contamination resulting from the release of
30 hazardous waste or constituents from a solid waste management unit or a hazardous
31 waste management unit at the generator's facility, regardless of the time at which
32 the waste was released, the generator shall take every action necessary to
33 expeditiously remediate that contamination, if the contamination presents a
34 substantial hazard to human health and safety or the environment or if the generator
35 is required to take corrective action by the department. If a facility is remediating
36 the contamination pursuant to, and in compliance with the provisions of, an order
37 issued by a California regional water quality control board or other state or federal
38 environmental enforcement agency, that remediation shall be adequate for the
39 purposes of complying with this section, as the remediation pertains to the
40 jurisdiction of the ordering agency. This paragraph does not limit the authority of
41 the department or a unified program agency pursuant to Section 25187 as may be
42 necessary to protect human health and safety or the environment.

1 (4) The generator unit shall comply with container and tank standards applicable
2 to non-RCRA wastes, unless otherwise required by federal law, specified in
3 subdivisions (a) and (b) of Section 66264.175 of Title 22 of the California Code of
4 Regulations, as the standards apply to container storage and transfer activities, and
5 to Article 9 (commencing with Section 66265.170) and Article 10 (commencing
6 with Section 66265.190) of Chapter 15 of Division 4.5 of Title 22 of the California
7 Code of Regulations, except for Section 66265.197 of Title 22 of the California
8 Code of Regulations.

9 (A) Unless otherwise required by federal law, ancillary equipment for a tank or
10 container treating hazardous wastes solely pursuant to this section, is not subject to
11 Section 66265.193 of Title 22 of the California Code of Regulations, if the ancillary
12 equipment's integrity is attested to, pursuant to Section 66265.191 of Title 22 of the
13 California Code of Regulations, every two years from the date that retrofitting
14 requirements would otherwise apply.

15 (B)(i) The Legislature hereby finds and declares that in the case of underground,
16 gravity-pressured sewer systems, integrity testing is often not feasible.

17 (ii) The best feasible leak detection measures ~~which~~ that are sufficient to ensure
18 that underground gravity-pressured sewer systems, for which it is not feasible to
19 conduct integrity testing, do not leak.

20 (iii) If it is not feasible for an operator's ancillary equipment, or a portion thereof,
21 to undergo integrity testing, the operator shall not be subject to Section 66265.193
22 of Title 22 of the California Code of Regulations, if the operator implements the
23 best feasible leak detection measures ~~which~~ that are determined to be sufficient by
24 the department in those regulations, and those leak detection measures do not reveal
25 any leaks emanating from the operator's ancillary equipment. Any ancillary
26 equipment found to leak shall be retrofitted by the operator to meet the secondary
27 containment standards of Section 66265.196 of Title 22 of the California Code of
28 Regulations.

29 (5) The generator shall prepare and maintain a written inspection schedule and a
30 log of inspections conducted.

31 (6) The generator shall prepare and maintain written operating instructions and a
32 record of the dates, concentrations, amounts, and types of waste treated. Records
33 maintained to comply with the state, federal, or local programs may be used to
34 satisfy this requirement, to the extent that those documents substantially comply
35 with the requirements of this section. The operating instructions shall include, but
36 not be limited to, directions regarding all of the following:

37 (A) How to operate the treatment unit and carry out waste treatment.

38 (B) How to recognize potential and actual process upsets and respond to them.

39 (C) When to implement the contingency plan.

40 (D) How to determine if the treatment has been efficacious.

41 (E) How to address the residuals of waste treatment.

42 (7) The generator shall maintain adequate records to demonstrate to the
43 department and the unified program agency that the requirements and conditions of

1 this section are met, including compliance with all applicable pretreatment standards
2 and with all applicable industrial waste discharge requirements issued by the agency
3 operating the publicly owned treatment works into which the wastes are discharged.
4 The records shall be maintained onsite for a period of five years.

5 (8) The generator shall treat only hazardous waste ~~which~~ that is generated onsite.
6 For purposes of this chapter, a residual material from the treatment of a hazardous
7 waste generated offsite is not a waste that has been generated onsite.

8 (9) Except as provided in Section 25404.5, the generator shall submit a fee to the
9 State Board of Equalization in the amount required by Section 25205.14, unless the
10 generator is subject to a fee under a permit-by-rule. The generator shall submit that
11 fee within 30 days of the date that the fee is assessed by the State Board of
12 Equalization.

13 (d) Notwithstanding any other provision of law, the following activities are
14 ineligible for conditional authorization:

15 (1) Treatment in any of the following units:

16 (A) Landfills.

17 (B) Surface impoundments.

18 (C) Injection wells.

19 (D) Waste piles.

20 (E) Land treatment units.

21 (2) Commingling of hazardous waste with any hazardous waste that exceeds the
22 concentration limits or pH limits specified in subdivision (a), or diluting hazardous
23 waste in order to meet the concentration limits or pH limits specified in subdivision
24 (a).

25 (3) Treatment using a treatment process not specified in subdivision (a).

26 (4) Pretreatment or posttreatment activities not specified in subdivision (a).

27 (5) Treatment of any waste ~~which~~ that is reactive or extremely hazardous.

28 (e)(1) Not less than 60 days prior to commencing the first treatment of hazardous
29 waste under this section, the generator shall submit a notification, in person or by
30 certified mail, with return receipt requested, to the department and to one of the
31 following:

32 (A) The CUPA, if the generator is under the jurisdiction of a CUPA.

33 (B) If the generator is not under the jurisdiction of a CUPA, the notification shall
34 be submitted to the officer or agency authorized, pursuant to subdivision (f) of
35 Section 25404.3, to implement and enforce the requirements of this chapter listed
36 in paragraph (1) of subdivision (c) of Section 25404.

37 (2) Upon demonstration of good cause by the generator, the department may allow
38 a shorter time period, than the 60 days required by paragraph (1), between
39 notification and commencement of hazardous waste treatment pursuant to this
40 section.

41 (3) Each notification submitted pursuant to this subdivision shall be completed,
42 dated, and signed according to the requirements of Section 66270.11 of Title 22 of
43 the California Code of Regulations, as those requirements that were in effect on

1 January 1, 1996, and apply to hazardous waste facilities permit applications, shall
2 be on a form prescribed by the department, and shall include, but not be limited to,
3 all of the following information:

4 (A) The name, identification number, site address, mailing address, and telephone
5 number of the generator to whom the conditional authorization is granted.

6 (B) A description of the physical characteristics and chemical composition of the
7 hazardous waste to which the conditional authorization applies.

8 (C) A description of the hazardous waste treatment activity to which the
9 conditional authorization applies, including the basis for determining that a
10 hazardous waste facilities permit is not required under the federal act.

11 (D) A description of the characteristics and management of any treatment
12 residuals.

13 (E) Documentation of any convictions, judgments, settlements, or orders resulting
14 from an action by any local, state, or federal environmental or public health
15 enforcement agency concerning the operation of the facility within the last three
16 years, as the documents would be available under the California Public Records Act
17 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
18 (commencing with Section 7920.000) of Title 1 of the Government Code) or the
19 Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of
20 Title 1.8 of Part 4 of the Civil Code). For purposes of this paragraph, a notice of
21 violation for any local, state, or federal agency does not constitute an order and a
22 generator is not required to report the notice unless the violation is not corrected and
23 the notice becomes a final order.

24 (f) Any generator operating pursuant to a grant of conditional authorization shall
25 comply with all regulations adopted by the department relating to generators of
26 hazardous waste.

27 (g)(1) Upon terminating operation of any treatment process or unit conditionally
28 authorized pursuant to this section, the generator conducting treatment pursuant to
29 this section shall remove or decontaminate all waste residues, containment system
30 components, soils, and structures or equipment contaminated with hazardous waste
31 from the unit. The removal of the unit from service shall be conducted in a manner
32 that does both of the following:

33 (A) Minimizes the need for further maintenance.

34 (B) Eliminates the escape of hazardous waste, hazardous constituents, leachate,
35 contaminated runoff, or waste decomposition products to the environment after the
36 treatment process is no longer in operation.

37 (2) Any generator conducting treatment pursuant to this section who permanently
38 ceases operation of a treatment process or unit that is conditionally authorized
39 pursuant to this section shall, upon completion of all activities required under this
40 subdivision, provide written notification, in person or by certified mail, with return
41 receipt requested, to the department and to one of the following:

42 (A) The CUPA, if the generator is under the jurisdiction of a CUPA.

1 (B) If the generator is not under the jurisdiction of a CUPA, the notification shall
2 be submitted to the officer or agency authorized, pursuant to subdivision (f) of
3 Section 25404.3, to implement and enforce the requirements of this chapter listed
4 in paragraph (1) of subdivision (c) of Section 25404.

5 (h) In adopting regulations pursuant to this section, the department may impose
6 any further restrictions or limitations consistent with the conditionally authorized
7 status conferred by this section ~~which~~ that are necessary to protect human health
8 and safety and the environment.

9 (i) The department may revoke any conditional authorization granted pursuant to
10 this section. The department shall base a revocation on any one of the causes set
11 forth in subdivision (a) of Section 66270.43 of Title 22 of the California Code of
12 Regulations or in Section 25186, or upon a finding that operation of the facility in
13 question will endanger human health and safety, domestic livestock, wildlife, or the
14 environment. The department shall conduct the revocation of a conditional
15 authorization granted pursuant to this section in accordance with Chapter 21
16 (commencing with Section 66271.1) of Division 4.5 of Title 22 of the California
17 Code of Regulations and as specified in Section 25186.7.

18 (j) A generator who would otherwise be subject to this section may contract with
19 the operator of a transportable treatment unit who is operating pursuant to a permit-
20 by-rule, a standardized permit, or a full state hazardous waste facilities permit to
21 treat the generator's waste. If treatment of the generator's waste takes place under
22 ~~such a~~ that type of contract, the generator is not otherwise subject to the
23 requirements of this section, but shall comply with all other requirements of this
24 chapter that apply to generators. The operator of the transportable treatment unit that
25 performs onsite treatment pursuant to this subdivision shall comply with all
26 requirements applicable to transportable treatment units operating pursuant to a
27 permit-by-rule, as set forth in the regulations adopted by the department.

28 (k)(1) Within 30 days of any change in operation ~~which~~ that necessitates
29 modifying any of the information submitted in the notification required pursuant to
30 subdivision (e), a generator shall submit an amended notification, in person or by
31 certified mail, with return receipt requested, to the department and to one of the
32 following:

33 (A) The CUPA, if the generator is under the jurisdiction of a CUPA.

34 (B) If the generator is not under the jurisdiction of a CUPA, the notification shall
35 be submitted to the officer or agency authorized, pursuant to subdivision (f) of
36 Section 25404.3, to implement and enforce the requirements of this chapter listed
37 in paragraph (1) of subdivision (c) of Section 25404.

38 (2) Each amended notification shall be completed, dated, and signed in
39 accordance with the requirements of Section 66270.11 of Title 22 of the California
40 Code of Regulations, as those requirements apply to hazardous waste facilities
41 permit applications.

42 (l) A person who has submitted a notification to the department pursuant to
43 subdivision (e) shall be deemed to be operating pursuant to this section, and, except

1 as provided in Section 25404.5, shall be subject to the fee set forth in subdivision
2 (a) of Section 25205.14 until that person submits a certification that the generator
3 has ceased all treatment activities of hazardous waste streams authorized pursuant
4 to this section in accordance with the requirements of subdivision (g). The
5 certification required by this subdivision shall be submitted, in person or by certified
6 mail, with return receipt requested, to the department and to one of the following:

7 (1) The CUPA, if the generator is under the jurisdiction of a CUPA.

8 (2) If the generator is not under the jurisdiction of a CUPA, the notification shall
9 be submitted to the officer or agency authorized, pursuant to subdivision (f) of
10 Section 25404.3, to implement and enforce the requirements of this chapter listed
11 in paragraph (1) of subdivision (c) of Section 25404.

12 (m) The development and publication of the notification form specified in
13 subdivision (e) is not subject to Chapter 3.5 (commencing with Section 11340) of
14 Part 1 of Division 3 of Title 2 of the Government Code. The department shall hold
15 at least one public workshop concerning the development of the notification form.

16 **Comment.** Section 25200.3 is amended to reflect nonsubstantive recodification of the California
17 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
18 Reports __ (2019).

19 The section is also amended to make technical changes.

20 **§ 25201.10 (amended). Application of CPRA to generator**

21 SEC. ____. Section 25201.10 of the Health and Safety Code is amended to read:

22 25201.10. Any information ~~which~~ that a generator is required to provide to the
23 department or to a local agency pursuant to Section 25200.3, 25200.14 or 25201.5
24 or to regulations adopted by the department related to operation under a permit-by-
25 rule shall be available to the public pursuant to the California Public Records Act
26 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
27 (commencing with Section 7920.000) of Title 1 of the Government Code).

28 **Comment.** Section 25201.10 is amended to reflect nonsubstantive recodification of the
29 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
30 Comm'n Reports __ (2019).

31 The section is also amended to make a grammatical correction.

32 **§ 25201.11 (amended). Copyright protection and other rights and privileges for works**
33 **produced by department**

34 SEC. ____. Section 25201.11 of the Health and Safety Code is amended to read:

35 25201.11. (a) Copyright protection and all other rights and privileges provided
36 pursuant to Title 17 of the United States Code are available to the department to the
37 fullest extent authorized by law, and the department may sell, lease, or license for
38 commercial or noncommercial use any work, including, but not limited to, video
39 recordings, audio recordings, books, pamphlets, and computer software as that term
40 is defined in Section ~~6254.9~~ 7922.585 of the Government Code, that the department
41 produces whether the department is entitled to that copyright protection or not.

1 (b) Any royalties, fees, or compensation of any type that is paid to the department
2 to make use of a work entitled to copyright protection shall be deposited in the
3 Hazardous Waste Control Account.

4 (c) Nothing in this section is intended to limit any powers granted to the
5 department pursuant to Section ~~6254.9~~ 7922.585 of the Government Code or any
6 other provision of law.

7 **Comment.** Section 25201.11 is amended to reflect nonsubstantive recodification of the
8 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
9 Comm'n Reports __ (2019).

10 **§ 25205.13 (amended). Notification procedures**

11 SEC. _____. Section 25205.13 of the Health and Safety Code is amended to read:

12 25205.13. (a) Notwithstanding any other provision of law or regulation, for the
13 1993 reporting period, the deadline for submitting permit-by-rule fixed treatment
14 unit facility-specific notifications and unit-specific notifications is April 1, 1993, or
15 60 days prior to commencing the first treatment of that waste, whichever date is
16 later.

17 (b) The development and publication of the notification form for a fixed or
18 transportable treatment unit operating pursuant to a permit-by-rule, as specified in
19 subdivisions (a) and (b) of Section 67450.2 of Title 22 of the California Code of
20 Regulations, is not subject to Chapter 3.5 (commencing with Section 11340) of Part
21 1 of Division 3 of Title 2 of the Government Code. The department shall hold at
22 least one public workshop concerning the development of the notification form.

23 (c) A facility or transportable treatment unit operating pursuant to a permit-by-
24 rule shall provide the following information with the notifications required pursuant
25 to subdivisions (a) and (b) of Section 67450.2 of Title 22 of the California Code of
26 Regulations:

27 (1) The basis for determining that a hazardous waste facility permit is not required
28 under the federal act.

29 (2) Documentation of any convictions, judgments, settlements, or orders resulting
30 from an action by any local, state, or federal environmental or public health
31 enforcement agency concerning the operation of the facility within the last three
32 years, as the documents would be available under the California Public Records Act
33 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
34 (commencing with Section 7920.000)) of Title 1 of the Government Code or the
35 Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of
36 Title 1.8 of Part 4 of the Civil Code.

37 (3) A waste minimization certificate, as specified in Section 25202.9.

38 (d) The facility or transportable treatment unit operating pursuant to a permit-by-
39 rule shall treat only waste ~~which~~ that is generated onsite.

40 **Comment.** Section 25205.13 is amended to reflect nonsubstantive recodification of the
41 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
42 Comm'n Reports __ (2019).

43 The section is also amended to make a grammatical correction.

1 **§ 25214 (amended). Records relating to hazardous waste removed from discarded appliance**

2 SEC. _____. Section 25214 of the Health and Safety Code is amended to read:

3 25214. The department shall make information available upon request regarding
4 the implementation of this article, including, but not limited to, the list of persons
5 notified pursuant to subdivision (a) of Section 25213, the list of persons identified
6 pursuant to paragraph (1) of subdivision (b) of Section 25213, information on
7 inspection and enforcement, and other information pertaining to the record of
8 compliance with this article, subject to the California Public Records Act (~~Chapter~~
9 ~~3.5 (commencing with Section 6250) of Division 7~~ Division 10 (commencing with
10 Section 7920.000) of Title 1 of the Government Code).

11 **Comment.** Section 25214 is amended to reflect nonsubstantive recodification of the California
12 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
13 Reports __ (2019).

14 **§ 25214.8.5 (amended). Exemption for product containing mercury switch or mercury relay**

15 SEC. _____. Section 25214.8.5 of the Health and Safety Code is amended to read:

16 25214.8.5. (a) A product containing a mercury switch or a mercury relay is
17 exempt from subdivision (a) of Section 25214.8.4, if the manufacturer of the
18 product, or a trade group representing the manufacture, has obtained an exemption,
19 pursuant to the process described in subdivision (b), for the product. An exemption
20 granted under subdivision (b) may apply to all or only to limited uses of the product.
21 An exemption granted under subdivision (b) also applies to the sale to the product
22 manufacturer of the mercury switch or relay to be contained in the product covered
23 by the exemption.

24 (b) The department shall grant, or renew, an exemption from subdivision (a) of
25 Section 25214.8.4 for a period of three years only if all of the following conditions
26 are met:

27 (1) The manufacturer of the product, or a trade group representing the
28 manufacturer, submits a request for an initial or renewed exemption to the
29 department that specifies the use or uses of the product for which an exemption is
30 requested along with supporting information that complies with the requirements
31 set forth in subdivision (c). A manufacturer or trade group may submit a request
32 only for a product and use for which there is no technical feasible alternative,
33 available at a reasonable cost, to the use of the mercury switch or mercury relay in
34 the product for purposes of that use.

35 (2) The supporting information submitted by the manufacturer or trade group
36 demonstrates that the product is eligible for the exemption.

37 (3) The manufacturer or trade group requesting the exemption enters into a cost
38 reimbursement agreement with the department, pursuant to subdivision (d), and
39 complies with the terms of that agreement.

40 (c) The supporting information that a manufacturer or trade group submits to the
41 department, before the department may grant an exemption pursuant to subdivision
42 (b), shall include all of the following:

1 (1) The name of the manufacturer, or the trade group and the manufacturers
2 represented by the trade group, requesting the exemption and the name, position,
3 and contact information for the person who is the manufacturer's or trade group's
4 contact person on all matters concerning the exemption.

5 (2) An identification and description of the product, and the use or uses of the
6 product, for which the exemption is requested.

7 (3) An identification and description of the mercury switch or mercury relay,
8 including identification of the manufacturer of the switch or relay, and an
9 explanation of the need for, and functioning of, the mercury switch or mercury relay
10 in the product.

11 (4) For each use for which an exemption is requested, information that fully and
12 clearly demonstrates that there is no technically feasible alternative, available at a
13 reasonable cost, to the use of the mercury switch or mercury relay in the product for
14 purposes of that use. This shall include, but is not limited to, a description of past,
15 current, and planned future efforts to seek or develop those alternatives, and a
16 description of all alternatives that have been considered and an explanation of the
17 technical or economic reasons as to why each alternative is not satisfactory.

18 (5) Information that fully and clearly demonstrates that the switch or relay or the
19 product is constructed so as to prevent the release of mercury to the environment.

20 (6) A feasible, effective, detailed and complete plan for the proper collection,
21 transportation, and management of the product at the end of its useful life, including
22 removal and proper management of the mercury switch or mercury relay contained
23 in the product, and information fully and clearly demonstrating that the
24 manufacturer, individually, or in conjunction with an industry or trade group, is
25 committed to and capable of implementing the plan. The plan shall include an
26 education and outreach component to ensure that users of the product are aware of
27 available collection opportunities and legal requirements for management of the
28 product once it becomes a waste. An exemption granted pursuant to subdivision (b)
29 shall become null and void if the manufacturer, individually, or in conjunction with
30 an industry or trade group, has not implemented the plan submitted in support of the
31 exemption request within six months of the effective date of the exemption.

32 (7) A copy of all similar exemption requests, including supporting documentation,
33 submitted by the applicant to another state, and a copy of that state's response to the
34 exemption request.

35 (d) A manufacturer or trade group that requests an exemption, or an exemption
36 renewal, pursuant to subdivision (b) shall enter into a written agreement with the
37 department pursuant to the procedures set ~~forth~~ forth in Article 9.2 (commencing
38 with Section 25206.1), for reimbursement of all costs incurred by the department in
39 processing and responding to the request.

40 (e) Trade secrets, as defined in Section 25173, that are identified at the time of
41 submission by a manufacturer or trade group, shall be treated as confidential as
42 required by department procedures established pursuant to Section 25173. Any
43 information that is not a trade secret, as defined in Section 25173, or that has not

1 been identified by the manufacturer as a trade secret, shall be made available to the
2 public upon request pursuant to the California Public Records Act (~~Chapter 3.5~~
3 ~~(commencing with Section 6250)~~ of Division 10 (commencing with
4 Section 7920.000) of Title 1 of the Government Code).

5 (f)(1) The department shall grant or deny an exemption requested pursuant to
6 subdivision (b) no later than 180 calendar days after receiving the exemption request
7 and all information determined by the department to be necessary to determine if all
8 of the conditions specified in subdivision (b) are met.

9 (2) An exemption shall not be deemed to be granted if the department fails to grant
10 or deny the exemption request within the time limit specified in paragraph (1)

11 (3) Nothing in this subdivision shall preclude the applicant and the department
12 from mutually agreeing to an extension of the time limit specified in paragraph (1).

13 **Comment.** Section 25214.8.5 is amended to reflect nonsubstantive recodification of the
14 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
15 Comm'n Reports __ (2019).

16 The section is also amended to correct a spelling error.

17 **§ 25214.17 (amended). Access to information relating to package or packaging component**

18 SEC. _____. Section 25214.17 of the Health and Safety Code is amended to read:

19 25214.17. (a) Except as provided in subdivision (b), the department, pursuant to
20 the California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of
21 Division 10 (commencing with Section 7920.000) of Title 1 of the
22 Government Code), shall provide the public with access to all information relating
23 to a package or packaging component that has been submitted to the department by
24 a manufacturer or supplier of a package or packaging component pursuant to this
25 article.

26 (b)(1) The department shall keep confidential any information identified by the
27 manufacturer or supplier, pursuant to paragraph (2), as a trade secret, as defined in
28 Section 25173, in accordance with departmental procedures that have been adopted
29 pursuant to Section 25173, if the department determines that this information meets
30 that definition of a trade secret.

31 (2) A manufacturer or supplier providing information to the department pursuant
32 to this article shall, at the time of submission, identify all information that the
33 manufacturer or supplier believes is a trade secret. The department shall make
34 available to the public any information that is not a trade secret.

35 **Comment.** Section 25214.17 is amended to reflect nonsubstantive recodification of the
36 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
37 Comm'n Reports __ (2019).

38 **§ 25257 (amended). Trade secrets**

39 SEC. _____. Section 25257 of the Health and Safety Code is amended to read:

40 25257. (a) A person providing information pursuant to this article may, at the time
41 of submission, identify a portion of the information submitted to the department as
42 a trade secret and, upon the written request of the department, shall provide support

1 for the claim that the information is a trade secret. Except as provided in subdivision
2 (d), a state agency shall not release to the public, subject information supplied
3 pursuant to this article that is a trade secret, and that is so identified at the time of
4 submission, in accordance with ~~Section 6254.7~~ Sections 7924.510 and 7924.700 of
5 the Government Code and Section 1060 of the Evidence Code.

6 (b) This section does not prohibit the exchange of a properly designated trade
7 secret between public agencies, if the trade secret is relevant and necessary to the
8 exercise of the agency's jurisdiction and the public agency exchanging the trade
9 secrets complies with this section. An employee of the department that has access
10 to a properly designated trade secret shall maintain the confidentiality of that trade
11 secret by complying with this section.

12 (c) Information not identified as a trade secret pursuant to subdivision (a) shall be
13 available to the public unless exempted from disclosure by other provisions of law.
14 The fact that information is claimed to be a trade secret is public information.

15 (d)(1) Upon receipt of a request for the release of information that has been
16 claimed to be a trade secret, the department shall immediately notify the person who
17 submitted the information. Based on the request, the department shall determine
18 whether or not the information claimed to be a trade secret is to be released to the
19 public.

20 (2) The department shall make the determination specified in paragraph (1), no
21 later than 60 days after the date the department receives the request for disclosure,
22 but not before 30 days following the notification of the person who submitted the
23 information.

24 (3) If the department decides that the information requested pursuant to this
25 subdivision should be made public, the department shall provide the person who
26 submitted the information 30 days' notice prior to public disclosure of the
27 information, unless, prior to the expiration of the 30-day period, the person who
28 submitted the information obtains an action in an appropriate court for a declaratory
29 judgment that the information is subject to protection under this section or for a
30 preliminary injunction prohibiting disclosure of the information to the public and
31 promptly notifies the department of that action.

32 (e) This section does not authorize a person to refuse to disclose to the department
33 information required to be submitted to the department pursuant to this article.

34 (f) This section does not apply to hazardous trait submissions for chemicals and
35 chemical ingredients pursuant to this article.

36 **Comment.** Section 25257 is amended to reflect nonsubstantive recodification of the California
37 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
38 Reports __ (2019).

39 **§ 25358.7 (amended). Public participation in response actions**

40 SEC. ____. Section 25358.7 of the Health and Safety Code is amended to read:

41 25358.7. (a) The department or the regional board, as appropriate, shall take the
42 actions specified in this section to provide an opportunity for meaningful public

1 participation in response actions undertaken for sites listed pursuant to Section
2 25356.

3 (b) The department, or the regional board, as appropriate, shall inform the public,
4 and in particular, persons living in close proximity to a hazardous substance release
5 site listed pursuant to Section 25356, of the existence of the site and the
6 department's or regional board's intention to conduct a response action at the site,
7 and shall conduct a baseline community survey to determine the level of public
8 interest and desire for involvement in the department's or regional board's activities,
9 and to solicit concerns and information regarding the site from the affected
10 community. Based on the results of the baseline survey, the department or regional
11 board shall develop a public participation plan that shall establish appropriate
12 communication and outreach measures commensurate with the level of interest
13 expressed by survey respondents. The public participation plan shall be updated as
14 necessary to reflect any significant changes in the degree of public interest as the
15 site investigation and cleanup process moves toward completion.

16 (c) The department or regional board shall provide any person affected by a
17 response action undertaken for sites listed pursuant to Section 25356 with the
18 opportunity to participate in the department's or regional board's decisionmaking
19 process regarding that action by taking all of the following actions:

20 (1) Provide access to information ~~which~~ that the department or regional board is
21 required to release pursuant to the California Public Records Act (~~Chapter 3.5~~
22 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
23 Section 7920.000) of Title 1 of the Government Code), relating to the action, except
24 for the following:

25 (A) Trade secrets, as defined in subdivision (a) of Section 25358.2.

26 (B) Business financial data and information, as specified in subdivision (c) of
27 Section 25358.6.

28 (C) Information ~~which~~ that the department or regional board is prohibited from
29 releasing pursuant to any state or federal law.

30 (2) Provide factsheets, based on the expressed level of public interest, regarding
31 plans to conduct the major elements of the site investigation and response actions.
32 The factsheets shall present the relevant information in nontechnical language and
33 shall be detailed enough to provide interested persons with a good understanding of
34 the planned activities. The factsheets shall be made available in languages other than
35 English if appropriate.

36 (3) Provide notification, upon request, of any public meetings held by the
37 department or regional board concerning the action.

38 (4) Provide the opportunity to attend and to participate at those public meetings.

39 (5) Based on the results of the baseline community survey, provide opportunities
40 for public involvement at key stages of the response action process, including the
41 health risk assessment, the preliminary assessment, the site inspection, the remedial
42 investigation, and the feasibility study stages of the process. If the department or
43 regional board determines that public meetings or other opportunities for public

1 comment are not appropriate at any of the stages listed in this section, the
2 department or regional board shall provide notice of that decision to the affected
3 community.

4 (d) The department or regional board shall develop and make available to the
5 public a schedule of activities for each site for which remedial action is expected to
6 be taken by the department or regional board pursuant to this chapter and shall make
7 available to the public any plan provided to the department or regional board by any
8 responsible party, unless the department is prohibited from releasing the information
9 pursuant to any state or federal law.

10 (e) In making decisions regarding the methods to be used for removal or remedial
11 actions taken pursuant to this chapter, the department or regional board shall
12 incorporate or respond in writing to the advice of persons affected by the actions.

13 (f) This section does not apply to emergency actions taken pursuant to Section
14 25354.

15 **Comment.** Section 25358.7 is amended to reflect nonsubstantive recodification of the California
16 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
17 Reports __ (2019).

18 The section is also amended to make grammatical corrections.

19 **§ 25501 (amended). Definitions**

20 SEC. _____. Section 25501 of the Health and Safety Code is amended to read:

21 25501. Unless the context indicates otherwise, the following definitions govern
22 the construction of this article:

23 (a) “Agricultural handler” means a business operating a farm that is subject to the
24 exemption specified in Section 25507.1.

25 (b) “Area plan” means a plan established pursuant to Section 25503 by a unified
26 program agency for emergency response to a release or threatened release of a
27 hazardous material within a city or county.

28 (c) “Business” means all of the following:

29 (1) An employer, self-employed individual, trust, firm, joint stock company,
30 corporation, partnership, limited liability partnership or company, or other business
31 entity.

32 (2) A business organized for profit and a nonprofit business.

33 (3) The federal government, to the extent authorized by law.

34 (4) An agency, department, office, board, commission, or bureau of state
35 government, including, but not limited to, the campuses of the California
36 Community Colleges, the California State University, and the University of
37 California.

38 (5) An agency, department, office, board, commission, or bureau of a city, county,
39 or district.

40 (6) A handler that operates or owns a unified program facility.

41 (d) “Business plan” means a separate plan for each unified program facility, site,
42 or branch of a business that meets the requirements of Section 25505.

1 (e)(1) “Certified unified program agency” or “CUPA” means the agency certified
2 by the secretary to implement the unified program specified in Chapter 6.11
3 (commencing with Section 25404) within a jurisdiction.

4 (2) “Participating agency” or “PA” means an agency that has a written agreement
5 with the CUPA pursuant to subdivision (d) of Section 25404.3, and is approved by
6 the secretary, to implement or enforce one or more of the unified program elements
7 specified in paragraphs (4) and (5) of subdivision (c) of Section 25404, in
8 accordance with Sections 25404.1 and 25404.2.

9 (3) “Unified program agency” or “UPA” means the CUPA, or its participating
10 agencies to the extent each PA has been designated by the CUPA, pursuant to a
11 written agreement, to implement or enforce a particular unified program element
12 specified in paragraphs (4) and (5) of subdivision (c) of Section 25404. For purposes
13 of this article and Article 2 (commencing with Section 25531), the UPAs have the
14 responsibility and authority, to the extent provided by this article and Article 2
15 (commencing with Section 25531) and Sections 25404.1 and 25404.2, to implement
16 and enforce only those requirements of this article and Article 2 (commencing with
17 Section 25531) listed in paragraphs (4) and (5) of subdivision (c) of Section 25404.

18 (4) The UPAs also have the responsibility and authority, to the extent provided by
19 this article and Article 2 (commencing with Section 25531) and Sections 25404.1
20 and 25404.2, to implement and enforce the regulations adopted to implement the
21 requirements of this article and Article 2 (commencing with Section 25531) listed
22 in paragraphs (4) and (5) of subdivision (c) of Section 25404. After a CUPA has
23 been certified by the secretary, the unified program agencies shall be the only local
24 agencies authorized to enforce the requirements of this article and Article 2
25 (commencing with Section 25531) listed in paragraphs (4) and (5) of subdivision
26 (c) of Section 25404 within the jurisdiction of the CUPA.

27 (f) “City” includes any city and county.

28 (g) “Chemical name” means the scientific designation of a substance in
29 accordance with the nomenclature system developed by the International Union of
30 Pure and Applied Chemistry or the system developed by the Chemical Abstracts
31 Service.

32 (h) “Common name” means any designation or identification, such as a code
33 name, code number, trade name, or brand name, used to identify a substance by
34 other than its chemical name.

35 (i) “Compressed gas” means a material, or mixture of materials, that meets either
36 of the following:

37 (1) The definition of compressed gas or cryogenic fluid found in the California
38 Fire Code.

39 (2) Compressed gas that is regulated pursuant to Part 1 (commencing with Section
40 6300) of Division 5 of the Labor Code.

41 (j) “Consumer product” means a commodity used for personal, family, or
42 household purposes, or is present in the same form, concentration, and quantity as
43 a product prepackaged for distribution to and use by the general public.

1 (k) “Emergency response personnel” means a public employee, including, but not
2 limited to, a firefighter or emergency rescue personnel, as defined in Section 245.1
3 of the Penal Code, or personnel of a local emergency medical services (EMS)
4 agency, as designated pursuant to Section 1797.200, who is responsible for
5 response, mitigation, or recovery activities in a medical, fire, or hazardous material
6 incident, or natural disaster where public health, public safety, or the environment
7 may be impacted.

8 (l) “Handle” means all of the following:

9 (1)(A) To use, generate, process, produce, package, treat, store, emit, discharge,
10 or dispose of a hazardous material in any fashion.

11 (B) For purposes of subparagraph (A), “store” does not include the storage of
12 hazardous materials incidental to transportation, as defined in Title 49 of the Code
13 of Federal Regulations, with regard to the inventory requirements of Section 25506.

14 (2)(A) The use or potential use of a quantity of hazardous material by the
15 connection of a marine vessel, tank vehicle, tank car, or container to a system or
16 process for any purpose.

17 (B) For purposes of subparagraph (A), the use or potential use does not include
18 the immediate transfer to or from an approved atmospheric tank or approved
19 portable tank that is regulated as loading or unloading incidental to transportation
20 by Title 49 of the Code of Federal Regulations.

21 (m) “Handler” means a business that handles a hazardous material.

22 (n)(1) “Hazardous material” means a material listed in paragraph (2) that, because
23 of its quantity, concentration, or physical or chemical characteristics, poses a
24 significant present or potential hazard to human health and safety or to the
25 environment if released into the workplace or the environment, or a material
26 specified in an ordinance adopted pursuant to paragraph (3).

27 (2) Hazardous materials include all of the following:

28 (A) A substance or product for which the manufacturer or producer is required to
29 prepare a material safety data sheet pursuant to the Hazardous Substances
30 Information and Training Act (Chapter 2.5 (commencing with Section 6360) of Part
31 1 of Division 5 of the Labor Code) or pursuant to any applicable federal law or
32 regulation.

33 (B) A substance listed as a radioactive material in Appendix B of Part 30
34 (commencing with Section 30.1) of Title 10 of the Code of Federal Regulations, as
35 maintained and updated by the Nuclear Regulatory Commission.

36 (C) A substance listed pursuant to Title 49 of the Code of Federal Regulations.

37 (D) A substance listed in Section 339 of Title 8 of the California Code of
38 Regulations.

39 (E) A material listed as a hazardous waste, as defined by Sections 25115, 25117,
40 and 25316.

41 (3) The governing body of a unified program agency may adopt an ordinance that
42 provides that, within the jurisdiction of the unified program agency, a material not
43 listed in paragraph (2) is a hazardous material for purposes of this article if a handler

1 has a reasonable basis for believing that the material would be injurious to the health
2 and safety of persons or harmful to the environment if released into the workplace
3 or the environment, and requests the governing body of the unified program agency
4 to adopt that ordinance, or if the governing body of the unified program agency has
5 a reasonable basis for believing that the material would be injurious to the health
6 and safety of persons or harmful to the environment if released into the workplace
7 or the environment. The handler or the unified program agency shall notify the
8 secretary no later than 30 days after the date an ordinance is adopted pursuant to this
9 paragraph.

10 (o) “Office” means the Office of Emergency Services.

11 (p) “Release” means any spilling, leaking, pumping, pouring, emitting, emptying,
12 discharging, injecting, escaping, leaching, dumping, or disposing into the
13 environment, unless permitted or authorized by a regulatory agency.

14 (q) “Retail establishment” means a business that sells consumer products
15 prepackaged for distribution to, and intended for use by, the general public. A retail
16 establishment may include storage areas or storerooms in establishments that are
17 separated from shelves for display areas but maintained within the physical confines
18 of the retail establishments. A retail establishment does not include a pest control
19 dealer, as defined in Section 11407 of the Food and Agricultural Code.

20 (r) “Secretary” means the Secretary for Environmental Protection.

21 (s) “Statewide information management system” means the statewide information
22 management system established pursuant to subdivision (e) of Section 25404 that
23 provides for the combination of state and local information management systems
24 for the purposes of managing unified program data.

25 (t) “Threatened release” means a condition, circumstance, or incident making it
26 necessary to take immediate action to prevent, reduce, or mitigate a release with the
27 potential to cause damage or harm to persons, property, or the environment.

28 (u) “Trade secret” means trade secrets as defined in either ~~subdivision (d) of~~
29 ~~Section 6254.7~~ subdivision (f) of Section 7924.510 of the Government Code or
30 Section 1061 of the Evidence Code.

31 (v) “Unified program facility” means all contiguous land and structures, other
32 appurtenances, and improvements on the land that are subject to the requirements
33 of paragraphs (4) and (5) of subdivision (c) of Section 25404. For purposes of this
34 article, “facility” has the same meaning as unified program facility.

35 **Comment.** Section 25501 is amended to reflect nonsubstantive recodification of the California
36 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
37 Reports __ (2019).

38 **§ 25512 (amended). Trade secret**

39 SEC. _____. Section 25512 of the Health and Safety Code is amended to read:

40 25512. (a) As used in this section, “trade secret” means a trade secret as defined
41 in either ~~subdivision (d) of Section 6254.7~~ subdivision (f) of Section 7924.510 of
42 the Government Code or Section 1061 of the Evidence Code.

1 (b)(1) If a business believes that the inventory required by this article involves the
2 release of a trade secret, the business shall nevertheless provide this information to
3 the unified program agency, and shall notify the unified program agency in writing
4 of that belief on the inventory form.

5 (2) Subject to subdivisions (d) and (e), the unified program agency shall protect
6 from disclosure any information designated as a trade secret by the business
7 pursuant to paragraph (1).

8 (c)(1) Upon the receipt of a request for the release of information to the public
9 that includes information that the business has notified the unified program agency
10 is a trade secret pursuant to paragraph (1) of subdivision (b), the unified program
11 agency shall notify the business in writing of the request by certified mail, return
12 receipt requested.

13 (2) The unified program agency shall release the requested information to the
14 public 30 days or more after the date of mailing to the business the notice of the
15 request for information, unless, prior to the expiration of the 30-day period, the
16 business files an action in an appropriate court for a declaratory judgment that the
17 information is subject to protection under subdivision (b) or for an injunction
18 prohibiting disclosure of the information to the public, and promptly notifies the
19 unified program agency of that action.

20 (3) This subdivision does not permit a business to refuse to disclose the
21 information required pursuant to this section to the unified program agency.

22 (d) Except as provided in subdivision (c), any information that has been
23 designated as a trade secret by a business is confidential information for purposes
24 of this section and shall not be disclosed to anyone except the following:

25 (1) An officer or employee of the county, city, state, or the United States, in
26 connection with the official duties of that officer or employee under any law for the
27 protection of health, or contractors with the county, city, or state and their
28 employees if, in the opinion of the unified program agency, disclosure is necessary
29 and required for the satisfactory performance of a contract, for performance of work,
30 or to protect the health and safety of the employees of the contractor.

31 (2) A physician if the physician certifies in writing to the unified program agency
32 that the information is necessary to the medical treatment of the physician's patient.

33 (e) A physician who, by virtue of having obtained possession of, or access to,
34 confidential information, and who, knowing that disclosure of the information to the
35 general public is prohibited by this section, knowingly and willfully discloses the
36 information in any manner to a person not entitled to receive it, is guilty of a
37 misdemeanor.

38 (f) An officer or employee of the county or city, or former officer or employee
39 who, by virtue of that employment or official position, has possession of, or has
40 access to, confidential information, and who, knowing that disclosure of the
41 information to the general public is prohibited by this section, knowingly and
42 willfully discloses the information in any manner to a person not entitled to receive
43 it, is guilty of a misdemeanor. A contractor with the county or city and an employee

1 of the contractor, who has been furnished information as authorized by this section,
2 shall be considered an employee of the county or city for purposes of this section.

3 **Comment.** Section 25512 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
5 Reports __ (2019).

6 **§ 25538 (amended). Trade secret**

7 SEC. _____. Section 25538 of the Health and Safety Code is amended to read:

8 25538. (a) If a stationary source believes that any information required to be
9 reported, submitted, or otherwise provided to the administering agency pursuant to
10 this article involves the release of a trade secret, the stationary source shall provide
11 the information to the administering agency and shall notify the administering
12 agency in writing of that belief. Upon receipt of a claim of trade secret related to an
13 RMP, the administering agency shall review the claim and shall segregate properly
14 substantiated trade secret information from information that shall be made available
15 to the public upon request in accordance with the California Public Records Act
16 (~~Chapter 3.5 (commencing with Section 6250), Division 7~~ Division 10
17 (commencing with Section 7920.000)), Title 1, Government Code). As used in this
18 section, “trade secret” has the same meaning as in ~~subdivision (d) of Section 6254.7~~
19 subdivision (f) of Section 7924.510 of the Government Code and Section 1060 of
20 the Evidence Code.

21 (b) Except as otherwise specified in this section, the administering agency may
22 not disclose any properly substantiated trade secret that is so designated by the
23 owner or operator of a stationary source.

24 (c) The administering agency may disclose trade secrets received by the
25 administering agency pursuant to this article to authorized officers or employees of
26 other governmental agencies only in connection with the official duties of that
27 officer or employee pursuant to any law for the protection of health and safety.

28 (d) Any officer or employee or former officer or employee of the administering
29 agency or any other government agency who, because of that employment or official
30 position, has possession of or access to information designated as a trade secret
31 pursuant to this section shall not knowingly and willfully disclose the information
32 in any manner to any person not authorized to receive the information pursuant to
33 this section. Notwithstanding Section 25515, any person who violates this
34 subdivision, and who knows that disclosure of this information to the general public
35 is prohibited by the section, shall, upon conviction, be punished by imprisonment in
36 the county jail for not more than six months or by a fine of not more than one
37 thousand dollars (\$1,000), or by both that fine and imprisonment.

38 (e) Any information prohibited from disclosure pursuant to any federal statute or
39 regulation shall not be disclosed.

40 (f) This section does not authorize any stationary source to refuse to disclose to
41 the administering agency any information required pursuant to this article.

1 (g)(1) Upon receipt of a request for the release of information to the public that
2 includes information that the stationary source has notified the administering agency
3 is a trade secret pursuant to subdivision (a), the administering agency shall notify
4 the stationary source in writing of the request by certified mail, return receipt
5 requested. The owner or operator of the stationary source shall have 30 days from
6 receipt of the notification to provide the administering agency with any materials or
7 information intended to supplement the information submitted pursuant to
8 subdivision (a) and needed to substantiate the claim of trade secret. The
9 administering agency shall review the claim of trade secret and shall determine
10 whether the claim is properly substantiated.

11 (2) The administering agency shall inform the stationary source in writing, by
12 certified mail, return receipt requested, of any determination by the administering
13 agency that some, or all, of a claim of trade secret has not been substantiated. Not
14 earlier than 30 days after the receipt by a stationary source of notice of the
15 determination, the administering agency shall release the information to the public,
16 unless, prior to the expiration of the 30-day period, the stationary source files an
17 action in an appropriate court for a declaratory judgment that the information is
18 subject to protection under subdivision (b) or for an injunction prohibiting
19 disclosure of the information to the public, and promptly notifies the administering
20 agency of that action.

21 **Comment.** Section 25538 is amended to reflect nonsubstantive recodification of the California
22 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
23 Reports __ (2019).

24 **§ 25968 (amended). Condom testing data**

25 SEC. _____. Section 25968 of the Health and Safety Code is amended to read:

26 25968. (a) The State Department of Health Services shall annually obtain from
27 the federal Food and Drug Administration any condom testing data, developed
28 under Compliance Policy Guide 7124.21, which is publicly available.

29 (b) The state department shall make this information available pursuant to the
30 provisions of the California Public Records Act, ~~Chapter 3.5 (commencing with~~
31 ~~Section 6250) of Title 1 of Division 7~~ Division 10 (commencing with Section
32 7920.000) of the Government Code.

33 **Comment.** Section 25968 is amended to reflect nonsubstantive recodification of the California
34 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
35 Reports __ (2019).

36 **§ 34191.55 (amended). Compliance of beneficiary district with Brown Act and CPRA**

37 SEC. _____. Section 34191.55 of the Health and Safety Code is amended to read:

38 34191.55. (a) A beneficiary district shall comply with the Ralph M. Brown Act
39 (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of
40 the Government Code) and the California Public Records Act (~~Chapter 3.5~~
41 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
42 Section 7920.000) of Title 1 of the Government Code).

1 (b) When a beneficiary district ceases to exist pursuant to subdivision (b) of
2 Section 34191.35, a public record of the beneficiary district shall be the property of
3 the city or county that rejected its distributions of property tax revenues pursuant to
4 Section 34191.45.

5 **Comment.** Section 34191.55 is amended to reflect nonsubstantive recodification of the
6 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
7 Comm'n Reports __ (2019).

8 **§ 39660 (amended). Evaluation of health effects of substance other than pesticide**

9 SEC. _____. Section 39660 of the Health and Safety Code is amended to read:

10 39660. (a) Upon the request of the state board, the office, in consultation with and
11 with the participation of the state board, shall evaluate the health effects of and
12 prepare recommendations regarding substances, other than pesticides in their
13 pesticidal use, which may be or are emitted into the ambient air of California and
14 that may be determined to be toxic air contaminants.

15 (b) In conducting this evaluation, the office shall consider all available scientific
16 data, including, but not limited to, relevant data provided by the state board, the
17 State Department of Health Services, the Occupational Safety and Health Division
18 of the Department of Industrial Relations, the Department of Pesticide Regulation,
19 international and federal health agencies, private industry, academic researchers,
20 and public health and environmental organizations. The evaluation shall be
21 performed using current principles, practices, and methods used by public health
22 professionals who are experienced practitioners in the fields of epidemiology,
23 human health effects assessment, risk assessment, and toxicity.

24 (c)(1) The evaluation shall assess the availability and quality of data on health
25 effects, including potency, mode of action, and other relevant biological factors, of
26 the substance, and shall, to the extent that information is available, assess all of the
27 following:

28 (A) Exposure patterns among infants and children that are likely to result in
29 disproportionately high exposure to ambient air pollutants in comparison to the
30 general population.

31 (B) Special susceptibility of infants and children to ambient air pollutants in
32 comparison to the general population.

33 (C) The effects on infants and children of exposure to toxic air contaminants and
34 other substances that have a common mechanism of toxicity.

35 (D) The interaction of multiple air pollutants on infants and children, including
36 the interaction between criteria air pollutants and toxic air contaminants.

37 (2) The evaluation shall also contain an estimate of the levels of exposure that
38 may cause or contribute to adverse health effects. If it can be established that a
39 threshold of adverse health effects exists, the estimate shall include both of the
40 following factors:

41 (A) The exposure level below which no adverse health effects are anticipated.

1 (B) An ample margin of safety that accounts for the variable effects that
2 heterogeneous human populations exposed to the substance under evaluation may
3 experience, the uncertainties associated with the applicability of the data to human
4 beings, and the completeness and quality of the information available on potential
5 human exposure to the substance. In cases in which there is no threshold of
6 significant adverse health effects, the office shall determine the range of risk to
7 humans resulting from current or anticipated exposure to the substance.

8 (3) The scientific basis or scientific portion of the method used by the office to
9 assess the factors set forth in this subdivision shall be reviewed in a manner
10 consistent with this chapter by the Scientific Review Panel on Toxic Air
11 Contaminants established pursuant to Article 5 (commencing with Section 39670).
12 Any person may submit any information for consideration by the panel, which may
13 receive oral testimony.

14 (d) The office shall submit its written evaluation and recommendations to the state
15 board within 90 days after receiving the request of the state board pursuant to
16 subdivision (a). The office may, however, petition the state board for an extension
17 of the deadline, not to exceed 30 days, setting forth its statement of the reasons that
18 prevent the office from completing its evaluation and recommendations within 90
19 days. Upon receipt of a request for extension of, or noncompliance with, the
20 deadline contained in this section, the state board shall immediately transmit to the
21 Assembly Committee on Rules and the Senate Committee on Rules, for transmittal
22 to the appropriate standing, select, or joint committee of the Legislature, a statement
23 of reasons for extension of the deadline, along with copies of the office's statement
24 of reasons that prevent it from completing its evaluation and recommendations in a
25 timely manner.

26 (e)(1) The state board or a district may request, and any person shall provide,
27 information on any substance that is or may be under evaluation and that is
28 manufactured, distributed, emitted, or used by the person of whom the request is
29 made, in order to carry out its responsibilities pursuant to this chapter. To the extent
30 practical, the state board or a district may collect the information in aggregate form
31 or in any other manner designed to protect trade secrets.

32 (2) Any person providing information pursuant to this subdivision may, at the
33 time of submission, identify a portion of the information submitted to the state board
34 or a district as a trade secret and shall support the claim of a trade secret, upon the
35 written request of the state board or district board. Subject to Section 1060 of the
36 Evidence Code, information supplied that is a trade secret, as specified in Section
37 ~~6254.7~~ 7924.510 of the Government Code, and that is so marked at the time of
38 submission, shall not be released to any member of the public. This section does not
39 prohibit the exchange of properly designated trade secrets between public agencies
40 when those trade secrets are relevant and necessary to the exercise of their
41 jurisdiction if the public agencies exchanging those trade secrets preserve the
42 protections afforded that information by this paragraph.

1 (3) Any information not identified as a trade secret shall be available to the public
2 unless exempted from disclosure by other provisions of law. The fact that
3 information is claimed to be a trade secret is public information. Upon receipt of a
4 request for the release of information that has been claimed to be a trade secret, the
5 state board or district shall immediately notify the person who submitted the
6 information, and shall determine whether or not the information claimed to be a
7 trade secret is to be released to the public. The state board or district board, as the
8 case may be, shall make its determination within 60 days after receiving the request
9 for disclosure, but not before 30 days following the notification of the person who
10 submitted the information. If the state board or district decides to make the
11 information public, it shall provide the person who submitted the information 10
12 days' notice prior to public disclosure of the information.

13 (f) The office and the state board shall give priority to the evaluation and
14 regulation of substances based on factors related to the risk of harm to public health,
15 amount or potential amount of emissions, manner of, and exposure to, usage of the
16 substance in California, persistence in the atmosphere, and ambient concentrations
17 in the community. In determining the importance of these factors, the office and the
18 state board shall consider all of the following information, to the extent that it is
19 available:

20 (1) Research and monitoring data collected by the state board and the districts
21 pursuant to Sections 39607, 39617.5, 39701, and 40715, and by the United States
22 Environmental Protection Agency pursuant to paragraph (2) of subsection (k) of
23 Section 112 of the federal act (42 U.S.C. Sec. 7412(k)(2)).

24 (2) Emissions inventory data reported for substances subject to Part 6
25 (commencing with Section 44300) and the risk assessments prepared for those
26 substances.

27 (3) Toxic chemical release data reported to the state emergency response
28 commission pursuant to Section 313 of the Emergency Planning and Community
29 Right-To-Know Act of 1986 (42 U.S.C. Sec. 11023) and Section 6607 of the
30 Pollution Prevention Act of 1990 (42 U.S.C. Sec. 13106).

31 (4) Information on estimated actual exposures to substances based on geographic
32 and demographic data and on data derived from analytical methods that measure the
33 dispersion and concentrations of substances in ambient air.

34 **Comment.** Section 39660 is amended to reflect nonsubstantive recodification of the California
35 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
36 Reports __ (2019).

37 **§ 40440.5 (amended). Notice of public hearing of south coast district board on rule or**
38 **regulation relating to air quality objective**

39 SEC. ____. Section 40440.5 of the Health and Safety Code is amended to read:

40 40440.5. (a) Notice of the time and place of a public hearing of the south coast
41 district board to adopt, amend, or repeal any rule or regulation relating to an air
42 quality objective shall be given not less than 30 days prior thereto and,

1 notwithstanding subdivision (b) of Section 40725, shall be published in each county
2 in the south coast district in accordance with the requirements of Section 6061 of
3 the Government Code. The period of notice shall commence on the first day of
4 publication.

5 (b) In addition to the requirements of subdivision (b) of Section 40725, notice
6 shall be mailed to every person who filed a written request for notice of proposed
7 regulatory action with the south coast district, every person who requested notice
8 for, or registered at, the workshop, if any, held in connection with the development
9 of the proposed rule or regulation, and any person the south coast district believes
10 to be interested in the proposed rule or regulation. The inadvertent failure to mail
11 notice to any particular person as provided in this subdivision shall not invalidate
12 any action taken by the south coast district board.

13 (c) In addition to the summary description of the effect of the proposal, as required
14 by subdivision (b) of Section 40725, the notice shall include the following:

15 (1) A description of the air quality objective that the proposed rule or regulation
16 is intended to achieve and the reason or reasons for the proposed rule or regulation.

17 (2) A list of supporting information, documents, and other materials relevant to
18 the proposed rule or regulation, prepared by the south coast district or at its direction,
19 any environmental assessment, and the name, address, and telephone number of the
20 district officer or employee from whom copies of the materials may be obtained.

21 (3) A statement that a staff report on the proposed rule or regulation has been
22 prepared, and the name, address, and telephone number of the district officer or
23 employee from whom a copy of the report may be obtained. Whenever the proposed
24 rule or regulation will significantly affect air quality or emissions limitations, the
25 staff report shall include the full text of the proposed rule or regulation, an analysis
26 of alternative control measures, a list of reference materials used in developing the
27 proposed rule or regulation, an environmental assessment, exhibits, and draft
28 findings for consideration by the south coast district board pursuant to Section
29 40727. Further, if an environmental assessment is prepared, the staff report shall
30 also include social, economic, and public health analyses.

31 (d) Regardless of whether a workshop was previously conducted on the subject of
32 the proposed rule or regulation, the south coast district may conduct one or more
33 supplemental workshops prior to the public hearing on the proposed rule or
34 regulation.

35 (e) If the south coast district board makes changes in the text of the proposed rule
36 or regulation that was the subject of notice given pursuant to this section, further
37 consideration of the rule or regulation shall be governed by Section 40726.

38 (f) This section is not intended to change, and shall not be construed as changing,
39 any entitlement or protection conferred by the California Public Records Act
40 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
41 (commencing with Section 7920.000) of Title 1 of the Government Code).

1 **Comment.** Section 40440.5 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 **§ 40440.7 (amended). Public workshops to be conducted by south coast district**

5 SEC. ____. Section 40440.7 of the Health and Safety Code is amended to read:

6 40440.7. (a) Whenever the south coast district intends to propose the adoption,
7 amendment, or repeal of a rule or regulation that will significantly affect air quality
8 or emissions limitations, the south coast district shall conduct one or more public
9 workshops.

10 (b) Notice of the time and place of the first workshop shall be given not less than
11 75 days prior to the meeting at which the south coast district board will consider the
12 proposed rule or regulation by publication in each county in the south coast district
13 pursuant to Section 6061 of the Government Code and by mail to every person who
14 filed a written request for notice of proposed regulatory action with the south coast
15 district and any person the south coast district believes to be interested in attending
16 the workshop.

17 (c) The notice shall include at least the following:

18 (1) A description of the air quality objective to be discussed.

19 (2) A statement that the workshop is being held for the purposes of soliciting
20 information and suggestions from the public on achieving the air quality objective.

21 (3) A request for submittal of any documents, studies, and reports that may be
22 relevant to the subject of the workshop, and the name, address, and telephone
23 number of the district officer or employee to whom they should be sent.

24 (4) A list of supporting information and documents, including a preliminary staff
25 report, prepared by the south coast district or at its direction, and other materials
26 relevant to the subject of the workshop that are available, and the name, address,
27 and telephone number of the district officer or employee from whom copies of the
28 materials may be obtained.

29 (d) If the south coast district thereafter proposes the adoption, amendment, or
30 repeal of a rule or regulation that was the subject of a workshop, the south coast
31 district shall respond to all written comments submitted during the workshop in
32 preparing the environmental assessment on the proposed rule or regulation.

33 (e) The time and place for a workshop shall be selected on the basis of affording
34 an opportunity to participate to the greatest number of persons expected to be
35 interested in the workshop.

36 (f) The requirements of this section are not intended to restrict the south coast
37 district in conducting other public workshops and other meetings for the exchange
38 of information under circumstances not specifically addressed in this section.

39 (g) A workshop or other meeting shall not constitute consideration of a
40 “regulatory measure” within the meaning of Section 40923.

41 (h) This section is not intended to change, and shall not be construed as changing,
42 any entitlement or protection conferred by the California Public Records Act

1 ~~(Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
2 (commencing with Section 7920.000) of Title 1 of the Government Code).

3 **Comment.** Section 40440.7 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
5 Reports __ (2019).

6 **§ 42303.2 (amended). Customer lists and purchase information**

7 SEC. _____. Section 42303.2 of the Health and Safety Code is amended to read:

8 42303.2. (a)(1) An air pollution control officer, at any time, may, for the purpose
9 of permitting or enforcement actions, require from the in-state or out-of-state
10 supplier, wholesaler, or distributor of volatile organic compounds or chemical
11 substances the use of which results in air contaminants subject to regulation or
12 enforcement by the district, customer lists and chemical types and quantities of those
13 compounds and substances as specified by the district pursuant to subdivision (b)
14 ~~which~~ that are purchased by, or on order for, a specified source operator within the
15 district.

16 (2) The supplier, wholesaler, or distributor shall disclose the information required
17 pursuant to this section to the district.

18 (b) Prior to implementing subdivision (a), an air pollution control officer shall
19 prepare a comprehensive list of volatile organic compounds or chemical substances
20 the use of which results in the emission of air contaminants ~~which~~ that are subject
21 to regulation or enforcement by the district.

22 (c)(1) Any officer or employee of the district or of a district contractor, or former
23 officer or employee, who, by virtue of that employment or official position has
24 possession of, or has access to, any confidential information that is a trade secret,
25 customer list, or supplier name acquired pursuant to this section, and who, knowing
26 that the disclosure of the information to the general public is prohibited by this
27 section, knowingly and willfully discloses the information in any manner to any
28 person not entitled to receive it, is guilty of a misdemeanor punishable by a six
29 month county jail term and a fine not to exceed one thousand dollars (\$1,000).

30 (2) Any officer or employee of the district or of a district contractor, or former
31 officer or employee, who, by virtue of that employment or official position has
32 possession of, or has access to, any other confidential information acquired pursuant
33 to this section, and who, knowing that the disclosure of the information to the
34 general public is prohibited by this section, and who, knowing that the disclosure of
35 the information to the general public is prohibited by this section, knowingly and
36 willfully discloses the information in any manner to any person not entitled to
37 receive it, is guilty of a misdemeanor punishable by a 10-day county jail term or a
38 fine not to exceed five hundred dollars (\$500).

39 (d) The penalties provided in subdivision (c) shall be in addition to any existing
40 civil penalties and remedies available under the law.

41 (e) Except for the purposes of any enforcement or permit action, and except for
42 information obtained from an independent source, all information received or

1 compiled by an air pollution control officer from a supplier, wholesaler, or
2 distributor pursuant to subdivision (a) is confidential for the purposes of ~~Chapter 3.5~~
3 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
4 Section 7920.000) of Title 1 of the Government Code, and shall not be disclosed.

5 **Comment.** Section 42303.2 is amended to reflect nonsubstantive recodification of the California
6 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
7 Reports __ (2019).

8 The section is also amended to insert paragraph labels and make grammatical corrections.

9 **§ 44346 (amended). Trade secret in information for facility diagram**

10 SEC. _____. Section 44346 of the Health and Safety Code is amended to read:

11 44346. (a) If an operator believes that any information required in the facility
12 diagram specified pursuant to subdivision (b) of Section 44342 involves the release
13 of a trade secret, the operator shall nevertheless make the disclosure to the district,
14 and shall notify the district in writing of that belief in the report.

15 (b) Subject to this section, the district shall protect from disclosure any trade
16 secret designated as ~~such a trade secret~~ by the operator, if that trade secret is not a
17 public record.

18 (c) Upon receipt of a request for the release of information to the public ~~which~~
19 that includes information which that the operator has notified the district is a trade
20 secret and ~~which that~~ is not a public record, the following procedure applies:

21 (1) The district shall notify the operator of the request in writing by certified mail,
22 return receipt requested.

23 (2) The district shall release the information to the public, but not earlier than 30
24 days after the date of mailing the notice of the request for information, unless, prior
25 to the expiration of the 30-day period, the operator obtains an action in an
26 appropriate court for a declaratory judgment that the information is subject to
27 protection under this section or for a preliminary injunction prohibiting disclosure
28 of the information to the public and promptly notifies the district of that action.

29 (d) This section does not permit an operator to refuse to disclose the information
30 required pursuant to this part to the district.

31 (e) Any information determined by a court to be a trade secret, and not a public
32 record pursuant to this section, shall not be disclosed to anyone except an officer or
33 employee of the district, the state, or the United States, in connection with the
34 official duties of that officer or employee under any law for the protection of health,
35 or to contractors with the district or the state and its employees if, in the opinion of
36 the district or the state, disclosure is necessary and required for the satisfactory
37 performance of a contract, for performance of work, or to protect the health and
38 safety of the employees of the contractor.

39 (f) Any officer or employee of the district or former officer or employee who, by
40 virtue of that employment or official position, has possession of, or has access to,
41 any trade secret subject to this section, and who, knowing that disclosure of the
42 information to the general public is prohibited by this section, knowingly and

1 willfully discloses the information in any manner to any person not entitled to
2 receive it is guilty of a misdemeanor. Any contractor of the district and any
3 employee of the contractor, who has been furnished information as authorized by
4 this section, shall be considered an employee of the district for purposes of this
5 section.

6 (g) Information certified by appropriate officials of the United States as necessary
7 to be kept secret for national defense purposes shall be accorded the full protections
8 against disclosure as specified by those officials or in accordance with the laws of
9 the United States

10 (h) As used in this section, “trade secret” and “public record” have the meanings
11 and protections given to them by ~~Section 6254.7~~ Sections 7924.510 and 7924.700
12 of the Government Code and Section 1060 of the Evidence Code. All information
13 collected pursuant to this chapter, except for data used to calculate emissions data
14 required in the facility diagram, shall be considered “air pollution emission data,”
15 for the purposes of this section.

16 **Comment.** Section 44346 is amended to reflect nonsubstantive recodification of the California
17 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
18 Reports __ (2019).

19 The section is also amended to make grammatical corrections and another technical change.

20 **§ 51615 (amended). Laws applicable to agency in administration of insurance fund**

21 SEC. ____. Section 51615 of the Health and Safety Code is amended to read:

22 51615. (a) ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
23 10 (commencing with Section 7920.000) of Title 1 of, and Article 9 (commencing
24 with Section 11120) of Chapter 1 of, Chapter 3.5 (commencing with Section 11340)
25 of, Chapter 4 (commencing with Section 11370) of, and Chapter 5 (commencing
26 with Section 11500) of, Part 1 of Division 3 of Title 2 of, the Government Code
27 shall apply to the agency with respect to the administration of the insurance fund.

28 (b) Notwithstanding subdivision (a), the provisions described in that subdivision
29 shall not apply to any of the following:

30 (1) The agency’s activities and records relating to establishing rates and
31 premiums.

32 (2) Bids or contracts for insurance, coinsurance, and reinsurance.

33 (3) Other matters necessary to maintain the competitiveness of the agency in the
34 mortgage insurance industry, including, but not limited to, the development of
35 financial products.

36 **Comment.** Section 51615 is amended to reflect nonsubstantive recodification of the California
37 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
38 Reports __ (2019).

39 **§ 57020 (amended). Trade secret information provided to state agency by manufacturer**

40 SEC. ____. Section 57020 of the Health and Safety Code is amended to read:

41 57020. (a) Notwithstanding ~~Section 6254.7~~ Sections 7924.510 and 7924.700 of
42 the Government Code, if a manufacturer believes that information provided to a

1 state agency pursuant to Section 57019 involves the release of a trade secret, the
2 manufacturer shall make the disclosure to the state agency and notify the state
3 agency in writing of that belief. In its written notice, the manufacturer shall identify
4 the portion of the information submitted to the state agency that it believes is a trade
5 secret and provide documentation supporting its conclusion.

6 (b) Subject to this section, the state agency shall protect from disclosure a trade
7 secret designated as ~~such~~ a trade secret by the manufacturer, if that trade secret is
8 not a public record.

9 (c) Upon receipt of a request for the release of information to the public that
10 includes information that the manufacturer has notified the state agency is a trade
11 secret and that is not a public record, the following procedure applies:

12 (1) The state agency shall notify the manufacturer that disclosed the information
13 to the state agency of the request, in writing by certified mail, return receipt
14 requested.

15 (2) The state agency shall release the information to the public, but not earlier than
16 30 days after the date of mailing the notice of the request for information, unless,
17 prior to the expiration of the 30-day period, the manufacturer obtains an action in
18 an appropriate court for a declaratory judgment that the information is subject to
19 protection under this section or for a preliminary injunction prohibiting disclosure
20 of the information to the public and promptly notifies the state agency of that action.
21 In order to prevent the state agency from releasing the information to the public, the
22 manufacturer shall obtain a declaratory judgment or preliminary injunction within
23 30 days of filing an action for a declaratory judgment or preliminary injunction.

24 (d) This section does not authorize a manufacturer to refuse to disclose to the state
25 agency information required by Section 57019.

26 (e) Any information that a court, pursuant to this section, determines is a trade
27 secret and not a public record, or pending final judgment pursuant to subdivision
28 (c), shall not be disclosed by the state agency to anyone, except to an officer or
29 employee of a city or county, the state, or the United States, or to a contractor with
30 a city or county, or the state, and its employees, if, in the opinion of the state agency,
31 disclosure is necessary and required for the satisfactory performance of a contract,
32 for the performance of work, or to protect the health and safety of the employees of
33 the contractor.

34 (f) The definitions in Section 57018 apply to this section.

35 **Comment.** Section 57020 is amended to reflect nonsubstantive recodification of the California
36 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
37 Reports __ (2019).

38 The section is also amended to make a technical change.

39 **§ 101661 (amended). Powers and duties of Central Coast Hospital Authority**

40 SEC. _____. Section 101661 of the Health and Safety Code is amended to read:

41 101661. (a) The authority, in addition to any other powers granted to the authority
42 pursuant to this chapter, shall have the following powers:

1 (1) To have the duties, privileges, immunities, rights, liabilities, and limitations of
2 a local unit of government within the state.

3 (2) To have perpetual existence.

4 (3) To adopt, have, and use a seal, and to alter it at its pleasure.

5 (4) To sue and be sued in the name of the authority in all actions and proceedings
6 in all courts and tribunals of competent jurisdiction.

7 (5) To purchase, lease, trade, exchange, or otherwise acquire, maintain, hold,
8 improve, mortgage, lease, sell, and dispose of real and personal property of any kind
9 necessary or convenient to perform its functions and fully exercise its powers.

10 (6) To appoint and employ a chief executive officer and other officers and
11 employees that may be necessary or appropriate, including legal counsel, to
12 establish their compensation, provide for their health, retirement, and other
13 employment benefits, and to define the power and duties of officers and employees.

14 (7)(A) To incur indebtedness and to borrow money and issue bonds evidencing
15 the same, including the authority to issue, from time to time, notes and revenue
16 bonds in principal amounts that the authority determines to be necessary to provide
17 sufficient funds for achieving any of its purposes, including, but not limited to,
18 assumption or refinancing of debt service for capital projects eligible for Medi-Cal
19 supplemental payments pursuant to Section 14085.5 of the Welfare and Institutions
20 Code, the payment of interest on notes and bonds of the authority, the establishment
21 of reserves to secure these notes and bonds, and all other expenditures of the
22 authority incident to and necessary or convenient to carry out its purposes and
23 powers.

24 (B) Any notes, bonds, or other securities issued, and the income from them,
25 including any profit from the sale thereof, shall at all times be free from taxation by
26 the state or any agency, political subdivision, or instrumentality of the state.

27 (C) Notwithstanding the provisions of subparagraph (A), for any indebtedness,
28 notes, bonds, or other securities that require voter approval pursuant to state law,
29 the prior approval of the board of supervisors shall be required. Notwithstanding the
30 required prior approval of the board of supervisors, any indebtedness incurred, or
31 notes, bonds, or other securities issued pursuant to this subparagraph shall be the
32 indebtedness, notes, bonds, or securities of the authority and not of the county, and
33 the credit of the county shall not be pledged or relied upon in any manner in order
34 to incur the indebtedness, or issue the notes, bonds, or other securities, unless the
35 board of supervisors explicitly authorizes the use of the county's credit. The
36 authority shall reimburse the county for all costs associated with the county's
37 consideration of the indebtedness, notes, bonds, or securities, and the authority shall
38 defend, indemnify, and hold harmless the county from any and all liability, costs, or
39 expenses arising from or related to the indebtedness, notes, bonds, or securities.

40 (8) To pursue its own credit rating.

41 (9) To enter into any contract or agreement consistent with this chapter or the laws
42 of this state, and to authorize the chief executive officer to enter into contracts,

1 execute all instruments, and do all things necessary or convenient in the exercise of
2 the powers granted in this chapter, and to secure the payment of bonds.

3 (10) To purchase supplies, equipment, materials, property, and services.

4 (11) To establish policies relating to its purposes.

5 (12) To acquire or contract to acquire, rights-of-way, easements, privileges, and
6 property, and to construct, equip, maintain, and operate any and all works or
7 improvements wherever located that are necessary, convenient, or proper to carry
8 out any of the provisions, objects, or purposes of this chapter, and to complete,
9 extend, add to, repair, or otherwise improve any works or improvements acquired
10 by it.

11 (13) To contract for and to accept gifts, grants, and loans of funds, property, or
12 other aid in any form from the federal government, the state, a state agency, or other
13 source, or combination thereof, and to comply, subject to this chapter, with the terms
14 and conditions thereof.

15 (14) To invest surplus money in its own treasury, manage investments, and
16 engage third-party investment managers, in accordance with state law.

17 (15) To arrange for guarantees or insurance of its bonds, notes, or other
18 obligations by the federal or state government or by a private insurer, and to pay the
19 premiums thereof.

20 (16) To engage in managed care contracting, joint ventures, affiliations with other
21 health care facilities, other health care providers and payers, management
22 agreements, or to participate in alliances, purchasing consortia, health insurance
23 pools, accountable care organizations, alternative delivery systems, or other
24 cooperative arrangements, with any public or private entity.

25 (17) To enter into joint powers agreements pursuant to Chapter 5 (commencing
26 with Section 6500) of Division 7 of Title 1 of the Government Code.

27 (18) To establish nonprofit, for profit, or other entities necessary to carry out the
28 duties of the authority.

29 (19) To elect to transfer funds to the state and incur certified public expenditures
30 in support of the Medi-Cal program and other programs for which federal financial
31 participation is available.

32 (20) To use a computerized management information system, including an
33 electronic health records system, in connection with the administration of its
34 facilities.

35 (21) To request that the board of supervisors levy a tax on behalf of the authority.
36 If the board of supervisors approves the proposal to levy the tax, the board shall call
37 the election to seek voter approval and place the appropriate measure on the ballot
38 for that election. The proceeds of these taxes shall be tax proceeds of the authority
39 and not of the county. The authority shall reimburse the county for all costs
40 associated with the county's consideration of these taxes, and shall defend,
41 indemnify, and hold harmless the county from any liability, costs, or expenses
42 arising from or related to the imposition of these taxes.

1 (22) To contract with the county for the provision of indigent care services on
2 behalf of the county. The contract shall specify that county policies consistent with
3 the county's obligations under Section 17000 of the Welfare and Institutions Code
4 shall be applicable. Notwithstanding any other provision of this chapter, the
5 authority shall not undertake any of the county's obligations under Section 17000
6 of the Welfare and Institutions Code, nor shall the authority have an entitlement to
7 receive any revenue for the discharge of the county's obligations, without a written
8 agreement with the county.

9 (23) To engage in other activities that may be in the best interests of the authority
10 and the persons served by the authority, as determined by the board of trustees, in
11 order to respond to changes in the health care industry.

12 (b) The authority shall conform to the following requirements:

13 (1) Be a government entity separate and apart for all purposes from the county
14 and any other public entity, and shall not be considered to be an agency, division,
15 or department of the county or any other public entity. The authority shall not be
16 governed by, or subject to, the policies or operational rules of the county or any
17 other public entity.

18 (2) Be subject to state and federal taxation laws that are applicable to public
19 entities generally, except that the authority may, to the extent permitted by federal
20 law, apply for an exemption from social security taxation if there is a mutual
21 agreement with the exclusive representatives of the affected employees.

22 (3) Comply with the Meyers-Milias-Brown Act (Chapter 10 (commencing with
23 Section 3500) of Division 4 of Title 1 of the Government Code), the Public Records
24 Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
25 (commencing with Section 7920.000) of Title 1 of the Government Code), and the
26 Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2
27 of Title 5 of the Government Code).

28 (4) To the extent the authority is permitted by federal law to participate in the
29 Public Employees' Retirement System, assume the assets and liabilities for Public
30 Employees' Retirement System benefits, consistent with the requirements of
31 Section 20508 and other applicable provisions of Part 3 (commencing with Section
32 20000) of Division 5 of Title 2 of the Government Code and assume workers'
33 compensation liabilities and other employee benefits and liabilities with respect to
34 employees of the authority, unless otherwise agreed to by the authority, the county,
35 and the governing board.

36 (5) Carry professional and general liability insurance or programs to the extent
37 sufficient to cover its activities.

38 (6) Comply with the requirements of Sections 53260 and 53261 of the
39 Government Code.

40 (7) Meet all local, state, and federal data reporting requirements.

41 (8) Be subject to the jurisdiction of the Public Employment Relations Board.

42 (c) Open sessions of the authority constitute official proceedings authorized by
43 law within the meaning of Section 47 of the Civil Code. The privileges set forth in

1 that section with respect to official proceedings apply to open sessions of the
2 authority.

3 (d) The authority is a public agency for purposes of eligibility with respect to
4 grants and other funding and loan guarantee programs. Contributions to the
5 authority are tax deductible to the extent permitted by state and federal law.
6 Nonproprietary income of the authority is exempt from state income taxation.

7 (e) The authority is not a “person” subject to suit under the Cartwright Act
8 (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business
9 and Professions Code).

10 (f) The statutory authority of a board of supervisors to prescribe rules that
11 authorize a county hospital to integrate its services with those of other providers into
12 a system of community service that offers free choice of hospitals to those requiring
13 hospital care, as set forth in Section 14000.2 of the Welfare and Institutions Code,
14 apply to the authority and the board of trustees.

15 (g) Unless otherwise agreed to by the authority and the board of supervisors, or
16 the authority and a governing board, an obligation of the authority, statutory,
17 contractual or otherwise, is the obligation solely of the authority and not the
18 obligation of the county or any other entity, and any contract executed by and
19 between the county and the authority, or any other entity and the authority, shall
20 contain a provision that liabilities or obligations of the authority with respect to its
21 activities pursuant to the contract shall be the liabilities or obligations of the
22 authority and shall not be or become the liabilities or obligations of the county or
23 the other entity, respectively.

24 (h) An obligation of the authority, statutory, contractual or otherwise, is the
25 obligation solely of the authority and not the obligation of the state.

26 (i) In the event of a change of license ownership, the board of trustees shall
27 comply with the obligations of governing bodies of general acute care hospitals
28 generally as set forth in Section 70701 of Title 22 of the California Code of
29 Regulations, as currently written or subsequently amended, as well as the terms and
30 conditions of the license. The authority is the responsible party with respect to
31 compliance with these obligations, terms, and conditions.

32 (j)(1) Provisions of the Evidence Code, the Government Code, including the
33 ~~Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7~~
34 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
35 Code), the Civil Code, the Business and Professions Code, and other applicable law
36 pertaining to the confidentiality of peer review activities of peer review bodies apply
37 to the peer review activities of the authority. Peer review proceedings constitute an
38 official proceeding authorized by law within the meaning of Section 47 of the Civil
39 Code and those privileges set forth in that section with respect to official
40 proceedings apply to peer review proceedings of the authority. If the authority is
41 required by law or contractual obligation to submit to the state or federal
42 government peer review information or information relevant to the credentialing of
43 a participating provider, that submission does not constitute a waiver of

1 confidentiality. The laws pertaining to the confidentiality of peer review activities
2 shall be together construed as extending, to the extent permitted by law, the
3 maximum degree of protection of confidentiality.

4 (2) Notwithstanding any other law, Section 1461 applies to hearings on reports of
5 hospital medical audit or quality assurance committees.

6 (k)(1) A transfer by the county to the authority, or by the governing board to the
7 authority, of the maintenance, operation, and management or ownership of the
8 medical center or the other health care facility, respectively, whether or not the
9 transfer includes the surrendering by the county or the governing board of any
10 existing general acute care hospital license and corresponding application for a
11 change of ownership of the license, does not affect the eligibility of the county or
12 the governing board to undertake, and authorizes the authority, subject to applicable
13 requirements, to do, any of the following:

14 (A) With the written consent of the county, participate in and receive allocations
15 pursuant to the California Health Care for Indigents Program pursuant to Chapter 5
16 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and
17 Institutions Code, or similar programs, as may be identified or earmarked by the
18 county for indigent health care services of the type provided by the medical center.

19 (B) With the written consent of the county, participate in and receive allocations
20 of local revenue fund amounts provided pursuant to Chapter 6 (commencing with
21 Section 17600) of Part 5 of Division 9 of the Welfare and Institutions Code as may
22 be identified or earmarked by the county for indigent health care services of the type
23 provided by the medical center.

24 (C) Participate in the financing of, and receive, Medicaid disproportionate share
25 hospital payments available to a county hospital or designated public hospital, or
26 any other successor or modified payment or funding that is intended to assist
27 hospitals that serve a disproportionate share of low-income patients with special
28 needs. The allocation of Medicaid disproportionate share hospital payments shall be
29 made in consultation with the State Department of Health Care Services and other
30 designated safety net hospitals.

31 (D) Participate in the financing of, and receive, Medi-Cal supplemental
32 reimbursements, including, but not limited to, payments made pursuant to Sections
33 14105.96, 14105.965, 14166.4, and 14182.15 of the Welfare and Institutions Code,
34 payments described in paragraph (4) of subdivision (b) of Section 14301.4 of the
35 Welfare and Institutions Code, and payments made available to a county provider
36 or designated public hospital, or governmental entity with which it is affiliated,
37 under any other successor or modified Medicaid payment system.

38 (E) Participate in the financing of, and receive, safety net care pool funding,
39 stabilization funding, delivery system reform incentive pool payments, and any
40 other funding available to a county provider or designated public hospital, or
41 governmental entities with which it is affiliated under the Medicaid demonstration
42 project authorized pursuant to Article 5.2 (commencing with Section 14166) and
43 Article 5.4 (commencing with Section 14180) of Chapter 7 of Part 3 of Division 9

1 of the Welfare and Institutions Code, or under any other successor or modified
2 Medicaid demonstration project or Medicaid payment system. The allocation of
3 safety net care pool funds shall be made in consultation with the State Department
4 of Health Care Services and other designated safety net hospitals.

5 (F) Participate in the financing, administration, and provision of services under
6 the Low Income Health Program authorized pursuant to Part 3.6 (commencing with
7 Section 15909) of Division 9 of the Welfare and Institutions Code, or under any
8 other successor or modified Medicaid demonstration project or Medicaid payment
9 system if the authority enters into an agreement with the county concerning the
10 provision of services by, and payment for these services to, the county.

11 (G) Participate in and receive direct grant and payment allocations pursuant to
12 Article 5.228 (commencing with Section 14169.1) of Chapter 7 of Part 3 of Division
13 9 of the Welfare and Institutions Code, or under any other successor or modified
14 direct grant and payment systems funded by hospital or other provider fee
15 assessments.

16 (H) Receive Medi-Cal capital supplements pursuant to Section 14085.5 of the
17 Welfare and Institutions Code. Notwithstanding any other provision of law,
18 supplemental payments shall be made to the medical center under Section 14085.5
19 of the Welfare and Institutions Code for the debt service costs incurred by the
20 county, and, if applicable, by the authority to the extent that debt service
21 responsibility is refinanced, transferred to, or otherwise assumed by, directly or
22 indirectly, the authority.

23 (I) Receive any other funds that would otherwise be available to a county provider
24 or designated public hospital, or governmental entity with which it is affiliated.

25 (2) A transfer described in paragraph (1) shall not otherwise disqualify the county
26 or the governing board, or in the case of a change in license ownership, the authority,
27 from participating in any of the following:

28 (A) Local, state, and federal funding sources either specific to county or district
29 hospitals, county or district ambulatory care clinics, designated public hospitals, or
30 government entities with which they are affiliated, for which there are special
31 provisions specific to those hospitals, ambulatory care clinics, or government
32 entities.

33 (B) Funding programs in which the county or the governing board, by themselves
34 or on behalf of the medical center or the other health care facility, respectively, had
35 participated prior to the creation of the authority, or would otherwise be qualified to
36 participate in had the authority not been created, and the maintenance, operation,
37 and management or ownership of the medical center and the other health care
38 facility not been transferred by the county and the governing board to the authority
39 pursuant to this chapter.

40 (l) The authority, the county, and the governing board, or any combination
41 thereof, may engage in marketing, advertising, and promotion of the medical and
42 health care services made available to the community by the authority.

1 (m) The board of trustees has authority over procurement and contracts for the
2 authority. The board of trustees shall adopt written rules, regulations, and
3 procedures with regard to these functions. Contracts by and between the authority
4 and any public agency, and contracts by and between the authority and providers of
5 health care, goods, or services, may be let on a nonbid basis and shall be exempt
6 from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the
7 Public Contract Code. Notwithstanding any other provision of this section, the
8 authority shall not subcontract work performed by classifications represented by
9 employee organizations without mutual agreement between the authority and the
10 exclusive representatives, except that a subcontract entered into prior to the
11 formation of the authority may remain in effect until its termination or completion
12 and may be modified or renewed to a later termination or completion date upon
13 agreement between the authority and the exclusive representatives of the affected
14 classifications.

15 (n) The authority shall be responsible for human resource functions, including,
16 but not limited to, position classification, compensation, recruitment, selection,
17 hiring, discipline, termination, grievance, equal opportunity, performance
18 management, probationary periods, training, promotion, and maintenance of
19 records. The board of trustees shall adopt written rules, regulations, and procedures
20 with regard to these functions. Until the time that the board of trustees adopts its
21 own rules, regulations, or procedures with regard to these functions, the existing
22 rules, regulations, and procedures set forth in any memorandum of understanding
23 described in paragraph (3) of subdivision (d) of Section 101658 apply. If the
24 memoranda do not provide for the exercise of these functions, the rules, regulations,
25 and procedures of the county apply.

26 (o) The authority may contract with the county or the governing board for services
27 and personnel upon mutually agreeable terms.

28 (p) Notwithstanding Article 4.7 (commencing with Section 1125) of Chapter 1 of
29 Division 4 of Title 1 of the Government Code, related to incompatible activities, a
30 member of the authority's administrative staff shall not be considered to be engaged
31 in activities inconsistent and incompatible with ~~his or her~~ the staff member's duties
32 as a result of prior employment or affiliation with the county or the governing board.

33 (q) The board of trustees and the officers and employees of the authority are public
34 employees for purposes of Division 3.6 (commencing with Section 810) of Title 1
35 of the Government Code, relating to claims and actions against public entities and
36 public employees, and shall be protected by the immunities applicable to public
37 entities and public employees governed by Part 2 (commencing with Section 814)
38 of Division 3.6 of Title 1 of the Government Code, except as provided by other
39 statutes or regulations that apply expressly to the authority.

40 (r) Except for Part 3 (commencing with Section 20000) of Division 5 of Title 2 of
41 the Government Code, this chapter shall prevail over any inconsistent statutes
42 governing employees of the authority, including, but not limited to, the Meyers-

1 Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 1 of
2 Title 1 of the Government Code).

3 **Comment.** Section 101661 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
5 Reports __ (2019).

6 The section is also amended to eliminate gendered pronouns.

7 **§ 101848.2 (amended). Records of hospital authority that relate to trade secrets, payment**
8 **rates, or contract negotiations with health care providers**

9 SEC. ____. Section 101848.2 of the Health and Safety Code is amended to read:

10 101848.2. The records of the hospital authority, whether paper records, records
11 maintained in the management information system, or records in any other form that
12 relate to trade secrets or to payment rates or the determination thereof, or ~~which~~ that
13 relate to contract negotiations with providers of health care, shall not be subject to
14 disclosure pursuant to the California Public Records Act (~~Chapter 5 (commencing~~
15 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
16 of Title 1 of the Government Code). The transmission of the records, or the
17 information contained therein in an alternative form, to the board of supervisors
18 shall not constitute a waiver of exemption from disclosure, and the records and
19 information once transmitted shall be subject to this same exemption. The
20 information, if compelled pursuant to an order of a court of competent jurisdiction
21 or administrative body in a manner permitted by law, shall be limited to in camera
22 review, which, at the discretion of the court, may include the parties to the
23 proceeding, and shall not be made a part of the court file unless sealed.

24 **Comment.** Section 101848.2 is amended to reflect nonsubstantive recodification of the
25 California Public Records Act (“CPRA”). See *California Public Records Act Clean-Up*, __ Cal. L.
26 Revision Comm’n Reports __ (2019). By updating the reference to the CPRA, the amendment also
27 eliminates an erroneous reference to “Chapter 5” (as opposed to “Chapter 3.5”).

28 The section is also amended to make a grammatical correction.

29 **§ 101848.9 (amended). Confidentiality of peer review activities of hospital authority**

30 SEC. ____. Section 101848.9 of the Health and Safety Code is amended to read:

31 101848.9. Provisions of the Evidence Code, the Government Code, including the
32 Public Records Act (~~Chapter 5 (commencing with Section 6250) of Division 7~~
33 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
34 Code), the Civil Code, the Business and Professions Code, and other applicable law
35 pertaining to the confidentiality of peer review activities of peer review bodies shall
36 apply to the peer review activities of the hospital authority. Peer review proceedings
37 shall constitute an official proceeding authorized by law within the meaning of
38 Section 47 of the Civil Code and those privileges set forth in that section with
39 respect to official proceedings shall apply to peer review proceedings of the hospital
40 authority. If the hospital authority is required by law or contractual obligation to
41 submit to the state or federal government peer review information or information
42 relevant to the credentialing of a participating provider, that submission shall not

1 constitute a waiver of confidentiality. The laws pertaining to the confidentiality of
2 peer review activities shall be together construed as extending, to the extent
3 permitted by law, the maximum degree of protection of confidentiality.

4 **Comment.** Section 101848.9 is amended to reflect nonsubstantive recodification of the
5 California Public Records Act (“CPRA”). See *California Public Records Act Clean-Up*, __ Cal. L.
6 Revision Comm’n Reports __ (2019). By updating the reference to the CPRA, the amendment also
7 eliminates an erroneous reference to “Chapter 5” (as opposed to “Chapter 3.5”).

8 **§ 101850 (amended). Transfer of governance of Alameda Health System**

9 SEC. ____. Section 101850 of the Health and Safety Code is amended to read:

10 101850. The Legislature finds and declares the following:

11 (a)(1) Due to the challenges facing the Alameda Health System arising from
12 changes in the public and private health industries, the Alameda County Board of
13 Supervisors has determined that a transfer of governance of the Alameda Health
14 System to an independent governing body, a hospital authority, is needed to improve
15 the efficiency, effectiveness, and economy of the community health services
16 provided at the medical center. The board of supervisors has further determined that
17 the creation of an independent hospital authority strictly and exclusively dedicated
18 to the management, administration, and control of the medical center, in a manner
19 consistent with the county’s obligations under Section 17000 of the Welfare and
20 Institutions Code, is the best way to fulfill its commitment to the medically indigent,
21 special needs, and general populations of Alameda County. To accomplish this, it
22 is necessary that the board of supervisors be given authority to create a hospital
23 authority. Because there is no general law under which this authority could be
24 formed, the adoption of a special act and the formation of a special authority is
25 required.

26 (2) The following definitions apply for purposes of this section:

27 (A) “The county” means the County of Alameda.

28 (B) “Governing board” means the governing body of the hospital authority.

29 (C) “Hospital authority” means the separate public agency established by the
30 Board of Supervisors of Alameda County to manage, administer, and control the
31 Alameda Health System.

32 (D) “Medical center” means the Alameda Health System, which was formerly
33 known as the Alameda County Medical Center.

34 (b) The board of supervisors of the county may, by ordinance, establish a hospital
35 authority separate and apart from the county for the purpose of effecting a transfer
36 of the management, administration, and control of the medical center in accordance
37 with Section 14000.2 of the Welfare and Institutions Code. A hospital authority
38 established pursuant to this chapter shall be strictly and exclusively dedicated to the
39 management, administration, and control of the medical center within parameters
40 set forth in this chapter, and in the ordinance, bylaws, and contracts adopted by the
41 board of supervisors that shall not be in conflict with this chapter, Section 1442.5 of
42 this code, or Section 17000 of the Welfare and Institutions Code.

1 (c) A hospital authority established pursuant to this chapter shall be governed by
2 a board that is appointed, both initially and continually, by the Board of Supervisors
3 of the County of Alameda. This hospital authority governing board shall reflect both
4 the expertise necessary to maximize the quality and scope of care at the medical
5 center in a fiscally responsible manner and the diverse interest that the medical
6 center serves. The enabling ordinance shall specify the membership of the hospital
7 authority governing board, the qualifications for individual members, the manner of
8 appointment, selection, or removal of governing board members, their terms of
9 office, and all other matters that the board of supervisors deems necessary or
10 convenient for the conduct of the hospital authority's activities.

11 (d) The mission of the hospital authority shall be the management, administration,
12 and other control, as determined by the board of supervisors, of the group of public
13 hospitals, clinics, and programs that comprise the medical center, in a manner that
14 ensures appropriate, quality, and cost-effective medical care as required of counties
15 by Section 17000 of the Welfare and Institutions Code, and, to the extent feasible,
16 other populations, including special populations in the County of Alameda.

17 (e) The board of supervisors shall adopt bylaws for the medical center that set
18 forth those matters related to the operation of the medical center by the hospital
19 authority that the board of supervisors deems necessary and appropriate. The bylaws
20 shall become operative upon approval by a majority vote of the board of supervisors.
21 Changes or amendments to the bylaws shall be by majority vote of the board of
22 supervisors.

23 (f) The hospital authority created and appointed pursuant to this section is a duly
24 constituted governing body within the meaning of Section 1250 of this code and
25 Section 70035 of Title 22 of the California Code of Regulations as currently written
26 or subsequently amended.

27 (g) Unless otherwise provided by the board of supervisors by way of resolution,
28 the hospital authority may, or the board of supervisors may on behalf of the hospital
29 authority, apply as a public agency for one or more licenses for the provision of
30 health care pursuant to statutes and regulations governing licensing as currently
31 written or subsequently amended.

32 (h) In the event of a change of license ownership, the governing body of the
33 hospital authority shall comply with the obligations of governing bodies of general
34 acute care hospitals generally, as set forth in Section 70701 of Title 22 of the
35 California Code of Regulations, as currently written or subsequently amended, as
36 well as the terms and conditions of the license. The hospital authority is the
37 responsible party with respect to compliance with these obligations, terms, and
38 conditions.

39 (i)(1) A transfer by the county to the hospital authority of the administration,
40 management, and control of the medical center, whether or not the transfer includes
41 the surrendering by the county of the existing general acute care hospital license and
42 corresponding application for a change of ownership of the license, does not affect

1 the eligibility of the county, or in the case of a change of license ownership, the
2 hospital authority, to do any of the following:

3 (A) Participate in, and receive allocations pursuant to, the California Healthcare
4 for the Indigents Program (CHIP).

5 (B) Receive appropriations from the Medi-Cal Inpatient Payment Adjustment
6 Fund without relieving the county of its obligation to make intergovernmental
7 transfer payments related to the Medi-Cal Inpatient Payment Adjustment Fund
8 pursuant to Section 14163 of the Welfare and Institutions Code.

9 (C) Receive Medi-Cal capital supplements pursuant to Section 14085.5 of the
10 Welfare and Institutions Code.

11 (D) Receive any other funds that would otherwise be available to a county
12 hospital.

13 (2) A transfer described in paragraph (1) does not otherwise disqualify the county,
14 or in the case of a change in license ownership, the hospital authority, from
15 participating in any of the following:

16 (A) Other funding sources either specific to county hospitals or county
17 ambulatory care clinics or for which there are special provisions specific to county
18 hospitals or to county ambulatory care clinics.

19 (B) Funding programs in which the county, on behalf of the medical center and
20 the Alameda County Health Care Services Agency, had participated prior to the
21 creation of the hospital authority, or would otherwise be qualified to participate in
22 had the hospital authority not been created, and administration, management, and
23 control not been transferred by the county to the hospital authority, pursuant to this
24 chapter.

25 (j) A hospital authority created pursuant to this chapter shall be a legal entity
26 separate and apart from the county and shall file the statement required by Section
27 53051 of the Government Code. The hospital authority shall be a government entity
28 separate and apart from the county, and shall not be considered to be an agency,
29 division, or department of the county. The hospital authority shall not be governed
30 by, nor be subject to, the charter of the county and shall not be subject to policies or
31 operational rules of the county, including, but not limited to, those relating to
32 personnel and procurement.

33 (k)(1) A contract executed by and between the county and the hospital authority
34 shall provide that liabilities or obligations of the hospital authority with respect to
35 its activities pursuant to the contract shall be the liabilities or obligations of the
36 hospital authority, and shall not become the liabilities or obligations of the county.

37 (2) Liabilities or obligations of the hospital authority with respect to the
38 liquidation or disposition of the hospital authority's assets upon termination of the
39 hospital authority shall not become the liabilities or obligations of the county.

40 (3) An obligation of the hospital authority, statutory, contractual, or otherwise,
41 shall be the obligation solely of the hospital authority and shall not be the obligation
42 of the county or the state.

1 (l)(1) Notwithstanding any other provision of this section, a transfer of the
2 administration, management, or assets of the medical center, whether or not
3 accompanied by a change in licensing, does not relieve the county of the ultimate
4 responsibility for indigent care pursuant to Section 17000 of the Welfare and
5 Institutions Code or any obligation pursuant to Section 1442.5 of this code.

6 (2) A contract executed by and between the county and the hospital authority shall
7 provide for the indemnification of the county by the hospital authority for liabilities
8 as specifically set forth in the contract, except that the contract shall include a
9 provision that the county shall remain liable for its own negligent acts.

10 (3) Indemnification by the hospital authority shall not be construed as divesting
11 the county from its ultimate responsibility for compliance with Section 17000 of the
12 Welfare and Institutions Code.

13 (m) Notwithstanding the provisions of this section relating to the obligations and
14 liabilities of the hospital authority, a transfer of control or ownership of the medical
15 center shall confer onto the hospital authority all the rights and duties set forth in
16 state law with respect to hospitals owned or operated by a county.

17 (n)(1) A transfer of the maintenance, operation, and management or ownership of
18 the medical center to the hospital authority shall comply with the provisions of
19 Section 14000.2 of the Welfare and Institutions Code.

20 (2) A transfer of maintenance, operation, and management or ownership to the
21 hospital authority may be made with or without the payment of a purchase price by
22 the hospital authority and upon the terms and conditions on which the parties
23 mutually agree, which shall include those found necessary by the board of
24 supervisors to ensure that the transfer will constitute an ongoing material benefit to
25 the county and its residents.

26 (3) A transfer of the maintenance, operation, and management to the hospital
27 authority shall not be construed as empowering the hospital authority to transfer any
28 ownership interest of the county in the medical center except as otherwise approved
29 by the board of supervisors.

30 (o) The board of supervisors shall retain control over the use of the medical center
31 physical plant and facilities except as otherwise specifically provided for in lawful
32 agreements entered into by the board of supervisors. A lease agreement or other
33 agreement between the county and the hospital authority shall provide that county
34 premises shall not be sublet without the approval of the board of supervisors.

35 (p) The statutory authority of a board of supervisors to prescribe rules that
36 authorize a county hospital to integrate its services with those of other hospitals into
37 a system of community service that offers free choice of hospitals to those requiring
38 hospital care, as set forth in Section 14000.2 of the Welfare and Institutions Code,
39 shall apply to the hospital authority upon a transfer of maintenance, operation, and
40 management or ownership of the medical center by the county to the hospital
41 authority.

42 (q) The hospital authority may acquire and possess real or personal property and
43 may dispose of real or personal property other than that owned by the county, as

1 may be necessary for the performance of its functions. The hospital authority may
2 sue or be sued, to employ personnel, and to contract for services required to meet
3 its obligations. Before January 1, 2024, the hospital authority shall not enter into a
4 contract with any other person or entity, including, but not limited to, a subsidiary
5 or other entity established by the authority, to replace services being provided by
6 physicians and surgeons who are employed by the hospital authority and in a
7 recognized collective bargaining unit, with services provided by that other person
8 or entity without clear and convincing evidence that the needed medical care can
9 only be delivered cost effectively by that other person or entity. Prior to entering
10 into a contract for any of those services, the authority shall negotiate with the
11 representative of the recognized collective bargaining unit of its physician and
12 surgeon employees over the decision to privatize and, if unable to resolve any
13 dispute through negotiations, shall submit the matter to final binding arbitration.

14 (r) An agreement between the county and the hospital authority shall provide that
15 all existing services provided by the medical center shall continue to be provided to
16 the county through the medical center subject to the policy of the county and
17 consistent with the county's obligations under Section 17000 of the Welfare and
18 Institutions Code.

19 (s) A hospital authority to which the maintenance, operation, and management or
20 ownership of the medical center is transferred shall be a "district" within the
21 meaning set forth in the County Employees Retirement Law of 1937 (Chapter 3
22 commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the
23 Government Code). Employees of a hospital authority are eligible to participate in
24 the County Employees Retirement System to the extent permitted by law, except as
25 described in Section 101851.

26 (t) Members of the governing board of the hospital authority shall not be
27 vicariously liable for injuries caused by the act or omission of the hospital authority
28 to the extent that protection applies to members of governing boards of local public
29 entities generally under Section 820.9 of the Government Code.

30 (u) The hospital authority shall be a public agency subject to the Meyers-Milias-
31 Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of
32 the Government Code).

33 (v) Any transfer of functions from county employee classifications to a hospital
34 authority established pursuant to this section shall result in the recognition by the
35 hospital authority of the employee organization that represented the classifications
36 performing those functions at the time of the transfer.

37 (w)(1) In exercising its powers to employ personnel, as set forth in subdivision
38 (p), the hospital authority shall implement, and the board of supervisors shall adopt,
39 a personnel transition plan. The personnel transition plan shall require all of the
40 following:

41 (A) Ongoing communications to employees and recognized employee
42 organizations regarding the impact of the transition on existing medical center
43 employees and employee classifications.

1 (B) Meeting and conferring on all of the following issues:

2 (i) The timeframe for which the transfer of personnel shall occur. The timeframe
3 shall be subject to modification by the board of supervisors as appropriate, but in no
4 event shall it exceed one year from the effective date of transfer of governance from
5 the board of supervisors to the hospital authority.

6 (ii) A specified period of time during which employees of the county impacted by
7 the transfer of governance may elect to be appointed to vacant positions with the
8 Alameda County Health Care Services Agency for which they have tenure.

9 (iii) A specified period of time during which employees of the county impacted
10 by the transfer of governance may elect to be considered for reinstatement into
11 positions with the county for which they are qualified and eligible.

12 (iv) Compensation for vacation leave and compensatory leave accrued while
13 employed with the county in a manner that grants affected employees the option of
14 either transferring balances or receiving compensation to the degree permitted
15 employees laid off from service with the county.

16 (v) A transfer of sick leave accrued while employed with the county to hospital
17 authority employment.

18 (vi) The recognition by the hospital authority of service with the county in
19 determining the rate at which vacation accrues.

20 (vii) The possible preservation of seniority, pensions, health benefits, and other
21 applicable accrued benefits of employees of the county impacted by the transfer of
22 governance.

23 (2) This subdivision shall not be construed as prohibiting the hospital authority
24 from determining the number of employees, the number of full-time equivalent
25 positions, the job descriptions, and the nature and extent of classified employment
26 positions.

27 (3) Employees of the hospital authority are public employees for purposes of
28 Division 3.6 (commencing with Section 810) of Title 1 of the Government Code
29 relating to claims and actions against public entities and public employees.

30 (x) The hospital authority created pursuant to this section shall be bound by the
31 terms of the memorandum of understanding executed by and between the county
32 and health care and management employee organizations that is in effect as of the
33 date this legislation becomes operative in the county. Upon the expiration of the
34 memorandum of understanding, the hospital authority has sole authority to negotiate
35 subsequent memorandums of understanding with appropriate employee
36 organizations. Subsequent memorandums of understanding shall be approved by the
37 hospital authority.

38 (y) The hospital authority created pursuant to this section may borrow from the
39 county and the county may lend the hospital authority funds or issue revenue
40 anticipation notes to obtain those funds necessary to operate the medical center and
41 otherwise provide medical services.

42 (z) The hospital authority is subject to state and federal taxation laws that are
43 applicable to counties generally.

1 (aa) The hospital authority, the county, or both, may engage in marketing,
2 advertising, and promotion of the medical and health care services made available
3 to the community at the medical center.

4 (ab) The hospital authority is not a “person” subject to suit under the Cartwright
5 Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the
6 Business and Professions Code).

7 (ac) Notwithstanding Article 4.7 (commencing with Section 1125) of Chapter 1
8 of Division 4 of Title 1 of the Government Code related to incompatible activities,
9 a member of the hospital authority administrative staff shall not be considered to be
10 engaged in activities inconsistent and incompatible with ~~his or her~~ the staff
11 member’s duties as a result of employment or affiliation with the county.

12 (ad)(1) The hospital authority may use a computerized management information
13 system in connection with the administration of the medical center.

14 (2) Information maintained in the management information system or in other
15 filing and records maintenance systems that is confidential and protected by law
16 shall not be disclosed except as provided by law.

17 (3) The records of the hospital authority, whether paper records, records
18 maintained in the management information system, or records in any other form,
19 that relate to trade secrets or to payment rates or the determination thereof, or that
20 relate to contract negotiations with providers of health care, shall not be subject to
21 disclosure pursuant to the California Public Records Act (~~Chapter 5 (commencing~~
22 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
23 of Title 1 of the Government Code). The transmission of the records, or the
24 information contained therein in an alternative form, to the board of supervisors
25 does not constitute a waiver of exemption from disclosure, and the records and
26 information, once transmitted, shall be subject to this same exemption. The
27 information, if compelled pursuant to an order of a court of competent jurisdiction
28 or administrative body in a manner permitted by law, shall be limited to in-camera
29 review, which, at the discretion of the court, may include the parties to the
30 proceeding, and shall not be made a part of the court file unless sealed.

31 (ae)(1) Notwithstanding any other law, the governing board may order that a
32 meeting held solely for the purpose of discussion or taking action on hospital
33 authority trade secrets, as defined in subdivision (d) of Section 3426.1 of the Civil
34 Code, shall be held in closed session. The requirements of making a public report
35 of actions taken in closed session and the vote or abstention of every member present
36 may be limited to a brief general description devoid of the information constituting
37 the trade secret.

38 (2) The governing board may delete the portion or portions containing trade
39 secrets from any documents that were finally approved in the closed session that are
40 provided to persons who have made the timely or standing request.

41 (3) This section shall not be construed as preventing the governing board from
42 meeting in closed session as otherwise provided by law.

1 (af) Open sessions of the hospital authority constitute official proceedings
2 authorized by law within the meaning of Section 47 of the Civil Code. The
3 privileges set forth in that section with respect to official proceedings apply to open
4 sessions of the hospital authority.

5 (ag) The hospital authority is a public agency for purposes of eligibility with
6 respect to grants and other funding and loan guarantee programs. Contributions to
7 the hospital authority are tax deductible to the extent permitted by state and federal
8 law. Nonproprietary income of the hospital authority is exempt from state income
9 taxation.

10 (ah) Contracts by and between the hospital authority and the state and contracts
11 by and between the hospital authority and providers of health care, goods, or
12 services may be let on a nonbid basis and shall be exempt from Chapter 2
13 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract
14 Code.

15 (ai)(1) Provisions of the Evidence Code, the Government Code, including the
16 California Public Records Act (~~Chapter 5 (commencing with Section 6250) of~~
17 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
18 Government Code), the Civil Code, the Business and Professions Code, and other
19 applicable law pertaining to the confidentiality of peer review activities of peer
20 review bodies apply to the peer review activities of the hospital authority. Peer
21 review proceedings constitute an official proceeding authorized by law within the
22 meaning of Section 47 of the Civil Code and those privileges set forth in that section
23 with respect to official proceedings shall apply to peer review proceedings of the
24 hospital authority. If the hospital authority is required by law or contractual
25 obligation to submit to the state or federal government peer review information or
26 information relevant to the credentialing of a participating provider, that submission
27 does not constitute a waiver of confidentiality. The laws pertaining to the
28 confidentiality of peer review activities shall be together construed as extending, to
29 the extent permitted by law, the maximum degree of protection of confidentiality.

30 (2) Notwithstanding any other law, Section 1461 applies to hearings on the reports
31 of hospital medical audit or quality assurance committees.

32 (aj) The hospital authority shall carry general liability insurance to the extent
33 sufficient to cover its activities.

34 (ak) In the event the board of supervisors determines that the hospital authority
35 should no longer function for the purposes set forth in this chapter, the board of
36 supervisors may, by ordinance, terminate the activities of the hospital authority and
37 expire the hospital authority as an entity.

38 (al) A hospital authority that is created pursuant to this section, but does not obtain
39 the administration, management, and control of the medical center or has those
40 duties and responsibilities revoked by the board of supervisors, shall not be
41 empowered with the powers enumerated in this section.

42 (am)(1) The county shall establish baseline data reporting requirements for the
43 medical center consistent with the Medically Indigent Care Reporting System

1 (MICRS) program established pursuant to Section 16910 of the Welfare and
2 Institutions Code and shall collect that data for at least one year prior to the final
3 transfer of the medical center to the hospital authority established pursuant to this
4 chapter. The baseline data shall include, but not be limited to, all of the following:

5 (A) Inpatient days by facility by quarter.

6 (B) Outpatient visits by facility by quarter.

7 (C) Emergency room visits by facility by quarter.

8 (D) Number of unduplicated users receiving services within the medical center.

9 (2) Upon transfer of the medical center, the county shall establish baseline data
10 reporting requirements for each of the medical center inpatient facilities consistent
11 with data reporting requirements of the Office of Statewide Health Planning and
12 Development, including, but not limited to, monthly average daily census by facility
13 for all of the following:

14 (A) Acute care, excluding newborns.

15 (B) Newborns.

16 (C) Skilled nursing facility, in a distinct part.

17 (3) From the date of transfer of the medical center to the hospital authority, the
18 hospital authority shall provide the county with quarterly reports specified in
19 paragraphs (1) and (2) and any other data required by the county. The county, in
20 consultation with health care consumer groups, shall develop other data
21 requirements that shall include, at a minimum, reasonable measurements of the
22 changes in medical care for the indigent population of Alameda County that result
23 from the transfer of the administration, management, and control of the medical
24 center from the county to the hospital authority.

25 (an) A hospital authority established pursuant to this section shall comply with
26 the requirements of Sections 53260 and 53261 of the Government Code.

27 **Comment.** Section 101850 is amended to reflect nonsubstantive recodification of the California
28 Public Records Act (“CPRA”). See *California Public Records Act Clean-Up*, __ Cal. L. Revision
29 Comm’n Reports __ (2019). By updating the reference to the CPRA, the amendment also
30 eliminates an erroneous reference to “Chapter 5” (as opposed to “Chapter 3.5”).

31 The section is also amended to eliminate gendered pronouns.

32 **§ 101855 (amended). Powers and duties of Kern Hospital System Authority**

33 SEC. _____. Section 101855 of the Health and Safety Code is amended to read:

34 101855. (a) Subject to any terms, conditions, and limitations as may be imposed
35 by the enabling ordinance, the authority, in addition to any other powers granted
36 pursuant to this chapter, shall have the following powers:

37 (1) To have the duties, privileges, immunities, rights, liabilities, and limitations of
38 a local unit of government within the state.

39 (2) To have perpetual existence, subject to Article 5 (commencing with Section
40 101856).

41 (3) To adopt, have, and use a seal, and to alter it at its pleasure.

42 (4) To sue and be sued in the name of the authority in all actions and proceedings
43 in all courts and tribunals of competent jurisdiction.

1 (5) To purchase, lease, trade, exchange, or otherwise acquire, maintain, hold,
2 improve, mortgage, lease, sell, and dispose of real and personal property of any kind
3 necessary or convenient to perform its functions and fully exercise its powers.

4 (6) To appoint and employ or otherwise engage a chief executive officer and other
5 officers and employees that may be necessary or appropriate, including legal
6 counsel, to establish their compensation, provide for their health, retirement, and
7 other employment benefits, and to define the power and duties of officers and
8 employees.

9 (7)(A) To incur indebtedness and to borrow money and issue bonds evidencing
10 the same, including the authority to issue, from time to time, notes and revenue
11 bonds in principal amounts that the authority determines to be necessary to provide
12 sufficient funds for achieving any of its purposes, including, but not limited to,
13 assumption or refinancing of debt service for capital projects eligible for Medi-Cal
14 supplemental payments pursuant to Section 14085.5 of the Welfare and Institutions
15 Code, or any successor or modified Medi-Cal debt service reimbursement program,
16 the payment of principal and interest on notes and bonds of the authority, the
17 establishment of reserves to secure those notes and bonds, and all other expenditures
18 of the authority incident to and necessary or convenient to carry out its purposes and
19 powers.

20 (B) Any notes, bonds, or other securities issued, and the income from them,
21 including any profit from the sale thereof, shall at all times be free from taxation by
22 the state or any agency, political subdivision, or instrumentality of the state.

23 (C) Notwithstanding the provisions of subparagraph (A), for any indebtedness,
24 notes, bonds, or other securities that require voter approval pursuant to state law,
25 the prior approval of the board of supervisors shall be required. Notwithstanding the
26 required prior approval of the board of supervisors and except as otherwise provided
27 in this chapter, any indebtedness incurred, or notes, bonds, or other securities issued
28 pursuant to this subparagraph shall be the indebtedness, notes, bonds, or securities
29 of the authority and not of the county, and the credit of the county shall not be
30 pledged or relied upon in any manner in order to incur the indebtedness, or issue the
31 notes, bonds, or other securities, unless the board of supervisors explicitly
32 authorizes the use of the county's credit. The authority shall reimburse the county
33 for all costs associated with the county's consideration of the indebtedness, notes,
34 bonds, or securities, and the authority shall defend, indemnify, and hold harmless
35 the county from any and all liability, costs, or expenses arising from or related to
36 the indebtedness, notes, bonds, or securities.

37 (D) Nothing in this section shall preclude the authority from repayment of its
38 debts or other liabilities, using funds that are not otherwise encumbered.

39 (8) To pursue its own credit rating.

40 (9) To enter into one or more contracts or agreements consistent with this chapter
41 and other applicable laws of this state, including, but not limited to, contracting with
42 any public or private entity or person for management or other services and
43 personnel, and to authorize the chief executive officer to enter into contracts,

1 execute all instruments, and do all things necessary or convenient in the exercise of
2 the powers granted in this chapter.

3 (10) To purchase supplies, equipment, materials, property, and services.

4 (11) To establish policies relating to its purposes.

5 (12) To acquire or contract to acquire, rights-of-way, easements, privileges, and
6 property, and to construct, equip, maintain, and operate any and all works or
7 improvements wherever located that are necessary, convenient, or proper to carry
8 out any of the provisions, objects, or purposes of this chapter, and to complete,
9 extend, add to, repair, or otherwise improve any works or improvements acquired
10 by it.

11 (13) To participate in, contract for, and to accept, gifts, grants, and loans of funds,
12 property, or other aid or finance opportunity in any form from the federal
13 government, the state, a state agency, or other source, or combination thereof, as
14 otherwise would be available to a public, government, or private entity, and to
15 comply, subject to this chapter, with the terms and conditions thereof.

16 (14) If not otherwise required pursuant to the enabling ordinance to deposit its
17 funds in the county treasury, the authority may establish its own treasury, invest
18 surplus money in its own treasury, manage investments, and engage third-party
19 investment managers, in accordance with state law.

20 (15) To arrange for guarantees or insurance of its bonds, notes, or other
21 obligations by the federal or state government or by a private insurer, and to pay the
22 premiums thereof.

23 (16) To engage in managed care contracting, joint ventures, affiliations with other
24 health care facilities, other health care providers and payers, management
25 agreements, or to participate in alliances, purchasing consortia, health insurance
26 pools, accountable care organizations, alternative delivery systems, or other
27 cooperative arrangements, with any public or private entity.

28 (17) To enter into joint powers agreements pursuant to Chapter 5 (commencing
29 with Section 6500) of Division 7 of Title 1 of the Government Code.
30 Notwithstanding any other law, the authority may enter into a joint powers
31 agreement as described in Section 6523.5 of the Government Code as though that
32 section applied to hospitals and other health care facilities in the County of Kern.

33 (18) To establish nonprofit, for-profit, or other entities necessary to carry out the
34 duties of the authority.

35 (19) To elect to transfer funds to the state and incur certified public expenditures
36 in support of the Medi-Cal program and other programs for which federal financial
37 participation is available.

38 (20) To use a computerized management information system, including an
39 electronic health records system, in connection with its operations, including,
40 without limitation the administration of its facilities.

41 (21) To request that the board of supervisors levy a tax on behalf of the authority.
42 If the board of supervisors approves the proposal to levy the tax, it shall call the
43 election to seek voter approval and place the appropriate measure on the ballot for

1 that election. The proceeds of these taxes shall be tax proceeds of the authority and
2 not of the county. The authority shall reimburse the county for all costs associated
3 with the county's consideration of those taxes, and shall defend, indemnify, and
4 hold harmless the county from any liability, costs, or expenses arising from or
5 related to the imposition of these taxes.

6 (22) Notwithstanding the provisions of this chapter relating to the obligations and
7 liabilities of the authority, or any other law, the authority shall have the same rights,
8 privileges, exemptions, preferences, and authority of a county with respect to
9 owning, operating, and providing coverage and services through hospitals, clinics
10 and other health facilities, health programs, care organizations, physicians and
11 physician practice plans, delivery systems, health care service plans, and other
12 provider types and coverage mechanisms.

13 (23) To engage in other activities that may be in the best interests of the authority
14 and the persons served by the authority, as determined by the board of governors,
15 in order to respond to changes in the health care industry.

16 (b) The authority shall conform to the following requirements:

17 (1)(A) Be a government agency that is a local unit of government separate and
18 apart for all purposes from the county and any other public entity, and shall not be
19 considered to be an agency, division, or department of the county or any other public
20 entity. The authority shall not be governed by or subject to the civil service
21 requirements of the county. Notwithstanding any other law, except as otherwise
22 provided for in the enabling ordinance enacted pursuant to this chapter, and as set
23 forth in Section 101853.1 relating to the personnel transition plan, the authority shall
24 not be governed by, or subject to, other policies or operational rules applicable to
25 the county, the medical center prior to its transfer, or any other public entity,
26 including, but not limited to, those relating to personnel and procurement.

27 (B) The board of governors shall adopt written rules, regulations, and procedures
28 with regard to basic human resource functions not inconsistent with memoranda of
29 understanding covering employees represented by employee organizations or the
30 provisions of this chapter. Until the time that the board of governors adopts its own
31 rules, regulations, or procedures with regard to these functions, the existing rules,
32 regulations, and procedures set forth in any memoranda of understanding described
33 in Section 101853.1, and the rules and regulations adopted by the county and
34 described in paragraph (4), shall continue to apply.

35 (2) Be subject to state and federal taxation laws that are applicable to public
36 entities generally.

37 (3) Except as otherwise specifically provided in this chapter, comply with the
38 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of
39 Division 4 of Title 1 of the Government Code), the Public Records Act (~~Chapter 3.5~~
40 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
41 Section 7920.000) of Title 1 of the Government Code), and the Ralph M. Brown
42 Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5
43 of the Government Code).

1 (4) Be subject to the jurisdiction of the Public Employment Relations Board. Until
2 the authority adopts rules and regulations pursuant to subdivision (a) of Section
3 3507 of the Government Code, the existing rules adopted by the county and
4 contained in the county's employer-employee relations resolution, as amended,
5 shall apply, modified to account for the creation of the authority, and provided
6 further that the resolution shall not contain any incorporation of the county's civil
7 service rules or county ordinances unless specifically addressed in this chapter.

8 (5) Carry professional and general liability insurance or programs to the extent
9 sufficient to cover its activities.

10 (6) Comply with the requirements of Sections 53260 and 53261 of the
11 Government Code.

12 (7) Maintain financial and accounting records.

13 (8) Meet all local, state, and federal data reporting requirements.

14 (c)(1) Subject to any restrictions applicable to public agencies, and subject to any
15 limitations or conditions set forth in the enabling ordinance adopted by the board of
16 supervisors, the authority may borrow money from the county, repay debt it owes
17 to the county, and use the borrowed funds to provide for its operating and capital
18 needs. The county may lend the authority funds and may issue debt instruments,
19 including, without limitation, revenue anticipation notes to obtain funds to provide,
20 by loan or otherwise, amounts necessary for the authority to meet its operating and
21 capital needs.

22 (2) Notwithstanding paragraph (1), nothing in this chapter shall be construed to
23 limit the borrowing powers the county otherwise has under law for the purposes
24 specified in paragraph (1) or any other purposes.

25 (d) Open sessions of the authority shall constitute official proceedings authorized
26 by law within the meaning of Section 47 of the Civil Code. The privileges set forth
27 in that section with respect to official proceedings shall apply to open sessions of
28 the authority.

29 (e)(1) Notwithstanding any other law, the board of governors or board of
30 supervisors, as applicable, may order that a meeting held solely for the purpose of
31 discussion or taking action on authority trade secrets, as defined in subdivision (d)
32 of Section 3426.1 of the Civil Code, or to consider and take action on matters
33 pertaining to contracts and contract negotiations concerning all matters related to
34 rates of payment for health care services arranged or provided by the authority, shall
35 be held in closed session. Trade secrets for purposes of this chapter shall also include
36 information for which the secrecy of the information is necessary for the authority
37 to initiate a new service, program, marketing strategy, business plan, or technology,
38 or to add a benefit or product, and premature disclosure of the trade secret would
39 create a substantial probability of depriving the authority of a substantial economic
40 benefit or opportunity.

41 (2) The requirements of making a public report of actions taken in closed session
42 and the vote or abstention of every member present may be limited to a brief general

1 description devoid of the information constituting the trade secret or concerning the
2 matters related to rates of payment.

3 (3) Those records of the authority or board of supervisors, as applicable, that
4 reveal the authority's trade secrets are exempt from disclosure pursuant to the
5 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of~~
6 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
7 Government Code), or any similar local law requiring the disclosure of public
8 records. This exemption shall apply for a period of two years after the service,
9 program, marketing strategy, business plan, technology, benefit, or product that is
10 the subject of the trade secret is formally adopted by the governing body of the
11 authority, provided that the service, program, marketing strategy, business plan,
12 technology, benefit, or product continues to be a trade secret. The board of
13 governors or board of supervisors, as applicable, may delete the portion or portions
14 containing trade secrets from any documents that were finally approved in the
15 closed session that are provided to persons who have made the timely or standing
16 request.

17 (4) This chapter shall not prevent the board of governors or board of supervisors,
18 as applicable, from meeting in closed session as otherwise provided by law.

19 (f) Notwithstanding any other law, those records of the authority and of the county
20 that reveal the authority's rates of payment for health care services arranged or
21 provided by the authority or its deliberative processes, strategies, discussions,
22 communications, or any other portion of the negotiations with providers of health
23 care services or Medi-Cal, health care plans, or other payers for rates of payment,
24 shall not be required to be disclosed pursuant to the California Public Records Act
25 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
26 (commencing with Section 7920.000) of Title 1 of the Government Code), or any
27 similar local law requiring the disclosure of public records. However, three years
28 after a contract or amendment to a contract is fully executed, the portion of the
29 contract or amendment containing the rates of payment shall be open to inspection.

30 (g) The authority shall be a public agency that is a local unit of government for
31 purposes of eligibility with respect to grants and other funding and loan guarantee
32 programs. Contributions to the authority shall be tax deductible to the extent
33 permitted by state and federal law. Nonproprietary income of the authority shall be
34 exempt from state income taxation.

35 (h) Unless otherwise provided by the board of supervisors by way of resolution,
36 the authority is empowered, or the board of supervisors is empowered on behalf of
37 the authority, to apply as a public agency for one or more licenses for the provision
38 of health care or the operation of a health care service plan pursuant to statutes and
39 regulations governing licensing as currently written or subsequently amended.

40 (i) The statutory authority of a board of supervisors to prescribe rules that
41 authorize a county hospital to integrate its services with those of other providers into
42 a system of community service that offers free choice of hospitals to those requiring

1 hospital care, as set forth in Section 14000.2 of the Welfare and Institutions Code,
2 shall apply to the authority and the board of governors.

3 (j)(1) Except as otherwise provided in this chapter, provisions of the Evidence
4 Code, the Government Code, including the Public Records Act (~~Chapter 3.5~~
5 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
6 Section 7920.000) of Title 1 of the Government Code), the Civil Code, the Business
7 and Professions Code, and other applicable law pertaining to the confidentiality of
8 peer review activities of peer review bodies shall apply to the peer review activities
9 of the authority, or any peer review body, as defined in paragraph (1) of subdivision
10 (a) of Section 805 of the Business and Professions Code, formed pursuant to the
11 powers granted to the authority. The laws pertaining to the confidentiality of peer
12 review activities shall be together construed as extending, to the extent permitted by
13 law, the maximum degree of protection of confidentiality.

14 (2) Notwithstanding Article 9 (commencing with Section 11120) of Chapter 1 of
15 Part 1 of Division 3 of Title 2 of, and Chapter 9 (commencing with Section 54950)
16 of Part 1 of Division 2 of Title 5 of, the Government Code, or any other provision
17 of law, any peer review body formed pursuant to the powers granted to the authority,
18 may, at its discretion and without notice to the public, meet in closed session, so
19 long as the purpose of the meeting is the peer review body's discharge of its
20 responsibility to evaluate and improve the quality of care rendered by health
21 facilities and health practitioners. The peer review body and its members shall
22 receive, to the fullest extent, all immunities, privileges, and protections available to
23 those peer review bodies, their individual members, and persons or entities assisting
24 in the peer review process, including those afforded by Section 1157 of the Evidence
25 Code and Section 1370. Peer review proceedings shall constitute an official
26 proceeding authorized by law within the meaning of Section 47 of the Civil Code
27 and those privileges set forth in that section with respect to official proceedings shall
28 apply to peer review proceedings of the authority.

29 (3) Notwithstanding the California Public Records Act (~~Chapter 3.5 (commencing~~
30 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
31 of Title 1 of the Government Code), or Article 9 (commencing with Section 11120)
32 of Chapter 1 of Part 1 of Division 3 of Title 2 of, and Chapter 9 (commencing with
33 Section 54950) of Part 1 of Division 2 of Title 5 of, the Government Code, or any
34 other provision of state or local law requiring disclosure of public records, those
35 records of a peer review body formed pursuant to the powers granted to the
36 authority, shall not be required to be disclosed. The records and proceedings of the
37 peer review body and its individual members shall receive, to the fullest extent, all
38 immunities, privileges, and protections available to those records and proceedings,
39 including those afforded by Section 1157 of the Evidence Code and Section 1370
40 of the Health and Safety Code.

41 (4) If the authority is required by law or contractual obligation to submit to the
42 state or federal government peer review information or information relevant to the

1 credentialing of a participating provider, that submission shall not constitute a
2 waiver of confidentiality.

3 (5) Notwithstanding any other law, Section 1461 shall apply to hearings on reports
4 of hospital medical audit or quality assurance committees.

5 (k) Except as expressly provided by other provisions of this section, all
6 exemptions and exclusions from disclosure as public records pursuant to this chapter
7 and the California Public Records Act, including, but not limited to, those pertaining
8 to trade secrets and information withheld in the public interest, shall be fully
9 applicable to the authority, and for the board of supervisors, and all state and local
10 agencies with respect to all writings that the authority is required to prepare,
11 produce, or submit, and which shall not constitute a waiver of exemption from
12 disclosure.

13 (l) The authority and the county, or any combination thereof, may engage in
14 marketing, advertising, and promotion of the medical and health care services made
15 available to the community by the authority.

16 (m)(1) The board of supervisors may contract for services or purchase items on
17 behalf of the authority.

18 (2) Unless otherwise provided for, and subject to the limitations and conditions
19 set forth in the enabling ordinance, the board of governors shall have authority over
20 procurement and contracts for the authority and shall adopt written rules,
21 regulations, and procedures with regard to these functions. The authority's ability
22 to contract for personnel or other services and items it deems necessary, appropriate,
23 or convenient for the conduct of its activities consistent with its purposes shall only
24 be limited by the provisions in this chapter and obligations under the Meyers-Milias-
25 Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of
26 the Government Code).

27 (3) Contracts by and between the authority and a public agency, and contracts by
28 and between the authority and providers of health care, goods, or services, may be
29 let on a nonbid basis and shall be exempt from Chapter 2 (commencing with Section
30 10290) of Part 2 of Division 2 of the Public Contract Code.

31 (n) The authority may contract with the county for services and personnel upon
32 mutually agreeable terms.

33 (o) Notwithstanding Article 4.7 (commencing with Section 1125) of Chapter 1 of
34 Division 4 of Title 1 of the Government Code, related to incompatible activities,
35 Section 1099 of the Government Code, related to incompatible offices, or any other
36 law, a member of the authority's administrative staff shall not be considered to hold
37 an incompatible office or to be engaged in activities inconsistent and incompatible
38 with ~~his or her~~ the member's duties as a result of ~~his or her~~ the member's
39 employment or affiliation with the county or an agency of the county.

40 (p) The board of governors and the officers and employees of the authority are
41 public employees for purposes of Division 3.6 (commencing with Section 810) of
42 Title 1 of the Government Code, relating to claims and actions against public entities
43 and public employees, and shall be protected by the immunities applicable to public

1 entities and public employees governed by Part 2 (commencing with Section 814)
2 of Division 3.6 of Title 1 of the Government Code, except as provided by other
3 statutes or regulations that apply expressly to the authority.

4 **Comment.** Section 101855 is amended to reflect nonsubstantive recodification of the California
5 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
6 Reports __ (2019).

7 The section is also amended to eliminate gendered pronouns.

8 **§ 102100 (amended). Records of birth, death, marriage, and related matters**

9 SEC. ____. Section 102100 of the Health and Safety Code is amended to read:

10 102100. Each live birth, fetal death, death, and marriage that occurs in the state
11 shall be registered as provided in this part on the prescribed certificate forms. In
12 addition, a report of every judgment of dissolution of marriage, legal separation, or
13 nullity decree shall be filed with the State Registrar, as provided in this part. All
14 confidential information included in birth, fetal death, death, and marriage
15 certificates and reports of dissolution of marriage, legal separation, or nullity that
16 are required to be filed by this part, shall be exempt from the California Public
17 Records Act contained in ~~Chapter 3.5 (commencing with Section 6250) of Division~~
18 7 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
19 Code.

20 **Comment.** Section 102100 is amended to reflect nonsubstantive recodification of the California
21 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
22 Reports __ (2019).

23 **§ 102230 (amended). Responsibilities relating to certificates**

24 SEC. ____. Section 102230 of the Health and Safety Code is amended to read:

25 102230. (a)(1) The State Registrar shall arrange and permanently preserve the
26 certificates in a systematic manner and shall prepare and maintain comprehensive
27 and continuous indices of all certificates registered.

28 (2) The birth, death, and marriage record indices prepared pursuant to paragraph
29 (1) and all comprehensive birth, death, and marriage record indices prepared or
30 maintained by local registrars and county recorders shall be kept confidential and
31 shall be exempt from disclosure under the California Public Records Act (~~Chapter~~
32 3.5 (commencing with Section 6250) of Division 7 Division 10 (commencing with
33 Section 7920.000) of Title 1 of the Government Code).

34 (3) Notwithstanding paragraph (2), the State Registrar, at ~~his or her~~ the registrar's
35 discretion, may release comprehensive birth, death, and nonconfidential marriage
36 record indices to a government agency. The comprehensive birth record indices
37 released to the county recorder shall be subject to the same restrictions applicable
38 to the confidential portion of a certificate of live birth, as specified in Section
39 102430. Local registrars and county recorders, when requested, shall release their
40 comprehensive birth, death, and marriage record indices to the State Registrar.
41 Local registrars may release their comprehensive birth and death record indices to
42 the county recorder within its jurisdiction for purposes of the preparation or

1 maintenance of the indices of the county recorder. A government agency that
2 obtains indices pursuant to this paragraph shall not sell or release the index or a
3 portion of its contents to another person, except as necessary for official government
4 business, and shall not post the indices or any portion of the indices on the Internet.

5 (b)(1) The State Registrar shall prepare and maintain separate noncomprehensive
6 indices of all California birth, death, and nonconfidential marriage records for public
7 release.

8 (2) For purposes of this section, noncomprehensive birth record indices for public
9 release shall be comprised of first, middle, and last name, sex, date of birth, and
10 place of birth.

11 (3) For purposes of this section, noncomprehensive death record indices for public
12 release shall be comprised of first, middle, and last name, sex, date of birth, place
13 of birth, place of death, date of death, and father's last name.

14 (4) For purposes of this section, noncomprehensive nonconfidential marriage
15 record indices for public release shall be comprised of the name of each party to the
16 marriage and the date of marriage.

17 (5) Requesters of the birth, death, or nonconfidential marriage record indices
18 prepared pursuant to this subdivision shall provide proof of identity, complete a
19 form, and sign the form under penalty of perjury. The form shall include all of the
20 following:

21 (A) The proposed use of the birth, death, or nonconfidential marriage record
22 indices.

23 (B) A disclaimer crediting analyses, interpretations, or conclusions reached
24 regarding the birth, death, or nonconfidential marriage record indices to the author
25 and not to the State Department of Public Health.

26 (C) Assurance that technical descriptions of the birth, death, or nonconfidential
27 marriage record indices are consistent with those provided by the State Department
28 of Public Health.

29 (D) Assurance that the requester shall not sell, assign, or otherwise transfer the
30 birth, death, or nonconfidential marriage record indices.

31 (E) Assurance that the requester shall not use the birth or death record indices for
32 fraudulent purposes.

33 (6) Birth, death, and nonconfidential marriage record indices obtained pursuant to
34 this subdivision, and any portion thereof, shall not be used for fraudulent purposes.

35 (c)(1) The State Registrar shall prepare and maintain separate noncomprehensive
36 indices of all California birth, death, and nonconfidential marriage records for
37 purposes of law enforcement or preventing fraud.

38 (2) For purposes of this section, noncomprehensive birth record indices for the
39 purpose of preventing fraud shall be comprised of first, middle, and last name, sex,
40 date of birth, place of birth, and mother's maiden name.

41 (3) For purposes of this section, noncomprehensive death record indices for the
42 purpose of preventing fraud shall be comprised of first, middle, and last name, place

1 of death, mother's maiden name, sex, social security number, date of birth, place of
2 birth, date of death, and father's last name.

3 (4) For purposes of this section, noncomprehensive nonconfidential marriage
4 record indices for the purpose of preventing fraud shall be comprised of the name
5 of each party to the marriage and the date of marriage.

6 (5) The birth, death, and nonconfidential marriage record indices prepared
7 pursuant to this subdivision shall be made available to financial institutions, as
8 defined in Section 6827(4)(A) and (B) of Title 15 of the United States Code, its
9 representatives or contractors, consumer credit reporting agencies, as defined in
10 subdivision (d) of Section 1785.3 of the Civil Code, its representatives or
11 contractors, those entities providing information services for purposes of law
12 enforcement or preventing fraud, officers of the court for the sole purpose of
13 verifying a death, and to persons or entities acting on behalf of law enforcement
14 agencies or the court, or pursuant to a court order.

15 (6) The birth, death, and nonconfidential marriage record indices prepared
16 pursuant to this subdivision may be released to a government agency.

17 (7) Requesters of the birth, death, or nonconfidential marriage record indices
18 prepared pursuant to this subdivision shall provide proof of identity, complete a
19 form, and sign the form under penalty of perjury. The form shall include all of the
20 following:

21 (A) An agreement not to release or allow public access to the birth, death, or
22 nonconfidential marriage record indices, and an agreement not to post the indices
23 on the Internet, except as permitted by this subdivision.

24 (B) The proposed use of the birth, death, or nonconfidential marriage record
25 indices.

26 (C) The names of all persons within the organization, if applicable, who will have
27 access to the birth, death, or nonconfidential marriage record indices.

28 (D) A disclaimer crediting analyses, interpretations, or conclusions reached
29 regarding the birth, death, or nonconfidential marriage record indices to the author
30 and not to the State Department of Public Health.

31 (E) Assurance that technical descriptions of the birth, death, or nonconfidential
32 marriage record indices are consistent with those provided by the State Department
33 of Public Health.

34 (F) Assurance that the requester shall not sell, assign, or otherwise transfer the
35 birth, death, or nonconfidential marriage record indices, except as permitted by this
36 subdivision.

37 (G) Assurance that the requester shall not use the birth, death, or nonconfidential
38 marriage record indices for fraudulent purposes.

39 (8)(A) Birth, death, and nonconfidential marriage record indices, and any portion
40 thereof, obtained pursuant to this section, shall not be used for fraudulent purposes
41 and shall not be posted on the Internet.

1 (B) Notwithstanding subparagraph (A), individual information contained in birth,
2 death, and nonconfidential marriage record indices may be posted on the Internet if
3 all of the following requirements are met:

4 (i) The individual information is posted on an Internet Web site that is protected
5 by a password.

6 (ii) The individual information is posted on an Internet Web site that is available
7 to subscribers only for a fee.

8 (iii) The individual information is not posted for public display.

9 (iv) The individual information is available to subscribers pursuant to a
10 contractual agreement.

11 (v) The individual information is posted for purposes of law enforcement or
12 preventing fraud.

13 (d) Mail-in requests from nongovernmental agencies for birth, death, and
14 nonconfidential marriage record indices requested pursuant to subdivisions (b) and
15 (c) shall include a notarized statement attesting to the identity of the requester.

16 (e) Noncomprehensive birth, death, and nonconfidential marriage record indices
17 pursuant to subdivisions (b) and (c) shall be updated annually.

18 (f) Birth, death, and nonconfidential marriage record indices provided pursuant to
19 this section shall be made available subject to cost recovery provisions of the
20 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of
21 Division 7 Division 10 (commencing with Section 7920.000) of Title 1 of the
22 Government Code).

23 (g) Noncomprehensive birth, death, and nonconfidential marriage record indices
24 created by local registrars or county recorders shall be subject to the conditions for
25 release required by this section.

26 (h) A person or entity that obtains a birth, death, or nonconfidential marriage
27 record index, or any portion thereof, from a requester who has obtained the index in
28 accordance with paragraph (7) of subdivision (c) shall not sell, assign, or otherwise
29 transfer that index, or any portion thereof, to a third party.

30 (i) Paragraphs (2) and (3) of subdivision (a) and subdivisions (b) to (h), inclusive,
31 shall be implemented only to the extent that funds for these purposes are
32 appropriated by the Legislature in the annual Budget Act or other statute.

33 **Comment.** Section 102230 is amended to reflect nonsubstantive recodification of the California
34 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
35 Reports __ (2019).

36 The section is also amended to eliminate gendered pronouns.

37 **§ 102231 (amended). Release of birth, death, and marriage data files**

38 SEC. _____. Section 102231 of the Health and Safety Code is amended to read:

39 102231. (a) Notwithstanding any other law, birth data files, birth data files for
40 public release, death data files for public release, death data files for purposes of law
41 enforcement or preventing fraud, and nonconfidential marriage data files prepared

1 and maintained by the State Registrar, local registrars, and county recorders shall
2 only be released as follows:

3 (1) Birth data files containing personal identifiers shall be subject to the same
4 restrictions as the confidential portion of a birth certificate and shall only be released
5 under the terms and conditions specified in Section 102430.

6 (2) Birth data files for public release shall not contain the mothers' maiden name.

7 (3) Death data files for public release shall not contain the mothers' maiden name
8 and social security number.

9 (4) Death data files for purposes of law enforcement or preventing fraud shall
10 include the mother's maiden name and social security number. Death data files
11 prepared pursuant to this subdivision may be released to governmental agencies and
12 to those entities described in paragraph (5) of subdivision (c) of Section 102230.

13 (5) Death data files containing personal identifying information may be released
14 to persons expressing a valid scientific interest, as determined by the appropriate
15 committee constituted for the protection of human subjects that is approved by the
16 United States Department of Health and Human Services and has a general
17 assurance pursuant to Part 46 (commencing with Section 46.101) of Title 45 of the
18 Code of Federal Regulations.

19 (6) Nonconfidential marriage data files shall include the name of each party to the
20 marriage and the date of the marriage. Nonconfidential marriage data files for public
21 release shall not contain the maiden names of the mothers.

22 (b) Requesters of birth, death, and nonconfidential marriage data files pursuant to
23 this section shall provide proof of identity, complete a form, and sign the form under
24 penalty of perjury. The form shall include all of the following:

25 (1) An agreement not to release the birth, death, or marriage data files and not to
26 post the files on the Internet, except as permitted by this subdivision.

27 (2) An agreement not to provide public access to data files obtained pursuant to
28 paragraphs (1) and (4) of subdivision (a).

29 (3) The proposed use of the data file.

30 (4) For data files obtained pursuant to paragraphs (1) and (4) of subdivision (a),
31 the names of all persons within the organization, if applicable, who will have access
32 to the data files.

33 (5) A disclaimer that credits analyses, interpretations, or conclusions reached
34 regarding the birth or death data files to the author and not to the State Department
35 of Public Health.

36 (6) Assurance that technical descriptions of the data files are consistent with those
37 provided by the State Department of Public Health.

38 (7) Assurance that the requester shall not sell, assign, or otherwise transfer the
39 data files, except as permitted by subdivision (e).

40 (8) Assurance that the requester shall not use the data files for fraudulent
41 purposes.

1 (c) Mail-in requests for birth, death, and nonconfidential marriage data files
2 pursuant to this section shall include a notarized statement attesting to the identity
3 of the requester.

4 (d) Birth, death, and nonconfidential marriage data files provided pursuant to this
5 section shall be made available subject to cost recovery provisions of the California
6 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
7 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
8 Code).

9 (e)(1) Birth, death, and nonconfidential marriage data files, and any portion
10 thereof, obtained pursuant to this section, shall not be used for fraudulent purposes
11 and shall not be posted on the Internet.

12 (2) Notwithstanding paragraph (1), individual information contained in death data
13 files obtained pursuant to paragraph (4) of subdivision (a) may be posted on the
14 Internet if all of the following requirements are met:

15 (A) The information is posted on an Internet Web site that is protected by a
16 password.

17 (B) The information is posted on an Internet Web site that is available to
18 subscribers only for a fee.

19 (C) The information is not posted for public display.

20 (D) The information is available to subscribers pursuant to a contractual
21 agreement.

22 (E) The information is posted for purposes of law enforcement or preventing
23 fraud.

24 (f) A person or entity that obtains a birth, death, or nonconfidential marriage data
25 file, or any portion thereof, from a requester who has obtained the data file in
26 accordance with subdivision (b) shall not sell, assign, or otherwise transfer that data
27 file, or any portion thereof, to a third party.

28 (g) This section shall be implemented only to the extent that funds for these
29 purposes are appropriated by the Legislature in the annual Budget Act or other
30 statute.

31 **Comment.** Section 102231 is amended to reflect nonsubstantive recodification of the California
32 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
33 Reports __ (2019).

34 **§ 105459 (amended). Reporting on California Environmental Contaminant Biomonitoring**
35 **Program**

36 SEC. _____. Section 105459 of the Health and Safety Code is amended to read:

37 105459. (a) By January 1, 2010, and every two years thereafter, the department,
38 in collaboration with the agency, the office, and DTSC, shall submit a report to the
39 Legislature containing the findings of the program, and shall include in the report
40 additional activities and recommendations for improving the program based upon
41 activities and findings to date. Copies of the report shall be made available via

1 appropriate media to the public within 30 calendar days following its submission to
2 the Legislature.

3 (b) The department shall provide the public access to information ~~which that~~ they
4 are required to release pursuant to the California Public Records Act (~~Chapter 3.5~~
5 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
6 Section 7920.000) of Title 1 of the Government Code).

7 (c) The department and the office shall disseminate biomonitoring findings to the
8 general public via appropriate media, including governmental and other Web sites
9 in a manner that is understandable to the average person.

10 (d) Any health and environmental exposure data made available to the general
11 public shall be provided in a summary format to protect the confidentiality of
12 program participants. The data shall be made available, after appropriate quality
13 assurance and quality control, by July 1, 2010, and at least every two years
14 thereafter.

15 **Comment.** Section 105459 is amended to reflect nonsubstantive recodification of the California
16 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
17 Reports __ (2019).

18 The section is also amended to make a grammatical correction.

19 **§ 110845 (amended). Records relating to products sold as organic**

20 SEC. ____. Section 110845 of the Health and Safety Code is amended to read:

21 110845. (a) Notwithstanding any other provision of law, any producer, handler,
22 processor, or retailer of products sold as organic shall immediately make available
23 for inspection by, and shall upon request, within 72 hours of the request, provide a
24 copy to, the director, the Attorney General, any prosecuting attorney, any
25 governmental agency responsible for enforcing laws related to the production or
26 handling of products sold as organic, or the secretary of any record required to be
27 kept under this section for purposes of carrying out this article and Chapter 10
28 (commencing with Section 46000) of Division 17 of the Food and Agricultural
29 Code. Records acquired pursuant to this subdivision shall not be public records as
30 that term is defined in Section ~~6252~~ 7920.530 of the Government Code and shall
31 not be subject to ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
32 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
33 Code.

34 (b) Upon written request of any person that establishes cause for the request, the
35 director and the secretary shall obtain and provide to the requesting party within 10
36 working days of the request a copy of any of the following records required to be
37 kept under this article that pertain to a specific product sold or offered for sale, and
38 that identify substances applied, administered, or added to that product, except that
39 financial information about an operation or transaction, information regarding the
40 quantity of a substance administered or applied, the date of each administration or
41 application, information regarding the identity of suppliers or customers, and the
42 quantity or price of supplies purchased or products sold shall be removed before

1 disclosure and shall not be released to any person other than persons and agencies
2 authorized to acquire records under subdivision (a):

3 (1) Records of a handler, as described in paragraph (4) of subdivision (a) of
4 Section 110840, records of previous handlers, if any, without identifying the
5 previous handlers or producers, and, if applicable, records obtained as required in
6 subdivision (b).

7 (2) Records of a retailer, as described in paragraph (4) of subdivision (b) of
8 Section 110840, records of previous handlers, if any, as described in paragraph (4)
9 of subdivision (a) of, Section 110840, without identifying the previous handlers,
10 and, if applicable, records obtained as required in subdivision (b).

11 This subdivision shall be the exclusive means of public access to records required
12 to be kept by handlers and retailers under this article.

13 A person required to provide records pursuant to a request under this subdivision,
14 may petition the director or the secretary to deny the request based on a finding that
15 the request is of a frivolous or harassing nature. The secretary or director may, upon
16 the issuance of this finding, waive the information production requirements of this
17 subdivision for the specific request for information that was the subject of the
18 petition.

19 (c) Information specified in subdivision (b) that is required to be released upon
20 request shall not be considered a “trade secret” under Section 110165, Section 1060
21 of the Evidence Code, or the Uniform Trade Secrets Act (Title 5 (commencing with
22 Section 3426) of Part 1 of Division 4 of the Civil Code).

23 (d) The director or the secretary may charge the person requesting records a
24 reasonable fee to reimburse ~~him or her self~~ the director, the secretary, or the source
25 of the records for the cost of reproducing the records requested.

26 (e) Any person who first imports into this state, for resale, products sold as organic
27 shall obtain and provide to the enforcement authority, upon request, proof that the
28 products being sold have been certified by an accredited certifying organization or
29 have otherwise been produced in compliance with this article.

30 (f) The director shall not be required to obtain records not in ~~his or her~~ the
31 director’s possession in response to a subpoena. Prior to releasing records required
32 to be kept pursuant to this chapter in response to a subpoena, the director shall delete
33 any information regarding the identity of suppliers or customers and the quantity or
34 price of supplies purchased or products sold.

35 **Comment.** Section 110845 is amended to reflect nonsubstantive recodification of the California
36 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
37 Reports __ (2019).

38 The section is also amended to eliminate gendered pronouns and correct a typographical error.

39 **§ 111792 (amended). Cosmetic that contains chemical causing cancer or reproductive**
40 **toxicity**

41 SEC. ____ . Section 111792 of the Health and Safety Code is amended to read:

1 111792. (a) The manufacturer of any cosmetic product subject to regulation by
2 the federal Food and Drug Administration that is sold in this state shall, on a
3 schedule and in electronic or other format, as determined by the division, provide
4 the division with a complete and accurate list of its cosmetic products that, as of the
5 date of submission, are sold in the state and that contain any ingredient that is a
6 chemical identified as causing cancer or reproductive toxicity, including any
7 chemical that meets either of the following conditions:

8 (1) A chemical contained in the product for purposes of fragrance or flavoring.

9 (2) A chemical identified by the phrase “and other ingredients” and determined to
10 be a trade secret pursuant to the procedure established in Part 20 and Section 720.8
11 of Part 720 of Title 21 of the Code of Federal Regulations. Any ingredient identified
12 pursuant to this paragraph shall be considered to be a trade secret and shall be treated
13 by the division in a manner consistent with the requirements of Part 20 and Part 720
14 of Title 21 of the Code of Federal Regulations. Any ingredients considered to be a
15 trade secret shall not be subject to the California Public Records Act (~~Chapter 3.5~~
16 ~~(commencing with Section 6250)~~ of Division 7 Division 10 (commencing with
17 Section 7920.000) of Title 1 of the Government Code) for the purposes of this
18 section.

19 (b) Any information submitted pursuant to subdivision (a) shall identify each
20 chemical both by name and Chemical Abstract Service number and shall specify the
21 product or products in which the chemical is contained.

22 (c) If an ingredient identified pursuant to this section subsequently is removed
23 from the product in which it was contained, is removed from the list of chemicals
24 known to cause cancer or reproductive toxicity published under Section 25249.8, or
25 is no longer a chemical identified as causing cancer or reproductive toxicity by an
26 authoritative body, the manufacturer of the product containing the ingredient shall
27 submit the new information to the division. Upon receipt of new information, the
28 division, after verifying the accuracy of that information, shall revise the
29 manufacturer’s information on record with the division to reflect the new
30 information. The manufacturer shall not be under obligation to submit subsequent
31 information on the presence of the ingredient in the product unless subsequent
32 changes require submittal of the information.

33 (d) This section shall not apply to any manufacturer of cosmetic products with
34 annual aggregate sales of cosmetic products, both within and outside of California,
35 of less than one million dollars (\$1,000,000), based on the manufacturer’s most
36 recent tax year filing.

37 (e) On or before December 31, 2013, the State Department of Public Health shall
38 develop and make operational a consumer-friendly, public Internet Web site that
39 creates a database of the information collected pursuant to this section. The database
40 shall be searchable to accommodate a wide range of users, including users with
41 limited technical and scientific literacy. Data shall be presented in an educational
42 manner with, among other things, hypertext links that explain the meanings of
43 technical terms, including, but not limited to, “carcinogenic” and “reproductive

1 toxicity.” The Internet Web site shall be designed to be easily navigable and to
2 enable users to compare and contrast products and reportable ingredients. The
3 Internet Web site shall include hypertext links to other educational and
4 informational Internet Web sites to enhance consumer understanding.

5 **Comment.** Section 111792 is amended to reflect nonsubstantive recodification of the California
6 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
7 Reports __ (2019).

8 **§ 115000.1 (amended). Low-level radioactive waste (LLRW)**

9 SEC. _____. Section 115000.1 of the Health and Safety Code is amended to read:

10 115000.1. (a) For the purposes of this section, the following terms have the
11 following meanings:

12 (1) “Generate” means to produce or cause the production of, or to engage in an
13 activity ~~which~~ that otherwise results in the creation or increase in the volume of,
14 low-level radioactive waste.

15 (2)(A) “Generator” means any person who, by ~~his or her~~ the person’s own actions,
16 or by the actions of ~~his or her~~ the person’s agent, employee, or independent
17 contractor, generates low-level radioactive waste in the state.

18 (B) For purposes of this section, a person who provides for or arranges for the
19 collection, transportation, treatment, storage, or disposal of low-level radioactive
20 waste generated by others is a generator only to the extent that ~~his or her~~ the person’s
21 own actions, or the actions of ~~his or her~~ the person’s agent, employee, or
22 independent contractor, generate low-level radioactive waste.

23 (3) “Person” means an individual, partnership, corporation, or other legal entity,
24 including any state, interstate, federal, or municipal governmental entity.

25 (4) “Waste” means material that is not in use and is no longer useful.

26 (5) “Generator category” includes, but is not limited to, any of the following:

27 (A) Nuclear powerplants.

28 (B) Reactor vendors or designers.

29 (C) Government.

30 (D) Medicine.

31 (E) Academia.

32 (F) Aerospace.

33 (G) Military.

34 (H) Research.

35 (I) Industrial gauges.

36 (J) Manufacturing.

37 (6) “Low-level radioactive waste” or “LLRW” has the same meaning as defined
38 in Article 2 of the Southwestern Low-Level Radioactive Waste Disposal Compact,
39 as set forth in Section 115255.

40 (7) “Class” means the class of low-level radioactive waste. “Class A”, “class B”,
41 and “class C” waste are those classes defined in Section 61.55 of Title 10 of the
42 Code of Federal Regulations.

1 (8) “Licensed LLRW disposal facility” means any of the three disposal facilities
2 located at Barnwell, South Carolina; Clive, Utah; or Richland, Washington, that
3 exist on January 1, 2003.

4 (b) The department shall, for the protection of public health and safety maintain a
5 file of each manifest from each generator of LLRW that is sent to a disposal facility
6 or to a facility subject to the Southwestern Low-level Radioactive Waste Disposal
7 Compact, as set forth in Article 17 (commencing with Section 115250).

8 (c) The department shall, for the protection of public health and safety, maintain
9 a file of all LLRW transferred for disposal to a licensed LLRW disposal facility
10 during the reporting period, either directly or through a broker or agent, that shall
11 meet all of the following conditions:

12 (1) Specify the category of generator, class, quantity by activity, and volume of
13 LLRW, including an estimate of the peak and average quantities in storage, along
14 with the identity of the generator, and the chemical and physical characteristics of
15 that waste, including its half-life, properties, or constituents, and radionuclides
16 present at, or above, the minimum labeling requirements, with their respective
17 concentrations and amounts of radioactivity.

18 (2) Be updated annually, at minimum, to ensure an accurate and timely depiction
19 of radioactive waste in the state.

20 (3) Include all of the following information in the file:

21 (A) The total volume, volume by class, and activity by radionuclide and class.

22 (B) The types and specifications of individual containers used and the number of
23 each type transferred for disposal.

24 (C) The maximum surface radiation exposure level on any single container of
25 LLRW transferred, the number of disposal containers that exceed 200 mR/hour, and
26 the volume, class, and activity by radionuclide.

27 (D) The identification of each licensed LLRW disposal facility to which LLRW
28 was transferred, either directly or through a broker or agent, and the volume and
29 activity by class of LLRW transferred by each broker to each licensed LLRW
30 disposal facility.

31 (E) The identification of all brokers or agents to which LLRW was transferred
32 and the volume and activity by class of the generator’s LLRW transferred by each
33 broker or agent to each licensed LLRW disposal facility.

34 (F) The weight of source material by its type. For purposes of this paragraph,
35 “type” includes, but is not limited to, natural uranium, depleted uranium, or
36 thorium.

37 (G) The total number of grams of special nuclear material by radionuclide, and
38 the maximum number of grams of special nuclear material in any single shipment
39 by radionuclide.

40 (H) As complete a description as practicable of the principal chemical and
41 physical form of the LLRW by volume and radionuclide, including the
42 identification of any known hazardous properties, other than its radioactive
43 property.

1 (I) For solidified or sorbed liquids, the nature of the liquid, the solidifying or
2 sorbing agent used, and the final volume.

3 (J) For LLRW containing more than 0.1 percent by weight chelating agents, the
4 identification of the chelating agent, the volume and weight of the LLRW and the
5 weight percentage of chelating agent.

6 (K) For LLRW that was treated, either by the generator or its agent or independent
7 contractor, in preparation for transfer to a licensed LLRW disposal facility described
8 in paragraph (8) of subdivision (a) for the purpose of reducing its volume or activity
9 by any method including reduction by storage for decay, or for the purpose of
10 changing its physical or chemical characteristics in a manner other than by
11 solidification or sorption of liquids, the file shall include a description of the
12 treatment process.

13 (L) The volume, volume by class, and activity by radionuclide and class of that
14 LLRW, if any, that the generator is holding at the end of the annual reporting period
15 because the generator knows or has reason to believe that LLRW will not be
16 accepted for disposal at any of the licensed LLRW disposal facilities. The file shall
17 include a description of this LLRW.

18 (d) The department shall maintain a file on each generator's LLRW stored,
19 including specific radionuclides, total volume, volume by class, total activity, and
20 activity by radionuclide and class of LLRW stored for decay and stored for later
21 transfer, including the periods of time for both types of storage.

22 (e)(1) The department shall prepare an annual report, including a set of tables
23 summarizing data collected from the activities and maintenance of files specified in
24 subdivisions (c) and (d) to the department. These annual data tables shall contain
25 information that summarizes and categorizes, by category, and if applicable,
26 subcategory, of generator and location by county and identity of generator, the
27 nature, characteristics and the total volume, volume by class, total activity and
28 activity by radionuclide and class of LLRW generated, disposed of, treated,
29 transferred, stored for later transfer, and stored for decay during each calendar year.

30 (2) The department shall note, in the set of tables prepared pursuant to paragraph
31 (1), any generator for which data are lacking.

32 (f) The department shall make the information described in subdivisions (c) and
33 (d) available to the public in a format that aggregates the information by county.
34 The department shall not make public the identity and location of any site where
35 LLRW is stored or used. The department may combine information from multiple
36 counties if necessary to protect public security. Notwithstanding any other provision
37 of law the department shall not make the report prepared pursuant to subdivision (e)
38 available to the public, and the report is not subject to the California Public Records
39 Act (~~Chapter 3.5 (commencing with Section 6250) of Division 6~~ Division 10
40 (commencing with Section 7920.000) of Title 1 of the Government Code).

41 (g) The department may make the information described in subdivisions (c) and
42 (d) available upon request to any Member of the Legislature. No Member of the

1 Legislature may disclose the identity or location of any site where LLRW is stored
2 or used to any member of the general public.

3 (h) To meet the requirements of this section, each generator shall submit to the
4 department the information included in Forms 540, 541, and 542, and any successor
5 forms, of the Nuclear Regulatory Commission, for each LLRW shipment. In
6 addition, for purposes of subparagraph (L) of paragraph (4) of subdivision (c) and
7 subdivision (d), each generator shall annually complete and submit to the
8 department the information included on Forms 540, 541, and 542, and any successor
9 forms, of the Nuclear Regulatory Commission that describe the LLRW stored and
10 shipped by the generator.

11 **Comment.** Section 115000.1 is amended to reflect nonsubstantive recodification of the
12 California Public Records Act (“CPRA”). See *California Public Records Act Clean-Up*, __ Cal. L.
13 Revision Comm’n Reports __ (2019). By updating the reference to the CPRA, the amendment also
14 eliminates an erroneous reference to “Division 6” (as opposed to “Division 7”).

15 The section is also amended to eliminate gendered pronouns and make a grammatical correction.

16 **§ 116787 (amended). Removal of installed residential self-regenerating water softeners**

17 SEC. _____. Section 116787 of the Health and Safety Code is amended to read:

18 116787. (a) Notwithstanding subdivision (d) of Section 116786, the Santa Clarita
19 Valley Sanitation District, or any successor district, may, by ordinance adopted
20 subsequent to an ordinance adopted pursuant to Section 116786, require the removal
21 of all installed residential self-regenerating water softeners, if the district makes all
22 of the following findings and includes those findings in the ordinance:

23 (1) The removal of residential self-regenerating water softeners is a necessary and
24 cost-effective means of achieving timely compliance with waste discharge
25 requirements, water reclamation requirements, or a Total Maximum Daily Load
26 (TMDL) issued by a California regional water quality control board. In determining
27 what constitutes a necessary and cost-effective means of achieving compliance, the
28 district shall assess all of the following:

29 (A) Alternatives to the ordinance.

30 (B) The cost-effectiveness and timeliness of the alternatives as compared to the
31 adoption of the ordinance.

32 (C) The reduction in chloride levels to date resulting from the voluntary program
33 implemented pursuant to paragraph (1) of subdivision (c).

34 (D) The potential reduction in chloride levels expected as a result of the program
35 implemented pursuant to paragraph (2) of subdivision (c).

36 (2) The district has adopted and is enforcing regulatory requirements that limit the
37 volume and concentrations of saline discharges from nonresidential sources to the
38 community sewer system, to the extent that is technologically and economically
39 feasible.

40 (3) Based on available information, sufficient wastewater treatment capacity
41 exists in Los Angeles County to make portable exchange water softening services
42 available to residents affected by this ordinance.

1 (4) Based on available information, the adoption and implementation of the
2 ordinance will avoid or significantly reduce the costs associated with advanced
3 treatment for salt removal and brine disposal that otherwise would be necessary to
4 meet the Total Maximum Daily Load (TMDL) for chloride, established by the
5 Regional Water Quality Control Board, Los Angeles Region, for Reaches 5 and 6
6 of the Santa Clara River, in Los Angeles County that took effect May 4, 2005.

7 (b)(1) An ordinance adopted pursuant to subdivision (a) shall not be effective until
8 it is approved by a majority vote of the qualified votes cast in a regularly scheduled
9 election, following the adoption of the ordinance, held in the district's service area,
10 in a referendum in accordance with applicable provisions of the Elections Code.

11 (2) Information regarding the projected cost differences between advanced
12 treatment for salt removal and brine disposal without the removal of installed
13 residential self-regenerating water softeners, alternatives identified in paragraph (1)
14 of subdivision (a), and the removal of installed residential self-regenerating water
15 softeners shall be included in voter information material.

16 (c)(1) Prior to the effective date of any ordinance adopted pursuant to subdivision
17 (a), the district shall make available to owners of residential self-regenerating water
18 softeners within its service area a voluntary program to compensate the owner of
19 the appliance for 100 percent of the reasonable value of the removed appliance, and
20 the reasonable cost of the removal and disposal of the appliance, both of which shall
21 be determined by the district, with consideration given to information provided by
22 manufacturers of residential self-regenerating water softeners and providers of
23 water softening or conditioning appliances and services in the district's service area
24 regarding purchase price, useful life, and the cost of installation, removal, and
25 disposal.

26 (2) On and after the effective date of any ordinance adopted pursuant to
27 subdivision (a), the district shall make available to owners of residential self-
28 regenerating water softeners within its service area a program to compensate the
29 owner of the appliance for 75 percent of the reasonable value of the removed
30 appliance, and the reasonable cost of the removal and disposal of the appliance, both
31 of which shall be determined by the district, with consideration given to information
32 provided by manufacturers of residential self-regenerating water softeners and
33 providers of water softening or conditioning appliances and services in the district's
34 service area regarding purchase price, useful life, and the cost of installation,
35 removal, and disposal.

36 (3) Compensation pursuant to paragraphs (1) and (2) shall only be made available
37 if the owner disposes of the residential self-regenerating water softener and provides
38 written confirmation of the ~~disposal~~ disposal, which may include, but is not limited
39 to, verification in writing provided by the franchise refuse hauler that provides the
40 service of removing the appliance or verification in writing of the appliance's
41 destruction by the party responsible for its recycling or final disposal.

42 (4) If the owner of a residential self-regenerating water softener is in the business
43 of renting or leasing residential self-regenerating water softeners, the owner may

1 voluntarily waive compensation pursuant to paragraphs (1) and (2), and shall not be
2 required to dispose of the appliance if the owner provides the district with written
3 confirmation that the appliance has been removed from the home within the
4 district's service area for use in a location outside the district's service area.

5 (5) The terms of compensation included in paragraphs (1) and (2) shall be
6 included in an ordinance adopted pursuant to subdivision (a).

7 (6)(A) Upon the request of the district, the providers of water softening or
8 conditioning services and appliances to residents of the district's service area shall
9 provide the district, within 60 days, copies of purchase agreements or receipts, or
10 any other specific records of sales of residential self-generating water softeners in
11 the district's service area.

12 (B) The information in this paragraph shall remain protected and confidential in
13 accordance with applicable provisions of the Public Records Act (~~Chapter 3.5~~
14 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
15 Section 7920.000) of Title 1 of the Government Code).

16 (d) Any ordinance adopted pursuant to subdivision (a) and approved in
17 accordance with subdivision (b) shall not take effect until January 1, 2009.

18 (e) For purposes of this section, "residential self-regenerating water softeners"
19 and "appliances" mean residential water softening or conditioning appliances that
20 discharge brine into the community sewer system.

21 **Comment.** Section 116787 is amended to reflect nonsubstantive recodification of the California
22 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
23 Reports __ (2019).

24 The section is also amended to make a grammatical correction.

25 **§ 120160 (amended). Reporting on supply of influenza vaccine**

26 SEC. _____. Section 120160 of the Health and Safety Code is amended to read:

27 120160. (a) Any manufacturer or distributor of the influenza vaccine, or nonprofit
28 health care service plan that exclusively contracts with a single medical group in a
29 specified geographic area to provide, or to arrange for the provision of, medical
30 services to its enrollees, shall report the information described in subdivision (c)
31 relating to the supply of the influenza vaccine to the department upon notice from
32 the department.

33 (b) Within each county or city health jurisdiction, entities that have possession of,
34 or have a legal right to obtain possession of, the influenza vaccine, or entities that
35 are conducting or intend to conduct influenza clinics for the public, their residents,
36 or their employees, except those entities described in subdivision (a), shall cooperate
37 with the local health officer in determining local inventories of influenza vaccine,
38 including providing inventory, orders, and distribution lists in a timely manner,
39 when necessary.

40 (c) The information reported pursuant to subdivision (a) shall include, but is not
41 limited to, the amount of the influenza vaccine that has been shipped, and the name,
42 address, and, if applicable, the telephone number of the recipient.

1 (d) Subdivisions (a), (b), and (c) do not apply to a physician and surgeon practice,
2 unless the practice is an occupational health provider who conducts influenza
3 vaccination campaigns on behalf of a corporation.

4 (e) It is the intent of the Legislature in enacting this section to assist small
5 physician and surgeon practices, nursing facilities, and other health care providers
6 that provide care for patients at risk of illness or death from influenza by facilitating
7 the sharing of vaccine supplies, if necessary, between providers within a local
8 jurisdiction.

9 (f) If a business believes that the information required by this section involves the
10 release of a trade secret, the business shall nevertheless disclose the information to
11 the department, and shall notify the department in writing of that belief at the time
12 of disclosure. As used in this section, “trade secret” has the meanings given to it by
13 Section ~~6254.7~~ 7924.510 of the Government Code and Section 1061 of the Evidence
14 Code. Any information, including identifying information, including, but not
15 limited to, the name of the agent or contact person of an entity that receives the
16 influenza vaccine from a manufacturer or distributor, or nonprofit health care
17 service plan described in subdivision (a), and the receiving entity’s address and
18 telephone number, that is reported pursuant to this section shall not be disclosed by
19 the department to anyone, except to an officer or employee of the county, city, city
20 and county, or the state in connection with the official duties of that officer or
21 employee to protect the public health.

22 **Comment.** Section 120160 is amended to reflect nonsubstantive recodification of the California
23 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
24 Reports __ (2019).

25 **§ 123853 (amended). Factor replacement therapies under California Children’s Services**

26 **Program**

27 SEC. ____. Section 123853 of the Health and Safety Code is amended to read:

28 123853. (a) The department may enter into contracts with one or more
29 manufacturers on a negotiated or bid basis as the purchaser, but not the dispenser or
30 distributor, of factor replacement therapies under the California Children’s Services
31 Program for the purpose of enabling the department to obtain the full range of
32 available therapies and services required for clients with hematological disorders at
33 the most favorable price and to enable the department, notwithstanding any other
34 provision of state law, to obtain discounts, rebates, or refunds from the
35 manufacturers based upon the large quantities purchased under the program.
36 Nothing in this subdivision shall interfere with the usual and customary distribution
37 practices of factor replacement therapies. In order to achieve maximum cost savings,
38 the Legislature hereby determines that an expedited contract process under this
39 section is necessary. Therefore, a contract under this subdivision may be on a
40 negotiated basis and shall be exempt from Chapter 2 (commencing with Section
41 10290) of Part 2 of Division 2 of the Public Contract Code and Chapter 6
42 (commencing with Section 14825) of Part 5.5 of Division 3 of the Government

1 Code. Contracts entered pursuant to this subdivision shall be confidential and shall
2 be exempt from disclosure under the California Public Records Act (~~Chapter 3.5~~
3 ~~(commencing with Section 6250)~~ of ~~Division 7~~ Division 10 (commencing with
4 Section 7920.000) of Title 1 of the Government Code).

5 (b)(1) Factor replacement therapy manufacturers shall calculate and pay interest
6 on late or unpaid rebates. The interest shall not apply to any prior period adjustments
7 of unit rebate amounts or department utilization adjustments. Manufacturers shall
8 calculate and pay interest on late or unpaid rebates for quarters that begin on or after
9 the effective date of the act that added this subdivision.

10 (2) Following the final resolution of any dispute regarding the amount of a rebate,
11 any underpayment by a manufacturer shall be paid with interest calculated pursuant
12 to paragraph (4), and any overpayment, together with interest at the rate calculated
13 pursuant to paragraph (4), shall be credited by the department against future rebates
14 due.

15 (3) Interest pursuant to paragraphs (1) and (2) shall begin accruing 38 calendar
16 days from the date of mailing the invoice, including supporting utilization data sent
17 to the manufacturer. Interest shall continue to accrue until the date of mailing of the
18 manufacturer's payment.

19 (4) Interest rates and calculations pursuant to paragraphs (1) and (2) shall be
20 identical to interest rates and calculations set forth in the federal Centers for
21 Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or
22 regulations.

23 (c) If the department has not received a rebate payment, including interest, within
24 180 days of the date of mailing of the invoice, including supporting utilization data,
25 a factor replacement therapy manufacturer's contract with the department shall be
26 deemed to be in default and the contract may be terminated in accordance with the
27 terms of the contract. This subdivision does not limit the department's right to
28 otherwise terminate a contract in accordance with the terms of that contract.

29 (d) The department may enter into contracts on a bid or negotiated basis with
30 manufacturers, distributors, dispensers, or suppliers of pharmaceuticals, appliances,
31 durable medical equipment, medical supplies, and other product-type health care
32 services and laboratories for the purpose of obtaining the most favorable prices to
33 the state and to assure adequate access and quality of the product or service. In order
34 to achieve maximum cost savings, the Legislature hereby determines that an
35 expedited contract process under this subdivision is necessary. Therefore, contracts
36 under this subdivision may be on a negotiated basis and shall be exempt from the
37 provisions of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2
38 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of
39 Part 5.5 of Division 3 of the Government Code.

40 (e) The department may contract with one or more manufacturers of each
41 multisource prescribed product or supplier of outpatient clinical laboratory services
42 on a bid or negotiated basis. Contracts for outpatient clinical laboratory services
43 shall require that the contractor be a clinical laboratory licensed or certified by the

1 State of California or certified under Section 263a of Title 42 of the United States
2 Code. Nothing in this subdivision shall be construed as prohibiting the department
3 from contracting with less than all manufacturers or clinical laboratories, including
4 just one manufacturer or clinical laboratory, on a bid or negotiated basis.

5 **Comment.** Section 123853 is amended to reflect nonsubstantive recodification of the California
6 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
7 Reports __ (2019).

8 **§ 125191 (amended). Factor replacement therapies under Genetically Handicapped Persons**
9 **Program**

10 SEC. _____. Section 125191 of the Health and Safety Code is amended to read:

11 125191. (a) The department may enter into contracts with one or more
12 manufacturers on a negotiated or bid basis as the purchaser, but not the dispenser or
13 distributor, of factor replacement therapies under the Genetically Handicapped
14 Persons Program for the purpose of enabling the department to obtain the full range
15 of available therapies and services required for clients with hematological disorders
16 at the most favorable price and to enable the department, notwithstanding any other
17 state law, to obtain discounts, rebates, or refunds from the manufacturers based upon
18 the large quantities purchased under the program. This subdivision does not
19 interfere with the usual and customary distribution practices of factor replacement
20 therapies. In order to achieve maximum cost savings, the Legislature hereby
21 determines that an expedited contract process under this section is necessary.
22 Therefore, a contract under this subdivision may be entered into on a negotiated
23 basis and is exempt from Chapter 2 (commencing with Section 10290) of Part 2 of
24 Division 2 of the Public Contract Code and Chapter 6 (commencing with Section
25 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code. Contracts
26 entered pursuant to this subdivision shall be confidential and shall be exempt from
27 disclosure under the California Public Records Act (~~Chapter 3.5 (commencing with~~
28 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
29 Title 1 of the Government Code).

30 (b)(1) Factor replacement therapy manufacturers shall calculate and pay interest
31 on late or unpaid rebates. The interest does not apply to any prior period adjustments
32 of unit rebate amounts or department utilization adjustments. Manufacturers shall
33 calculate and pay interest on late or unpaid rebates for quarters that begin on or after
34 the effective date of the act that added this subdivision.

35 (2) Following the final resolution of any dispute regarding the amount of a rebate,
36 any underpayment by a manufacturer shall be paid with interest calculated pursuant
37 to paragraph (4), and any overpayment, together with interest at the rate calculated
38 pursuant to paragraph (4), shall be credited by the department against future rebates
39 due.

40 (3) Interest pursuant to paragraphs (1) and (2) shall begin accruing 38 calendar
41 days from the date of mailing the invoice, including supporting utilization data sent

1 to the manufacturer. Interest shall continue to accrue until the date of mailing of the
2 manufacturer's payment.

3 (4) Interest rates and calculations pursuant to paragraphs (1) and (2) shall be
4 identical to interest rates and calculations set forth in the federal Centers for
5 Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or
6 regulations.

7 (c) If the department has not received a rebate payment, including interest, within
8 180 days of the date of mailing of the invoice, including supporting utilization data,
9 a factor replacement therapy manufacturer's contract with the department shall be
10 deemed to be in default and the contract may be terminated in accordance with the
11 terms of the contract. This subdivision does not limit the department's right to
12 otherwise terminate a contract in accordance with the terms of that contract.

13 (d) The department may enter into contracts on a bid or negotiated basis with
14 manufacturers, distributors, dispensers, or suppliers of pharmaceuticals, appliances,
15 durable medical equipment, medical supplies, and other product-type health care
16 services and laboratories for the purpose of obtaining the most favorable prices to
17 the state and to assure adequate access and quality of the product or service. In order
18 to achieve maximum cost savings, the Legislature hereby determines that an
19 expedited contract process under this subdivision is necessary. Therefore, contracts
20 under this subdivision may be entered into on a negotiated basis and shall be exempt
21 from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the
22 Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5
23 of Division 3 of Title 2 of the Government Code.

24 (e) The department may contract with one or more manufacturers of each
25 multisource prescribed product or supplier of outpatient clinical laboratory services
26 on a bid or negotiated basis. Contracts for outpatient clinical laboratory services
27 shall require that the contractor be a clinical laboratory licensed or certified by the
28 State of California or certified under Section 263a of Title 42 of the United States
29 Code. This subdivision shall not be construed as prohibiting the department from
30 contracting with less than all manufacturers or clinical laboratories, including just
31 one manufacturer or clinical laboratory, on a bid or negotiated basis.

32 **Comment.** Section 125191 is amended to reflect nonsubstantive recodification of the California
33 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
34 Reports __ (2019).

35 **§ 125290.30 (amended). Public and Financial Accountability Standards**

36 SEC. ____. Section 125290.30 of the Health and Safety Code is amended to read:
37 125290.30. Public and Financial Accountability Standards

38 (a) Annual Public Report

39 The institute shall issue an annual report to the public which sets forth its
40 activities, grants awarded, grants in progress, research accomplishments, and future
41 program directions. Each annual report shall include, but not be limited to, the
42 following: the number and dollar amounts of research and facilities grants; the

1 grantees for the prior year; the institute’s administrative expenses; an assessment of
2 the availability of funding for stem cell research from sources other than the
3 institute; a summary of research findings, including promising new research areas;
4 an assessment of the relationship between the institute’s grants and the overall
5 strategy of its research program; and a report of the institute’s strategic research and
6 financial plans.

7 (b) Independent Financial Audit for Review by Controller

8 The institute shall annually commission an independent financial audit of its
9 activities from a certified public accounting firm, which shall be provided to the
10 Controller, who shall review the audit and annually issue a public report of that
11 review.

12 (c) A performance audit shall be commissioned by the institute every three years
13 beginning with the audit for the 2010–11 fiscal year. The performance audit, which
14 may be performed by the Bureau of State Audits, shall examine the functions,
15 operations, management systems, and policies and procedures of the institute to
16 assess whether the institute is achieving economy, efficiency, and effectiveness in
17 the employment of available resources. The performance audit shall be conducted
18 in accordance with government auditing standards, and shall include a review of
19 whether the institute is complying with ICOC policies and procedures. The
20 performance audit shall not be required to include a review of scientific
21 performance. The first performance audit shall include, but not be limited to, all of
22 the following:

23 (1) Policies and procedures for the issuance of contracts and grants and a review
24 of a representative sample of contracts, grants, and loans executed by the institute.

25 (2) Policies and procedures relating to the protection or treatment of intellectual
26 property rights associated with research funded or commissioned by the institute.

27 (d) All administrative costs of the audits required by subdivisions (b) and (c) shall
28 be paid by the institute.

29 (e) Citizen’s Financial Accountability Oversight Committee

30 There shall be a Citizen’s Financial Accountability Oversight Committee chaired
31 by the Controller. This committee shall review the annual financial audit, the
32 Controller’s report and evaluation of that audit, and the financial practices of the
33 institute. The Controller, the Treasurer, the President pro Tempore of the Senate,
34 the Speaker of the Assembly, and the Chairperson of the ICOC shall each appoint a
35 public member of the committee. Committee members shall have medical
36 backgrounds and knowledge of relevant financial matters. The committee shall
37 provide recommendations on the institute’s financial practices and performance.
38 The Controller shall provide staff support. The committee shall hold a public
39 meeting, with appropriate notice, and with a formal public comment period. The
40 committee shall evaluate public comments and include appropriate summaries in its
41 annual report. The ICOC shall provide funds for all costs associated with the per
42 diem expenses of the committee members and for publication of the annual report.

43 (f) Public Meeting Laws

1 (1) The ICOC shall hold at least two public meetings per year, one of which will
2 be designated as the institute’s annual meeting. The ICOC may hold additional
3 meetings as it determines are necessary or appropriate.

4 (2) The Bagley-Keene Open Meeting Act, Article 9 (commencing with Section
5 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, shall
6 apply to all meetings of the ICOC, except as otherwise provided in this section. The
7 ICOC shall award all grants, loans, and contracts in public meetings and shall adopt
8 all governance, scientific, medical, and regulatory standards in public meetings.

9 (3) The ICOC may conduct closed sessions as permitted by the Bagley-Keene
10 Open Meeting Act, under Section 11126 of the Government Code. In addition, the
11 ICOC may conduct closed sessions when it meets to consider or discuss:

12 (A) Matters involving information relating to patients or medical subjects, the
13 disclosure of which would constitute an unwarranted invasion of personal privacy.

14 (B) Matters involving confidential intellectual property or work product, whether
15 patentable or not, including, but not limited to, any formula, plan, pattern, process,
16 tool, mechanism, compound, procedure, production data, or compilation of
17 information, which is not patented, which is known only to certain individuals who
18 are using it to fabricate, produce, or compound an article of trade or a service having
19 commercial value and which gives its user an opportunity to obtain a business
20 advantage over competitors who do not know it or use it.

21 (C) Matters involving prepublication, confidential scientific research or data.

22 (D) Matters concerning the appointment, employment, performance,
23 compensation, or dismissal of institute officers and employees. Action on
24 compensation of the institute’s officers and employees shall only be taken in open
25 session.

26 (4) The meeting required by paragraph (2) of subdivision (b) of Section
27 125290.20 shall be deemed to be a special meeting for the purposes of Section
28 11125.4 of the Government Code.

29 (g) Public Records

30 (1) The California Public Records Act, ~~Article 1 (commencing with Section 6250)~~
31 ~~of Chapter 3.5 of Division 7~~ Division 10 (commencing with Section 7920.000) of
32 Title 1 of the Government Code, shall apply to all records of the institute, except as
33 otherwise provided in this section.

34 (2) Nothing in this section shall be construed to require disclosure of any records
35 that are any of the following:

36 (A) Personnel, medical, or similar files, the disclosure of which would constitute
37 an unwarranted invasion of personal privacy.

38 (B) Records containing or reflecting confidential intellectual property or work
39 product, whether patentable or not, including, but not limited to, any formula, plan,
40 pattern, process, tool, mechanism, compound, procedure, production data, or
41 compilation of information, which is not patented, which is known only to certain
42 individuals who are using it to fabricate, produce, or compound an article of trade

1 or a service having commercial value and which gives its user an opportunity to
2 obtain a business advantage over competitors who do not know it or use it.

3 (C) Prepublication scientific working papers or research data.

4 (3) The institute shall include, in all meeting minutes, a summary of vote tallies
5 and disclosure of each board member's votes and recusals on all action items.

6 (h) Competitive Bidding

7 (1) The institute shall, except as otherwise provided in this section, be governed
8 by the competitive bidding requirements applicable to the University of California,
9 as set forth in Article 1 (commencing with Section 10500) of Chapter 2.1 of Part 2
10 of Division 2 of the Public Contract Code.

11 (2) For all institute contracts, the ICOC shall follow the procedures required of
12 the Regents by Article 1 (commencing with Section 10500) of Chapter 2.1 of Part
13 2 of Division 2 of the Public Contract Code with respect to contracts let by the
14 University of California.

15 (3) The requirements of this section shall not be applicable to grants or loans
16 approved by the ICOC.

17 (4) Except as provided in this section, the Public Contract Code shall not apply to
18 contracts let by the institute.

19 (i) Conflicts of Interest

20 (1) The Political Reform Act, Title 9 (commencing with Section 81000) of the
21 Government Code, shall apply to the institute and to the ICOC, except as provided
22 in this section and in subdivision (e) of Section 125290.50.

23 (A) No member of the ICOC shall make, participate in making, or in any way
24 attempt to use his or her official position to influence a decision to approve or award
25 a grant, loan, or contract to his or her employer, but a member may participate in a
26 decision to approve or award a grant, loan, or contract to a nonprofit entity in the
27 same field as his or her employer.

28 (B) A member of the ICOC may participate in a decision to approve or award a
29 grant, loan, or contract to an entity for the purpose of research involving a disease
30 from which a member or his or her immediate family suffers or in which the member
31 has an interest as a representative of a disease advocacy organization.

32 (C) The adoption of standards is not a decision subject to this section.

33 (2) Service as a member of the ICOC by a member of the faculty or administration
34 of any system of the University of California shall not, by itself, be deemed to be
35 inconsistent, incompatible, in conflict with, or inimical to the duties of the ICOC
36 member as a member of the faculty or administration of any system of the University
37 of California and shall not result in the automatic vacation of either such office.
38 Service as a member of the ICOC by a representative or employee of a disease
39 advocacy organization, a nonprofit academic and research institution, or a life
40 science commercial entity shall not be deemed to be inconsistent, incompatible, in
41 conflict with, or inimical to the duties of the ICOC member as a representative or
42 employee of that organization, institution, or entity.

1 (3) Section 1090 of the Government Code shall not apply to any grant, loan, or
2 contract made by the ICOC except where both of the following conditions are met:

3 (A) The grant, loan, or contract directly relates to services to be provided by any
4 member of the ICOC or the entity the member represents or financially benefits the
5 member or the entity he or she represents.

6 (B) The member fails to recuse himself or herself from making, participating in
7 making, or in any way attempting to use his or her official position to influence a
8 decision on the grant loan or contract.

9 (j) Patent Royalties and License Revenues Paid to the State of California

10 (1) The ICOC shall establish standards that require that all grants and loan awards
11 be subject to intellectual property agreements that balance the opportunity of the
12 State of California to benefit from the patents, royalties, and licenses that result from
13 basic research, therapy development, and clinical trials with the need to ensure that
14 essential medical research is not unreasonably hindered by the intellectual property
15 agreements. All revenues received through the intellectual property agreements
16 established pursuant to this subdivision shall be deposited into the General Fund.

17 (2) These standards shall include, at a minimum, a requirement that CIRM
18 grantees, other than loan recipients and facilities grant recipients, share a fraction of
19 the revenue they receive from licensing or self-commercializing an invention or
20 technology that arises from research funded by CIRM, as set forth below. All
21 revenues received pursuant to this paragraph or regulations adopted to implement
22 this paragraph shall be deposited in the General Fund for use consistent with Section
23 202(c)(7) of Title 35 of the United States Code, if applicable.

24 (A)(i) A grantee that licenses an invention or technology that arises from research
25 funded by CIRM shall pay 25 percent of the revenues it receives in excess of five
26 hundred thousand dollars (\$500,000), in the aggregate, to the General Fund. The
27 threshold amount of five hundred thousand dollars (\$500,000) shall be adjusted
28 annually by a multiple of a fraction, the denominator of which is the Consumer Price
29 Index, All Urban Consumers, All Items (San Francisco-Oakland-San Jose; 1982-
30 84=100) as prepared by the Bureau of Labor Statistics of the United States
31 Department of Labor and published for the month of October 2009, and the
32 numerator of which is that index published for the month in which the grantee
33 accepts the grant.

34 (ii) If funding sources other than CIRM directly contributed to the development
35 of the invention or technology, then the return to the General Fund shall be
36 calculated as follows: The amount of CIRM funding for the invention or technology
37 shall be divided by the total of funding provided by all sources, and that fraction
38 shall be multiplied by 25. That numeral is the percentage due to the General Fund.

39 (B)(i) A grantee that self-commercializes a product that results from an invention
40 or technology that arises from research funded by CIRM shall pay an amount to the
41 General Fund equal to three times the total amount of the CIRM grant or grants
42 received by the grantee in support of the research that contributed to the creation of

1 the product. The rate of payback of the royalty shall be at a rate of 3 percent of the
2 annual net revenue received by the grantee from the product.

3 (ii) In addition to the payment required by clause (i), the first time that net
4 commercial revenues earned by the grantee from the product exceed two hundred
5 fifty million dollars (\$250,000,000) in a calendar year, the grantee shall make a one-
6 time payment to the General Fund equal to three times the total amount of the grant
7 or grants awarded by CIRM to the grantee in support of the research that contributed
8 to the creation of the product.

9 (iii) In addition to the payments required by clauses (i) and (ii), the first time that
10 net commercial revenues earned by the grantee from the product exceed five
11 hundred million dollars (\$500,000,000) in a calendar year, the grantee shall make
12 an additional one-time payment to the General Fund equal to three times the total
13 amount of the grant or grants awarded by CIRM to the grantee in support of the
14 research that contributed to the creation of the product.

15 (iv) In addition to the payments required by clauses (i), (ii), and (iii), the first time
16 that net commercial revenues earned by the grantee from the product equal or
17 exceed five hundred million dollars (\$500,000,000) in a calendar year, the grantee
18 shall pay the General Fund 1 percent annually of net commercial revenue in excess
19 of five hundred million dollars (\$500,000,000) for the life of any patent covering
20 the invention or technology, if the grantee patented its invention or technology and
21 received a CIRM grant or grants amounting to more than five million dollars
22 (\$5,000,000) in support of the research that contributed to the creation of the
23 product.

24 (3) The ICOC shall have the authority to adopt regulations to implement this
25 subdivision. The ICOC shall also have the authority to modify the formulas
26 specified in subparagraphs (A) and (B) of paragraph (2) through regulations if the
27 ICOC determines pursuant to paragraph (1) that a modification is required either in
28 order to ensure that essential medical research, including, but not limited to, therapy
29 development and the broad delivery of therapies to patients, is not unreasonably
30 hindered, or to ensure that the State of California has an opportunity to benefit from
31 the patents, royalties, and licenses that result from basic research, therapy
32 development, and clinical trials. The ICOC shall notify the appropriate fiscal and
33 policy committees of the Legislature 10 calendar days before exercising its authority
34 to vote on the modification of the formulas specified in subparagraphs (A) and (B)
35 of paragraph (2).

36 (k) Preference for California Suppliers

37 The ICOC shall establish standards to ensure that grantees purchase goods and
38 services from California suppliers to the extent reasonably possible, in a good faith
39 effort to achieve a goal of more than 50 percent of such purchases from California
40 suppliers.

41 **Comment.** Section 125290.30 is amended to reflect nonsubstantive recodification of the
42 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
43 Comm'n Reports __ (2019).

1 **Note.** Section 125290.30 was added to the codes in 2004 by an initiative measure, the California
2 Stem Cell Research and Cures Act (Prop. 71, approved Nov. 2, 2004, § 5.) The California
3 Constitution limits the Legislature’s ability to “amend” such a statute. See Cal. Const. art. II, § 10;
4 see also Prop. 71, approved Nov. 2, 2004, § 8 (specifying special requirements for “amending”
5 Prop. 71).

6 In this context, the term “amend” does not appear to include a purely technical, nonsubstantive
7 revision like the one proposed above. See, e.g., *People v. Kelly*, 47 Cal. 4th 1008, 1025, 222 P.3d
8 186, 103 Cal. Rptr. 3d 733 (2010) (purpose of California’s constitutional limitation on legislative
9 power to amend initiative statute is to protect initiative powers of public by precluding Legislature
10 from undoing what public has done, without electorate’s consent.”); *People v. Superior Court*
11 (Pearson), 48 Cal. 4th 564, 571, 568, 227 P.3d 858, 107 Cal. Rptr. 3d 265 (2010) (in deciding
12 whether particular provision amends initiative statute, “we simply need to ask whether it prohibits
13 what the initiative authorizes, or authorizes what the initiative prohibits”).

14 The Commission thus believes that its proposed technical revision of Section 125290.30
15 (shown above) would not be subject to any special voting requirements.

16 **The Commission welcomes input on any aspect of this tentative recommendation, but it**
17 **would especially appreciate public comment on this matter.**

18 **§ 125290.50 (amended). Scientific and medical working groups**

19 SEC. _____. Section 125290.50 of the Health and Safety Code is amended to read:

20 125290.50. Scientific and Medical Working Groups—General

21 (a) The institute shall have, and there is hereby established, three separate
22 scientific and medical working groups as follows:

23 (1) Scientific and Medical Research Funding Working Group.

24 (2) Scientific and Medical Accountability Standards Working Group.

25 (3) Scientific and Medical Research Facilities Working Group.

26 (b) Working Group Members

27 Appointments of scientific and medical working group members shall be made
28 by a majority vote of a quorum of the ICOC, within 30 days of the election and
29 appointment of the initial ICOC members. The working group members’ terms shall
30 be six years except that, after the first six-year terms, the members’ terms will be
31 staggered so that one-third of the members shall be elected for a term that expires
32 two years later, one-third of the members shall be elected for a term that expires
33 four years later, and one-third of the members shall be elected for a term that expires
34 six years later. Subsequent terms are for six years. Working group members may
35 serve a maximum of two consecutive terms.

36 (c) Working Group Meetings

37 Each scientific and medical working group shall hold at least four meetings per
38 year, one of which shall be designated as its annual meeting.

39 (d) Working Group Recommendations to the ICOC

40 Recommendations of each of the working groups may be forwarded to the ICOC
41 only by a vote of a majority of a quorum of the members of each working group. If
42 35 percent of the members of any working group join together in a minority position,
43 a minority report may be submitted to the ICOC. The ICOC shall consider the
44 recommendations of the working groups in making its decisions on applications for
45 research and facility grants and loan awards and in adopting regulatory standards.

1 Each working group shall recommend to ICOC rules, procedures, and practices for
2 that working group.

3 (e) Conflict of Interest

4 (1) The ICOC shall adopt conflict of interest rules, based on standards applicable
5 to members of scientific review committees of the National Institutes of Health, to
6 govern the participation of non-ICOC working group members.

7 (2) The ICOC shall appoint an ethics officer from among the staff of the institute.

8 (3) Because the working groups are purely advisory and have no final
9 decisionmaking authority, members of the working groups shall not be considered
10 public officials, employees, or consultants for purposes of the Political Reform Act
11 (Title 9 (commencing with Section 81000) of the Government Code), Sections 1090
12 and 19990 of the Government Code, and Sections 10516 and 10517 of the Public
13 Contract Code.

14 (f) Working Group Records

15 All records of the working groups submitted as part of the working groups'
16 recommendations to the ICOC for approval shall be subject to the Public Records
17 Act. Except as provided in this subdivision, the working groups shall not be subject
18 to the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part
19 1 of Division 3 of Title 2 of the Government Code, or ~~Article 1 (commencing with~~
20 ~~Section 6250) of Chapter 3.5 of Division 7~~ Division 10 (commencing with Section
21 7920.000) of Title 1 of the Government Code.

22 **Comment.** Section 125290.50 is amended to reflect nonsubstantive recodification of the
23 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
24 Comm'n Reports __ (2019).

25 **Note.** Section 125290.50 was added to the codes in 2004 by an initiative measure, the California
26 Stem Cell Research and Cures Act (Prop. 71, approved Nov. 2, 2004, § 5.) The California
27 Constitution limits the Legislature's ability to "amend" such a statute. See Cal. Const. art. II, § 10;
28 see also Prop. 71, approved Nov. 2, 2004, § 8 (specifying special requirements for "amending"
29 Prop. 71).

30 In this context, the term "amend" does not appear to include a purely technical, nonsubstantive
31 revision like the one proposed above. See, e.g., *People v. Kelly*, 47 Cal. 4th 1008, 1025, 222 P.3d
32 186, 103 Cal. Rptr. 3d 733 (2010) (purpose of California's constitutional limitation on legislative
33 power to amend initiative statute is to protect initiative powers of public by precluding Legislature
34 from undoing what public has done, without electorate's consent."); *People v. Superior Court*
35 (Pearson), 48 Cal. 4th 564, 571, 568, 227 P.3d 858, 107 Cal. Rptr. 3d 265 (2010) (in deciding
36 whether particular provision amends initiative statute, "we simply need to ask whether it prohibits
37 what the initiative authorizes, or authorizes what the initiative prohibits").

38 The Commission thus believes that its proposed technical revision of Section 125290.50
39 (shown above) would not be subject to any special voting requirements.

40 **The Commission welcomes input on any aspect of this tentative recommendation, but it**
41 **would especially appreciate public comment on this matter.**

42 § 125342 (amended). Research program or project that involves oocyte retrieval

43 SEC. _____. Section 125342 of the Health and Safety Code is amended to read:

1 125342. (a) A research program or project that involves AOP or any alternative
2 method of oocyte retrieval shall ensure that a written record is established and
3 maintained to include, but not be limited to, all of the following components:

4 (1) The demographics of subjects, including, but not limited to, their age, race,
5 primary language, ethnicity, income bracket, education level, and the first three
6 digits of the ZIP Code of current residence.

7 (2) Information regarding every oocyte that has been donated or used. This record
8 should be sufficient to determine the provenance and disposition of those materials.

9 (3) A record of all adverse health outcomes, including, but not limited to,
10 incidences and degrees of severity, resulting from the AOP or any alternative
11 method of oocyte retrieval.

12 (b)(1) The information included in the written record pursuant to subdivision (a)
13 shall not disclose personally identifiable information about subjects, and shall be
14 confidential and is deemed protected by subject privacy provisions of law. This
15 information shall be reported to the State Department of Public Health, which shall
16 aggregate the data and make it publicly available, as set forth in paragraph (2), in a
17 manner that does not reveal personally identifiable information about the subjects.

18 (2) The department shall provide public access to information ~~which~~ that it is
19 required to release pursuant to the California Public Records Act (~~Chapter 3.5~~
20 ~~(commencing with Section 6250)~~ of Division 7 Division 10 (commencing with
21 Section 7920.000) of Title 1 of the Government Code). The department shall
22 disseminate the information to the general public via governmental and other Web
23 sites in a manner that is understandable to the average person. The information shall
24 be made available to the public when the biennial review pursuant to Section
25 125119.5 is provided to the Legislature.

26 **Comment.** Section 125342 is amended to reflect nonsubstantive recodification of the California
27 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
28 Reports __ (2019).

29 The section is also amended to make a grammatical correction.

30 **§ 127673 (amended). Health Care Cost Transparency Database**

31 SEC. ____. Section 127673 of the Health and Safety Code is amended to read:

32 127673. (a) Subject to appropriation, after the requirements of Section 127672 are
33 fulfilled and a long term non-General Fund financing mechanism has been
34 implemented, the office or its designee shall establish, implement, and administer
35 the Health Care Cost Transparency Database in accordance with this chapter.

36 (b) After the requirements of Section 127672 are fulfilled, for the purpose of
37 developing information for inclusion in the database, a health care service plan,
38 including a specialized health care service plan, an insurer licensed to provide health
39 insurance, as defined in Section 106 of the Insurance Code, a self-insured employer
40 subject to Section 1349.2, health entities contracted pursuant to Section 14087.3 of
41 the Welfare and Institutions Code, a supplier, as defined in paragraph (3) of
42 subdivision (b) of Section 1367.50, or a provider, as defined in paragraph (2) of

1 subdivision (b) of Section 1367.50, shall, and a self-insured employer not subject to
2 Section 1349.2 and a multiemployer self-insured plan that is responsible for paying
3 for health care services provided to beneficiaries and the trust administrator for a
4 multiemployer self-insured plan may, provide all of the following to the office:

5 (1) Utilization data from the health care service plans' and insurers' medical
6 payments or, in the case of entities that do not use payments data, including, but not
7 limited to, integrated delivery systems, encounter data consistent with the core set
8 of data elements for data submission proposed by the All-Payer Claims Database
9 Council, the University of New Hampshire, and the National Association of Health
10 Data Organizations.

11 (2) Pricing information for health care items, services, and medical and surgical
12 episodes of care gathered from payments for covered health care items and services.

13 (c) The office or its designee shall receive the information, as described in this
14 section, and report that information in a form that allows valid comparisons across
15 care delivery systems. Policies and procedures shall be developed to outline the
16 format and type of data to be submitted pursuant to subdivision (b).

17 (d) In the development of the database, the office or its designee shall consult with
18 state entities as necessary to implement the Health Care Cost Transparency
19 Database. State entities shall assist and provide to the office access to ~~such~~ datasets
20 to effectuate the intent of this chapter.

21 (e) All policies and procedures developed in the performance of this chapter shall
22 ensure that the privacy, security, and confidentiality of individually identifiable
23 health information is protected.

24 (f) The office shall develop policy regarding data aggregation and the protection
25 of individual confidentiality, privacy, and security. Individual patient-level data
26 shall be exempt from the disclosure requirements of the California Public Records
27 Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
28 (commencing with Section 7920.000) of Title 1 of the Government Code), and shall
29 not be made available except pursuant to this chapter or the Information Practices
30 Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of
31 Division 3 of the Civil Code) until the office has developed a policy regarding the
32 release of that data.

33 (g)(1) Upon operation of the database and receipt of sufficient data, the office or
34 its designee shall receive, process, maintain, and analyze information from data
35 sources, including, but not limited to, data received pursuant to subdivision (b) and
36 payments from private and public payers.

37 (2) The office or its designee shall include in an analysis performed pursuant to
38 paragraph (1), but shall not limit the content of that analysis to, any of the following:

39 (A) Population and regional level data on prevention, screening, and wellness
40 utilization.

41 (B) Population and regional level data on chronic conditions, management, and
42 outcomes.

1 (C) Population and regional level data on trends in utilization of procedures for
2 treatment of similar conditions to evaluate medical appropriateness.

3 (D) Regional variation in payment level for the treatment of identified chronic
4 conditions.

5 (E) Data regarding hospital and nonhospital payments, including inpatient,
6 outpatient, and emergency department payments and nonhospital ambulatory
7 service data.

8 **Comment.** Section 127673 is amended to reflect nonsubstantive recodification of the California
9 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
10 Reports __ (2019).

11 The section is also amended to make a technical change.

12 **§ 128735 (amended). Required reports relating to health facility**

13 SEC. ____. Section 128735 of the Health and Safety Code is amended to read:

14 128735. An organization that operates, conducts, owns, or maintains a health
15 facility, and the officers thereof, shall make and file with the office, at the times as
16 the office shall require, all of the following reports on forms specified by the office
17 that shall be in accord, if applicable, with the systems of accounting and uniform
18 reporting required by this part, except that the reports required pursuant to
19 subdivision (g) shall be limited to hospitals:

20 (a) A balance sheet detailing the assets, liabilities, and net worth of the health
21 facility at the end of its fiscal year.

22 (b) A statement of income, expenses, and operating surplus or deficit for the
23 annual fiscal period, and a statement of ancillary utilization and patient census.

24 (c) A statement detailing patient revenue by payer, including, but not limited to,
25 Medicare, Medi-Cal, and other payers, and revenue center, except that hospitals
26 authorized to report as a group pursuant to subdivision (d) of Section 128760 are
27 not required to report revenue by revenue center.

28 (d) A statement of cashflows, including, but not limited to, ongoing and new
29 capital expenditures and depreciation.

30 (e) A statement reporting the information required in subdivisions (a), (b), (c), and
31 (d) for each separately licensed health facility operated, conducted, or maintained
32 by the reporting organization, except those hospitals authorized to report as a group
33 pursuant to subdivision (d) of Section 128760.

34 (f) Data reporting requirements established by the office shall be consistent with
35 national standards, as applicable.

36 (g) A Hospital Discharge Abstract Data Record that includes all of the following:

37 (1) Date of birth.

38 (2) Sex.

39 (3) Race.

40 (4) ZIP Code.

41 (5) Preferred language spoken.

42 (6) Patient social security number, if it is contained in the patient's medical record.

- 1 (7) Prehospital care and resuscitation, if any, including all of the following:
- 2 (A) “Do not resuscitate” (DNR) order on admission.
- 3 (B) “Do not resuscitate” (DNR) order after admission.
- 4 (8) Admission date.
- 5 (9) Source of admission.
- 6 (10) Type of admission.
- 7 (11) Discharge date.
- 8 (12) Principal diagnosis and whether the condition was present on admission.
- 9 (13) Other diagnoses and whether the conditions were present on admission.
- 10 (14) External causes of morbidity and whether present on admission.
- 11 (15) Principal procedure and date.
- 12 (16) Other procedures and dates.
- 13 (17) Total charges.
- 14 (18) Disposition of patient.
- 15 (19) Expected source of payment.
- 16 (20) Elements added pursuant to Section 128738.

17 (h) It is the intent of the Legislature that the patient’s rights of confidentiality shall
18 not be violated in any manner. Patient social security numbers and other data
19 elements that the office believes could be used to determine the identity of an
20 individual patient shall be exempt from the disclosure requirements of the California
21 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
22 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
23 Code).

24 (i) A person reporting data pursuant to this section shall not be liable for damages
25 in an action based on the use or misuse of patient-identifiable data that has been
26 mailed or otherwise transmitted to the office pursuant to the requirements of
27 subdivision (g).

28 (j) A hospital shall use coding from the International Classification of Diseases in
29 reporting diagnoses and procedures.

30 **Comment.** Section 128735 is amended to reflect nonsubstantive recodification of the California
31 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
32 Reports __ (2019).

33 **§ 128736 (amended). Emergency Care Data Record**

34 SEC. ____. Section 128736 of the Health and Safety Code is amended to read:

35 128736. (a) Each hospital shall file an Emergency Care Data Record for each
36 patient encounter in a hospital emergency department. The Emergency Care Data
37 Record shall include all of the following:

- 38 (1) Date of birth.
- 39 (2) Sex.
- 40 (3) Race.
- 41 (4) Ethnicity.
- 42 (5) Preferred language spoken.

- 1 (6) ZIP Code.
- 2 (7) Patient social security number, if it is contained in the patient's medical record.
- 3 (8) Service date.
- 4 (9) Principal diagnosis.
- 5 (10) Other diagnoses.
- 6 (11) External causes of morbidity.
- 7 (12) Principal procedure.
- 8 (13) Other procedures.
- 9 (14) Disposition of patient.
- 10 (15) Expected source of payment.
- 11 (16) Elements added pursuant to Section 128738.

12 (b) It is the expressed intent of the Legislature that the patient's rights of
13 confidentiality shall not be violated in any manner. Patient social security numbers
14 and any other data elements that the office believes could be used to determine the
15 identity of an individual patient shall be exempt from the disclosure requirements
16 of the California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~
17 ~~of Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
18 Government Code).

19 (c) No person reporting data pursuant to this section shall be liable for damages
20 in any action based on the use or misuse of patient-identifiable data that has been
21 mailed or otherwise transmitted to the office pursuant to the requirements of
22 subdivision (a).

23 (d) Data reporting requirements established by the office shall be consistent with
24 national standards as applicable.

25 (e) This section shall become operative on January 1, 2004.

26 **Comment.** Section 128736 is amended to reflect nonsubstantive recodification of the California
27 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
28 Reports __ (2019).

29 **§ 128737 (amended). Ambulatory Surgery Data Record**

30 SEC. ____. Section 128737 of the Health and Safety Code is amended to read:

31 128737. (a) Each general acute care hospital and freestanding ambulatory surgery
32 clinic shall file an Ambulatory Surgery Data Record for each patient encounter
33 during which at least one ambulatory surgery procedure is performed. The
34 Ambulatory Surgery Data Record shall include all of the following:

- 35 (1) Date of birth.
- 36 (2) Sex.
- 37 (3) Race.
- 38 (4) Ethnicity.
- 39 (5) Preferred language spoken.
- 40 (6) ZIP Code.
- 41 (7) Patient social security number, if it is contained in the patient's medical record.
- 42 (8) Service date.

- 1 (9) Principal diagnosis.
- 2 (10) Other diagnoses.
- 3 (11) Principal procedure.
- 4 (12) Other procedures.
- 5 (13) External causes of morbidity.
- 6 (14) Disposition of patient.
- 7 (15) Expected source of payment.
- 8 (16) Elements added pursuant to Section 128738.

9 (b) It is the expressed intent of the Legislature that the patient’s rights of
 10 confidentiality shall not be violated in any manner. Patient social security numbers
 11 and any other data elements that the office believes could be used to determine the
 12 identity of an individual patient shall be exempt from the disclosure requirements
 13 of the California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~
 14 ~~of Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
 15 Government Code).

16 (c) No person reporting data pursuant to this section shall be liable for damages
 17 in any action based on the use or misuse of patient-identifiable data that has been
 18 mailed or otherwise transmitted to the office pursuant to the requirements of
 19 subdivision (a).

20 (d) Data reporting requirements established by the office shall be consistent with
 21 national standards as applicable.

22 (e) This section shall become operative on January 1, 2004.

23 **Comment.** Section 128737 is amended to reflect nonsubstantive recodification of the California
 24 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
 25 Reports __ (2019).

26 **§ 128745 (amended). Risk-adjusted outcome reports**

27 SEC. ____. Section 128745 of the Health and Safety Code is amended to read:

28 128745. (a) Commencing July 1993, and annually thereafter, the office shall
 29 publish risk-adjusted outcome reports in accordance with the following schedule:

30

Publication	Period	Procedures and Conditions
Date	Covered	Covered
July 1993	1988–90	3
July 1994	1989–91	6
July 1995	1990–92	9

31

1 Reports for subsequent years shall include conditions and procedures and cover
2 periods as appropriate.

3 (b) The procedures and conditions required to be reported under this chapter shall
4 be divided among medical, surgical, and obstetric conditions or procedures and shall
5 be selected by the office. The office shall publish the risk-adjusted outcome reports
6 for surgical procedures by individual hospital and individual surgeon unless the
7 office in consultation with medical specialists in the relevant area of practice
8 determines that it is not appropriate to report by individual surgeon. The office, in
9 consultation with the clinical panel established by Section 128748 and medical
10 specialists in the relevant area of practice, may decide to report nonsurgical
11 procedures and conditions by individual physician when it is appropriate. The
12 selections shall be in accordance with all of the following criteria:

13 (1) The patient discharge abstract contains sufficient data to undertake a valid risk
14 adjustment. The risk adjustment report shall ensure that public hospitals and other
15 hospitals serving primarily low-income patients are not unfairly discriminated
16 against.

17 (2) The relative importance of the procedure and condition in terms of the cost of
18 cases and the number of cases and the seriousness of the health consequences of the
19 procedure or condition.

20 (3) Ability to measure outcome and the likelihood that care influences outcome.

21 (4) Reliability of the diagnostic and procedure data.

22 (c)(1) In addition to any other established and pending reports, on or before July
23 1, 2002, the office shall publish a risk-adjusted outcome report for coronary artery
24 bypass graft surgery by hospital for all hospitals opting to participate in the report.
25 This report shall be updated on or before July 1, 2003.

26 (2) In addition to any other established and pending reports, commencing July 1,
27 2004, and every year thereafter, the office shall publish risk-adjusted outcome
28 reports for coronary artery bypass graft surgery for all coronary artery bypass graft
29 surgeries performed in the state. In each year, the reports shall compare risk-
30 adjusted outcomes by hospital, and in every other year, by hospital and cardiac
31 surgeon. Upon the recommendation of the clinical panel established by Section
32 128748 based on statistical and technical considerations, information on individual
33 hospitals and surgeons may be excluded from the reports.

34 (3) Unless otherwise recommended by the clinical panel established by Section
35 128748, the office shall collect the same data used for the most recent risk-adjusted
36 model developed for the California Coronary Artery Bypass Graft Mortality
37 Reporting Program. Upon recommendation of the clinical panel, the office may add
38 any clinical data elements included in the Society of Thoracic Surgeons' database.
39 Prior to any additions from the Society of Thoracic Surgeons' database, the
40 following factors shall be considered:

41 (A) Utilization of sampling to the maximum extent possible.

42 (B) Exchange of data elements as opposed to addition of data elements.

1 (4) Upon recommendation of the clinical panel, the office may add, delete, or
2 revise clinical data elements, but shall add no more than a net of six elements not
3 included in the Society of Thoracic Surgeons' database, to the data set over any five-
4 year period. Prior to any additions or deletions, all of the following factors shall be
5 considered:

6 (A) Utilization of sampling to the maximum extent possible.

7 (B) Feasibility of collecting data elements.

8 (C) Costs and benefits of collection and submission of data.

9 (D) Exchange of data elements as opposed to addition of data elements.

10 (5) The office shall collect the minimum data necessary for purposes of testing or
11 validating a risk-adjusted model for the coronary artery bypass graft report.

12 (6) Patient medical record numbers and any other data elements that the office
13 believes could be used to determine the identity of an individual patient shall be
14 exempt from the disclosure requirements of the California Public Records Act
15 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
16 (commencing with Section 7920.000) of Title 1 of the Government Code).

17 (d) The annual reports shall compare the risk-adjusted outcomes experienced by
18 all patients treated for the selected conditions and procedures in each California
19 hospital during the period covered by each report, to the outcomes expected.
20 Outcomes shall be reported in the five following groupings for each hospital:

21 (1) "Much higher than average outcomes," for hospitals with risk-adjusted
22 outcomes much higher than the norm.

23 (2) "Higher than average outcomes," for hospitals with risk-adjusted outcomes
24 higher than the norm.

25 (3) "Average outcomes," for hospitals with average risk-adjusted outcomes.

26 (4) "Lower than average outcomes," for hospitals with risk-adjusted outcomes
27 lower than the norm.

28 (5) "Much lower than average outcomes," for hospitals with risk-adjusted
29 outcomes much lower than the norm.

30 (e) For coronary artery bypass graft surgery reports and any other outcome reports
31 for which auditing is appropriate, the office shall conduct periodic auditing of data
32 at hospitals.

33 (f) The office shall publish in the annual reports required under this section the
34 risk-adjusted mortality rate for each hospital and for those reports that include
35 physician reporting, for each physician.

36 (g) The office shall either include in the annual reports required under this section,
37 or make separately available at cost to any person requesting it, risk-adjusted
38 outcomes data assessing the statistical significance of hospital or physician data at
39 each of the following three levels: 99-percent confidence level (0.01 p-value), 95-
40 percent confidence level (0.05 p-value), and 90-percent confidence level (0.10 p-
41 value). The office shall include any other analysis or comparisons of the data in the
42 annual reports required under this section that the office deems appropriate to
43 further the purposes of this chapter.

1 **Comment.** Section 128745 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 **§ 130060 (amended). General acute care hospital building that poses potential risk of**
5 **collapse or significant loss of life**

6 SEC. ____. Section 130060 of the Health and Safety Code is amended to read:

7 130060. (a)(1) After January 1, 2008, a general acute care hospital building that
8 is determined to be a potential risk of collapse or pose significant loss of life shall
9 only be used for nonacute care hospital purposes, unless an extension of this
10 deadline has been granted and either of the following occurs before the end of the
11 extension:

12 (A) A replacement building has been constructed and a certificate of occupancy
13 has been granted by the office for the replacement building.

14 (B) A retrofit has been performed on the building and a construction final has
15 been obtained by the office.

16 (2) An extension of the deadline may be granted by the office upon a
17 demonstration by the owner that compliance will result in a loss of health care
18 capacity that may not be provided by other general acute care hospitals within a
19 reasonable proximity. In its request for an extension of the deadline, a hospital shall
20 state why the hospital is unable to comply with the January 1, 2008, deadline
21 requirement.

22 (3) Prior to granting an extension of the January 1, 2008, deadline pursuant to this
23 section, the office shall do all of the following:

24 (A) Provide public notice of a hospital's request for an extension of the deadline.
25 The notice, at a minimum, shall be posted on the office's Internet Web site, and
26 shall include the facility's name and identification number, the status of the request,
27 and the beginning and ending dates of the comment period, and shall advise the
28 public of the opportunity to submit public comments pursuant to subparagraph (C).
29 The office shall also provide notice of all requests for the deadline extension directly
30 to interested parties upon request of the interested parties.

31 (B) Provide copies of extension requests to interested parties within 10 working
32 days to allow interested parties to review and provide comment within the 45-day
33 comment period. The copies shall include those records that are available to the
34 public pursuant to the California Public Records Act (~~Chapter 3.5 (commencing~~
35 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
36 of Title 1 of the Government Code).

37 (C) Allow the public to submit written comments on the extension proposal for a
38 period of not less than 45 days from the date of the public notice.

39 (b)(1) It is the intent of the Legislature, in enacting this subdivision, to facilitate
40 the process of having more hospital buildings in substantial compliance with this
41 chapter and to take nonconforming general acute care hospital inpatient buildings
42 out of service more quickly.

1 (2) The functional contiguous grouping of hospital buildings of a general acute
2 care hospital, each of which provides, as the primary source, one or more of the
3 hospital's eight basic services as specified in subdivision (a) of Section 1250, may
4 receive a five-year extension of the January 1, 2008, deadline specified in
5 subdivision (a) of this section pursuant to this subdivision for both structural and
6 nonstructural requirements. A functional contiguous grouping refers to buildings
7 containing one or more basic hospital services that are either attached or connected
8 in a way that is acceptable to the State Department of Health Care Services. These
9 buildings may be either on the existing site or a new site.

10 (3) To receive the five-year extension, a single building containing all of the basic
11 services or at least one building within the contiguous grouping of hospital buildings
12 shall have obtained a building permit prior to 1973 and this building shall be
13 evaluated and classified as a nonconforming, Structural Performance Category-1
14 (SPC-1) building. The classification shall be submitted to and accepted by the Office
15 of Statewide Health Planning and Development. The identified hospital building
16 shall be exempt from the requirement in subdivision (a) until January 1, 2013, if the
17 hospital agrees that the basic service or services that were provided in that building
18 shall be provided, on or before January 1, 2013, as follows:

19 (A) Moved into an existing conforming Structural Performance Category-3 (SPC-
20 3), Structural Performance Category-4 (SPC-4), or Structural Performance
21 Category-5 (SPC-5) and Non-Structural Performance Category-4 (NPC-4) or Non-
22 Structural Performance Category-5 (NPC-5) building.

23 (B) Relocated to a newly built compliant SPC-5 and NPC-4 or NPC-5 building.

24 (C) Continued in the building if the building is retrofitted to an SPC-5 and NPC-
25 4 or NPC-5 building.

26 (4) A five-year extension is also provided to a post-1973 building if the hospital
27 owner informs the Office of Statewide Health Planning and Development that the
28 building is classified as SPC-1, SPC-3, or SPC-4 and will be closed to general acute
29 care inpatient service use by January 1, 2013. The basic services in the building
30 shall be relocated into an SPC-5 and NPC-4 or NPC-5 building by January 1, 2013.

31 (5) SPC-1 buildings, other than the building identified in paragraph (3) or (4), in
32 the contiguous grouping of hospital buildings shall also be exempt from the
33 requirement in subdivision (a) until January 1, 2013. However, on or before January
34 1, 2013, at a minimum, each of these buildings shall be retrofitted to an SPC-2 and
35 NPC-3 building, or no longer be used for general acute care hospital inpatient
36 services.

37 (c) On or before March 1, 2001, the office shall establish a schedule of interim
38 work progress deadlines that hospitals shall be required to meet to be eligible for
39 the extension specified in subdivision (b). To receive this extension, the hospital
40 building or buildings shall meet the year 2002 nonstructural requirements.

41 (d) A hospital building that is eligible for an extension pursuant to this section
42 shall meet the January 1, 2030, nonstructural and structural deadline requirements

1 if the building is to be used for general acute care inpatient services after January 1,
2 2030.

3 (e) Upon compliance with subdivision (b), the hospital shall be issued a written
4 notice of compliance by the office. The office shall send a written notice of violation
5 to hospital owners that fail to comply with this section. The office shall make copies
6 of these notices available on its Internet Web site.

7 (f)(1) A hospital that has received an extension of the January 1, 2008, deadline
8 pursuant to subdivision (a) or (b) may request an additional extension of up to two
9 years for a hospital building that it owns or operates and that meets the criteria
10 specified in paragraph (2), (3), or (5).

11 (2) The office may grant the additional extension if the hospital building subject
12 to the extension meets all of the following criteria:

13 (A) The hospital building is under construction at the time of the request for
14 extension under this subdivision and the purpose of the construction is to meet the
15 requirements of subdivision (a) to allow the use of the building as a general acute
16 care hospital building after the extension deadline granted by the office pursuant to
17 subdivision (a) or (b).

18 (B) The hospital building plans were submitted to the office and were deemed
19 ready for review by the office at least four years prior to the applicable deadline for
20 the building. The hospital shall indicate, upon submission of its plans, the SPC-1
21 building or buildings that will be retrofitted or replaced to meet the requirements of
22 this section as a result of the project.

23 (C) The hospital received a building permit for the construction described in
24 subparagraph (A) at least two years prior to the applicable deadline for the building.

25 (D) The hospital submitted a construction timeline at least two years prior to the
26 applicable deadline for the building demonstrating the hospital's intent to meet the
27 applicable deadline. The timeline shall include all of the following:

28 (i) The projected construction start date.

29 (ii) The projected construction completion date.

30 (iii) Identification of the contractor.

31 (E) The hospital is making reasonable progress toward meeting the timeline set
32 forth in subparagraph (D), but factors beyond the hospital's control make it
33 impossible for the hospital to meet the deadline.

34 (3) The office may grant the additional extension if the hospital building subject
35 to the extension meets all of the following criteria:

36 (A) The hospital building is owned by a health care district that has, as owner,
37 received the extension of the January 1, 2008, deadline, but where the hospital is
38 operated by an unaffiliated third-party lessee pursuant to a facility lease that extends
39 at least through December 31, 2009. The district shall file a declaration with the
40 office with a request for an extension stating that, as of the date of the filing, the
41 district has lacked, and continues to lack, unrestricted access to the subject hospital
42 building for seismic planning purposes during the term of the lease, and that the
43 district is under contract with the county to maintain hospital services when the

1 hospital comes under district control. The office shall not grant the extension if an
2 unaffiliated third-party lessee will operate the hospital beyond December 31, 2010.

3 (B) The hospital building plans were submitted to the office and were deemed
4 ready for review by the office at least four years prior to the applicable deadline for
5 the building. The hospital shall indicate, upon submission of its plans, the SPC-1
6 building or buildings that will be retrofitted or replaced to meet the requirements of
7 this section as a result of the project.

8 (C) The hospital received a building permit for the construction described in
9 subparagraph (B) by December 31, 2011.

10 (D) The hospital submitted, by December 31, 2011, a construction timeline for
11 the building demonstrating the hospital's intent and ability to meet the deadline of
12 December 31, 2014. The timeline shall include all of the following:

13 (i) The projected construction start date.

14 (ii) The projected construction completion date.

15 (iii) Identification of the contractor.

16 (E) The hospital building is under construction at the time of the request for the
17 extension, the purpose of the construction is to meet the requirements of subdivision
18 (a) to allow the use of the building as a general acute care hospital building after the
19 extension deadline granted by the office pursuant to subdivision (a) or (b), and the
20 hospital is making reasonable progress toward meeting the timeline set forth in
21 subparagraph (D).

22 (F) The hospital granted an extension pursuant to this paragraph shall submit an
23 additional status report to the office, equivalent to that required by subdivision (c)
24 of Section 130061, no later than June 30, 2013.

25 (4) An extension granted pursuant to paragraph (3) shall be applicable only to the
26 health care district applicant and its affiliated hospital while the hospital is operated
27 by the district or an entity under the control of the district.

28 (5) The office may grant the additional extension if the hospital building subject
29 to the extension meets all of the following criteria:

30 (A) The hospital owner submitted to the office, prior to June 30, 2009, a request
31 for review using current computer modeling utilized by the office and based upon
32 software developed by the Federal Emergency Management Agency (FEMA),
33 referred to as Hazards US, and the building was deemed SPC-1 after that review.

34 (B) The hospital building plans for the building are submitted to the office and
35 deemed ready for review by the office prior to July 1, 2010. The hospital shall
36 indicate, upon submission of its plans, the SPC-1 building or buildings that shall be
37 retrofitted or replaced to meet the requirements of this section as a result of the
38 project.

39 (C) The hospital receives a building permit from the office for the construction
40 described in subparagraph (B) prior to January 1, 2012.

41 (D) The hospital submits, prior to January 1, 2012, a construction timeline for the
42 building demonstrating the hospital's intent and ability to meet the applicable
43 deadline. The timeline shall include all of the following:

1 (i) The projected construction start date.

2 (ii) The projected construction completion date.

3 (iii) Identification of the contractor.

4 (E) The hospital building is under construction at the time of the request for the
5 extension, the purpose of the construction is to meet the requirements of subdivision
6 (a) to allow the use of the building as a general acute care hospital building after the
7 extension deadline granted by the office pursuant to subdivision (a) or (b), and the
8 hospital is making reasonable progress toward meeting the timeline set forth in
9 subparagraph (D).

10 (F) The hospital owner completes construction ~~such~~ so that the hospital meets all
11 criteria to enable the office to issue a certificate of occupancy by the applicable
12 deadline for the building.

13 (6) A hospital located in the County of Sacramento, San Mateo, or Santa Barbara
14 or the City of San Jose or the City of Willits that has received an additional extension
15 pursuant to paragraph (2) or (5) may request an additional extension until September
16 1, 2015, to obtain either a certificate of occupancy from the office for a replacement
17 building, or a construction final from the office for a building on which a retrofit
18 has been performed.

19 (7) A hospital denied an extension pursuant to this subdivision may appeal the
20 denial to the Hospital Building Safety Board.

21 (8) The office may revoke an extension granted pursuant to this subdivision for
22 any hospital building where the work of construction is abandoned or suspended for
23 a period of at least one year, unless the hospital demonstrates in a public document
24 that the abandonment or suspension was caused by factors beyond its control.

25 (g)(1) Notwithstanding subdivisions (a), (b), (c), and (f), and Sections 130061.5
26 and 130064, a hospital that has received an extension of the January 1, 2008,
27 deadline pursuant to subdivision (a) or (b) also may request an additional extension
28 of up to seven years for a hospital building that it owns or operates. The office may
29 grant the extension subject to the hospital meeting the milestones set forth in
30 paragraph (2).

31 (2) The hospital building subject to the extension shall meet all of the following
32 milestones, unless the hospital building is reclassified as SPC-2 or higher as a result
33 of its Hazards US score:

34 (A) The hospital owner submits to the office, no later than September 30, 2012, a
35 letter of intent stating whether it intends to rebuild, replace, or retrofit the building,
36 or remove all general acute care beds and services from the building, and the amount
37 of time necessary to complete the construction.

38 (B) The hospital owner submits to the office, no later than September 30, 2012, a
39 schedule detailing why the requested extension is necessary, and specifically how
40 the hospital intends to meet the requested deadline.

41 (C) The hospital owner submits to the office, no later than September 30, 2012,
42 an application ready for review seeking structural reassessment of each of its SPC-

1 1 buildings using current computer modeling based upon software developed by
2 FEMA, referred to as Hazards US.

3 (D) The hospital owner submits to the office, no later than January 1, 2015, plans
4 ready for review consistent with the letter of intent submitted pursuant to
5 subparagraph (A) and the schedule submitted pursuant to subparagraph (B).

6 (E) The hospital owner submits a financial report to the office at the time the plans
7 are submitted pursuant to subparagraph (D). The report shall demonstrate the
8 hospital owner's financial capacity to implement the construction plans submitted
9 pursuant to subparagraph (D).

10 (F) The hospital owner receives a building permit consistent with the letter of
11 intent submitted pursuant to subparagraph (A) and the schedule submitted pursuant
12 to subparagraph (B), no later than July 1, 2018.

13 (3) To evaluate public safety and determine whether to grant an extension of the
14 deadline, the office shall consider the structural integrity of the hospital's SPC-1
15 buildings based on its Hazards US scores, community access to essential hospital
16 services, and the hospital owner's financial capacity to meet the deadline as
17 determined by either a bond rating of BBB or below or the financial report on the
18 hospital owner's financial capacity submitted pursuant to subparagraph (E) of
19 paragraph (2). The criteria contained in this paragraph shall be considered by the
20 office in its determination of the length of an extension or whether an extension
21 should be granted.

22 (4) The extension or subsequent adjustments granted pursuant to this subdivision
23 may not exceed the amount of time that is reasonably necessary to complete the
24 construction specified in paragraph (2).

25 (5) If the circumstances underlying the request for extension submitted to the
26 office pursuant to paragraph (2) change, the hospital owner shall notify the office as
27 soon as practicable, but in no event later than six months after the hospital owner
28 discovered the change of circumstances. The office may adjust the length of the
29 extension granted pursuant to paragraphs (2) and (3) as necessary, but in no event
30 longer than the period specified in paragraph (1).

31 (6) A hospital denied an extension pursuant to this subdivision may appeal the
32 denial to the Hospital Building Safety Board.

33 (7) The office may revoke an extension granted pursuant to this subdivision for
34 any hospital building when it is determined that any information submitted pursuant
35 to this section was falsified, or if the hospital failed to meet a milestone set forth in
36 paragraph (2), or where the work of construction is abandoned or suspended for a
37 period of at least six months, unless the hospital demonstrates in a publicly available
38 document that the abandonment or suspension was caused by factors beyond its
39 control.

40 (8) Regulatory submissions made by the office to the California Building
41 Standards Commission to implement this section shall be deemed to be emergency
42 regulations and shall be adopted as emergency regulations.

1 (9) The hospital owner that applies for an extension pursuant to this subdivision
2 shall pay the office an additional fee, to be determined by the office, sufficient to
3 cover the additional reasonable costs incurred by the office for maintaining the
4 additional reporting requirements established under this section, including, but not
5 limited to, the costs of reviewing and verifying the extension documentation
6 submitted pursuant to this subdivision. This additional fee shall not include any cost
7 for review of the plans or other duties related to receiving a building or occupancy
8 permit.

9 (10) This subdivision shall become operative on the date that the State
10 Department of Health Care Services receives all necessary federal approvals for a
11 2011–12 fiscal year hospital quality assurance fee program that includes three
12 hundred twenty million dollars (\$320,000,000) in fee revenue to pay for health care
13 coverage for children, which is made available as a result of the legislative
14 enactment of a 2011–12 fiscal year hospital quality assurance fee program.

15 (h) A critical access hospital located in the City of Tehachapi may submit a
16 seismic safety extension application pursuant to subdivision (g), notwithstanding
17 deadlines in that subdivision that are earlier than the effective date of the act that
18 added this subdivision. The submitted application shall include a timetable as
19 required pursuant to subdivision (g).

20 (i)(1) A hospital located in the Tarzana neighborhood of the City of Los Angeles
21 that has received extensions pursuant to subdivisions (b) and (g) may request an
22 additional extension for a single building until October 1, 2022, in order to obtain a
23 certificate of occupancy from the office for a replacement building.

24 (2) The hospital owner seeking the extension shall submit a written request that
25 includes a timeline specifying how the hospital intends to meet the new deadline,
26 including the construction document submission dates. The following timeline shall
27 be met for construction document submissions:

28 (A) No later than January 1, 2018, the hospital owner shall submit construction
29 documents, deemed ready for review, related to the first final review of the second
30 increment with information including the building core and shell of the hospital.
31 Failure to submit the construction documents by January 1, 2018, shall result in the
32 assessment of a fine of five thousand dollars (\$5,000) per calendar day until the
33 documents are submitted.

34 (B) No later than March 1, 2018, the hospital owner shall submit construction
35 documents, deemed ready for review, related to the first final review of the first
36 increment with information including the structural foundation, frame, and
37 underslab utilities of the hospital. Failure to submit the construction documents by
38 March 1, 2018, shall result in the assessment of a fine of five thousand dollars
39 (\$5,000) per calendar day until the documents are submitted.

40 (C) No later than September 1, 2018, the hospital owner shall submit construction
41 documents, deemed ready for review, related to the first final review of the third
42 increment with information on the build-out of the hospital. Failure to submit the
43 construction documents by September 1, 2018, shall result in the assessment of a

1 fine of five thousand dollars (\$5,000) per calendar day until the documents are
2 submitted.

3 (D) No later than November 1, 2018, the hospital owner shall submit construction
4 documents, deemed ready for review, related to the first final review of the fourth
5 increment with information on the seismic support and anchorage of the hospital.
6 Failure to submit the construction documents by November 1, 2018, shall result in
7 the assessment of a fine of five thousand dollars (\$5,000) per calendar day until the
8 documents are submitted.

9 (E) The hospital owner may submit a written request to the office seeking an
10 extension of the deadlines set forth in subparagraphs (A), (B), (C), and (D). The
11 written request shall state with specificity the reason for the request and how the
12 reason preventing compliance with the deadlines was outside of the control of the
13 hospital owner. After review of the request for extension, the office may grant the
14 request for a period of time not to exceed 30 calendar days. If the office grants the
15 request for an extension, no fine shall accrue or be imposed during the extension
16 period.

17 (3) Notwithstanding any other law, any fines assessed pursuant to paragraph (2)
18 shall be deposited into the General Fund following a determination on appeal, if
19 any. A hospital assessed a fine pursuant to this subdivision may appeal the
20 assessment to the Hospital Building Safety Board, provided the hospital posts the
21 funds for any fines to be held by the office pending the resolution of the appeal.

22 (4) The office shall not issue a certificate of occupancy for the single replacement
23 building until ~~such time as~~ all assessed fines accrued pursuant to paragraph (2) have
24 been paid in full, or, if an appeal is pending, have been posted subject to resolution
25 of an appeal. Fines deposited by the hospital pursuant to paragraph (3) shall be
26 considered paid in full for purposes of issuing a certificate of occupancy pursuant
27 to this paragraph. This paragraph is in addition to, and is not intended to supersede,
28 any other requirements that must be met by the hospital for issuance by the office
29 of a certificate of occupancy.

30 **Comment.** Section 130060 is amended to reflect nonsubstantive recodification of the California
31 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
32 Reports __ (2019).

33 The section is also amended to make technical changes.

34 **§ 130506 (amended). Drug discount agreements**

35 SEC. ____. Section 130506 of the Health and Safety Code is amended to read:

36 130506. (a) The department shall negotiate drug discount agreements with
37 manufacturers to provide discounts for single-source and multiple-source
38 prescription drugs through the program. The department shall attempt to negotiate
39 the maximum possible discount for an eligible Californian. The department shall
40 attempt to negotiate, with each manufacturer, discounts to offer single-source
41 prescription drugs under the program at a volume weighted average discount that is
42 equal to or below any one of the following benchmark prices:

1 (1) Eighty-five percent of the average manufacturer price for a drug, as published
2 by the federal Centers for Medicare and Medicaid Services.

3 (2) The lowest price provided to any nonpublic entity in the state by a
4 manufacturer to the extent that the Medicaid best price exists under federal law.

5 (3) The Medicaid best price, to the extent that this price exists under federal law.

6 (b) The department may require the drug manufacturer to provide information that
7 is reasonably necessary for the department to carry out its duties pursuant to this
8 division.

9 (c) The department shall pursue manufacturer discount agreements to ensure that
10 the number and type of drugs available through the program is sufficient to give an
11 eligible Californian a formulary comparable to the Medi-Cal list of contract drugs,
12 or if this information is available to the department, a formulary that is comparable
13 to that provided to CalPERS enrollees.

14 (d) To obtain the most favorable discounts, the department may limit the number
15 of drugs available through the program.

16 (e) The drug discount agreements negotiated pursuant to this section shall be used
17 to reduce the cost of drugs purchased by program participants and to fund program
18 costs pursuant to Section 130542.1.

19 (f) All information reported by a manufacturer to, negotiations with, and
20 agreements executed with, the department or its third-party vendor pursuant to this
21 section, shall be considered confidential and corporate proprietary information. This
22 information shall not be subject to disclosure under the California Public Records
23 Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
24 (commencing with Section 7920.000) of Title 1 of the Government Code). The
25 California State Auditor's Office and the Controller shall have access to pricing
26 information in a manner that is consistent with their access to this information under
27 the Medi-Cal program and under law. The California State Auditor's Office and the
28 Controller may use this information only to investigate or audit the administration
29 of the program. Neither the California State Auditor's Office, the Controller, nor the
30 department may disclose this information in a form that identifies a specific
31 manufacturer or wholesaler or prices charged for drugs of this manufacturer or
32 wholesaler. Information provided to the department pursuant to subdivision (e) of
33 Section 130530 shall not be affected by the confidentiality protections established
34 by this subdivision.

35 (g)(1) Any pharmacy licensed pursuant to Chapter 9 (commencing with Section
36 4000) of Division 2 of the Business and Professions Code may participate in the
37 program.

38 (2) Any manufacturer may participate in the program.

39 **Comment.** Section 130506 is amended to reflect nonsubstantive recodification of the California
40 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
41 Reports __ (2019).

1 **§ 131052 (amended). Jurisdiction of Department of Public Health**

2 SEC. _____. Section 131052 of the Health and Safety Code is amended to read:

3 131052. In implementing the transfer of jurisdiction pursuant to this article, the
4 State Department of Public Health succeeds to and is vested with all the statutory
5 duties, powers, purposes, responsibilities, and jurisdiction of the former State
6 Department of Health Services as they relate to public health as provided for or
7 referred to in all of the following provisions of law:

8 (1) Sections 550, 555, 650, 680, 1241, 1658, 2221.1, 2248.5, 2249, 2259, 2259.5,
9 2541.3, 2585, 2728, 3527, 4017, 4027, 4037, 4191, 19059.5, 19120, 22950,
10 22973.2, and 22974.8 of the Business and Professions Code.

11 (2) Sections 56.17, 1812.508, and 1812.543 of the Civil Code.

12 (3) Sections 8286, 8803, 17613, 32064, 32065, 32066, 32241, 49030, 49405,
13 49414, 49423.5, 49452.6, 49460, 49464, 49565, 49565.8, 49531.1, 56836.165, and
14 76403 of the Education Code.

15 (4) Sections 405, 6021, 6026, 18963, 30852, 41302, and 78486 of the Food and
16 Agricultural Code.

17 (5) Sections 307, 355, 422, 7572, 7574, 8706, 8817, and 8909 of the Family Code.

18 (6) Sections 1786, 4011, 5523, 5671, 5674, 5700, 5701, 5701.5, 7115, and 15700
19 of the Fish and Game Code.

20 (7) Sections 855, 51010, and 551017.1 of the Government Code. ~~For purposes of~~
21 ~~subdivision (s) of Section 6254 of the Government Code, the term “State~~
22 ~~Department of Health Services” is hereby deemed to refer to the State Department~~
23 ~~of Public Health.~~

24 (8)(A) Sections 475, 1180.6, 1418.1, 1422.1, 1428.2, 1457, 1505, 1507.1, 1507.5,
25 1570.7, 1599.2, 1599.60, 1599.75, 1599.87, 2002, 2804, 11362.7, 11776, 11839.21,
26 11839.23, 11839.24, 11839.25, 11839.26, 11839.27, 11839.28, 11839.29,
27 11839.30, 11839.31, 11839.32, 11839.33, 11839.34, 17920.10, 17961, 18897.2,
28 24185, 24186, 24187, 24275, 26101, 26122, 26134, 26155, 26200, and 26203.

29 (B) Chapters 1, 2, 2.05, 2.3, 2.35, 2.4, 3.3, 3.9, 3.93, 3.95, 4, 4.1, 4.5, 5, 6, 6.5, 8,
30 8.3, 8.5, 8.6, 9, and 11 of Division 2.

31 (C) Articles 2 and 4 of Chapter 2, Chapter 3, and Chapter 4 of Part 1, Part 2 and
32 Part 3 of Division 101.

33 (D) Division 102, including Sections 102230 and 102231.

34 (E) Division 103, including Sections 104145, 104181, 104182, 104182.5, 104187,
35 104191, 104192, 104193, 104316, 104317, 104318, 104319, 104320, 104321,
36 104324.2, 104324.25, 104350, 105191, 105251, 105255, 105280, 105340, and
37 105430.

38 (F) Division 104, including Sections 106615, 106675, 106770, 108115, 108855,
39 109282, 109910, 109915, 112155, 112500, 112650, 113355, 114460, 114475,
40 114650, 114710, 114850, 114855, 114985, 115061, 115261, 115340, 115736,
41 115880, 115885, 115915, 116064, 116183, 116270, 116365.5, 116366, 116375,
42 116610, 116751, 116760.20, 116825, 117100, 117924, and 119300.

1 (G) Division 105, including Sections 120262, 120381, 120395, 120440, 120480,
2 120956, 120966, 121155, 121285, 121340, 121349.1, 121480, 122410, and 122420.

3 (H) Part 1, Part 2 excluding Articles 5, 5.5, 6, and 6.5 of Chapter 3, Part 3 and
4 Part 5 excluding Articles 1 and 2 of Chapter 2, Part 7, and Part 8 of Division 106.

5 (9) Sections 799.03, 10123.35, 10123.5, 10123.55, 10123.10, 10123.184, and
6 11520 of the Insurance Code.

7 (10) Sections 50.8, 142.3, 144.5, 144.7, 147.2, 4600.6, 6307.1, 6359, 6712, 9009,
8 and 9022 of the Labor Code.

9 (11) Sections 4018.1, 5008.1, 7501, 7502, 7510, 7511, 7515, 7518, 7530, 7550,
10 7553, 7575, 7576, 11010, 11174.34, and 13990 of the Penal Code.

11 (12) Section 4806 of the Probate Code.

12 (13) Sections 15027, 25912, 28004, 30950, 41781.1, 42830, 43210, 43308,
13 44103, and 71081 of the Public Resources Code.

14 (14) Section 10405 of the Public Contract Code.

15 (15) Sections 883, 1507, and 7718 of the Public Utilities Code.

16 (16) Sections 18833, 18838, 18845.2, 18846.2, 18847.2, 18863, 30461.6,
17 43010.1, and 43011.1 of the Revenue and Taxation Code.

18 (17) Section 11020 of the Unemployment Insurance Code.

19 (18) Sections 22511.55, 23158, 27366, and 33000 of the Vehicle Code.

20 (19) Sections 5326.9, 5328, 5328.15, 14132, 16902, and 16909, and Division 24
21 of the Welfare and Institutions Code. Payment for services provided under the
22 Family Planning, Access, Care, and Treatment (Family PACT) Waiver Program
23 pursuant to subdivision (aa) of Section 14132 and Division 24 shall be made through
24 the State Department of Health Care Services. The State Department of Public
25 Health and the State Department of Health Care Services may enter into an
26 interagency agreement for the administration of those payments. This paragraph, to
27 the extent that it applies to the Family PACT Waiver Program, shall become
28 inoperative on June 30, 2012.

29 (20) Sections 13176, 13177.5, 13178, 13193, 13390, 13392, 13392.5, 13393.5,
30 13395.5, 13396.7, 13521, 13522, 13523, 13528, 13529, 13529.2, 13550, 13552.4,
31 13552.8, 13553, 13553.1, 13554, 13554.2, 13816, 13819, 13820, 13823, 13824,
32 13825, 13827, 13830, 13834, 13835, 13836, 13837, 13858, 13861, 13862, 13864,
33 13868, 13868.1, 13868.3, 13868.5, 13882, 13885, 13886, 13887, 13891, 13892,
34 13895.1, 13895.6, 13895.9, 13896, 13896.3, 13896.4, 13896.5, 13897, 13897.4,
35 13897.5, 13897.6, 13898, 14011, 14012, 14015, 14016, 14017, 14019, 14022,
36 14025, 14026, 14027, and 14029 of the Water Code.

37 **Comment.** Section 131052 is amended to delete obsolete material. See Gov't Code § 7926.000
38 & Comment (continuing former Gov't Code § 6254(s), with revisions correcting erroneous
39 reference to State Department of Health Care Services).

INSURANCE CODE

§ 791.13 (amended). Disclosure of personal or privileged information by insurance institution, agent, or insurance-support organization

SEC. ____ . Section 791.13 of the Insurance Code is amended to read:

791.13. An insurance institution, agent, or insurance-support organization shall not disclose any personal or privileged information about an individual collected or received in connection with an insurance transaction unless the disclosure is:

(a) With the written authorization of the individual, and meets either of the conditions specified in paragraph (1) or (2):

(1) If the authorization is submitted by another insurance institution, agent, or insurance-support organization, the authorization meets the requirement of Section 791.06.

(2) If the authorization is submitted by a person other than an insurance institution, agent, or insurance-support organization, the authorization is:

(A) Dated.

(B) Signed by the individual.

(C) Obtained one year or less prior to the date a disclosure is sought pursuant to this section.

(b) To a person other than an insurance institution, agent, or insurance-support organization, provided the disclosure is reasonably necessary:

(1) To enable the person to perform a business, professional or insurance function for the disclosing insurance institution, agent, or insurance-support organization or insured and the person agrees not to disclose the information further without the individual's written authorization unless the further disclosure:

(A) Would otherwise be permitted by this section if made by an insurance institution, agent, or insurance-support organization; or

(B) Is reasonably necessary for ~~such~~ the person to perform its function for the disclosing insurance institution, agent, or insurance-support organization.

(2) To enable the person to provide information to the disclosing insurance institution, agent or insurance-support organization for the purpose of:

(A) Determining an individual's eligibility for an insurance benefit or payment; or

(B) Detecting or preventing criminal activity, fraud, material misrepresentation or material nondisclosure in connection with an insurance transaction.

(c) To an insurance institution, agent, insurance-support organization or self-insurer, provided the information disclosed is limited to that which is reasonably necessary under either paragraph (1) or (2):

(1) To detect or prevent criminal activity, fraud, material misrepresentation or material nondisclosure in connection with insurance transactions; or

(2) For either the disclosing or receiving insurance institution, agent or insurance-support organization to perform its function in connection with an insurance transaction involving the individual.

1 (d) To a medical-care institution or medical professional for the purpose of any of
2 the following:

3 (1) Verifying insurance coverage or benefits.

4 (2) Informing an individual of a medical problem of which the individual may not
5 be aware.

6 (3) Conducting operations or services audit, provided ~~the only such~~ information
7 ~~is disclosed as~~ is reasonably necessary to accomplish the foregoing purposes.

8 (e) To an insurance regulatory authority; or

9 (f) To a law enforcement or other governmental authority pursuant to law.

10 (g) Otherwise permitted or required by law.

11 (h) In response to a facially valid administrative or judicial order, including a
12 search warrant or subpoena.

13 (i) Made for the purpose of conducting actuarial or research studies, provided:

14 (1) No individual may be identified in any actuarial or research report.

15 (2) Materials allowing the individual to be identified are returned or destroyed as
16 soon as they are no longer needed.

17 (3) The actuarial or research organization agrees not to disclose the information
18 unless the disclosure would otherwise be permitted by this section if made by an
19 insurance institution, agent or insurance-support organization.

20 (j) To a party or a representative of a party to a proposed or consummated sale,
21 transfer, merger or consolidation of all or part of the business of the insurance
22 institution, agent or insurance-support organization, provided:

23 (1) Prior to the consummation of the sale, transfer, merger, or consolidation ~~the~~
24 ~~only such~~ information ~~is disclosed as~~ is reasonably necessary to enable the recipient
25 to make business decisions about the purchase, transfer, merger, or consolidation.

26 (2) The recipient agrees not to disclose the information unless the disclosure
27 would otherwise be permitted by this section if made by an insurance institution,
28 agent or insurance-support organization.

29 (k) To a person whose only use of the information will be in connection with the
30 marketing of a product or service, provided:

31 (1) No medical-record information, privileged information, or personal
32 information relating to an individual's character, personal habits, mode of living, or
33 general reputation is disclosed, and no classification derived from the information
34 is disclosed; or

35 (2) The individual has been given an opportunity to indicate that ~~he or she~~ the
36 individual does not want personal information disclosed for marketing purposes and
37 has given no indication that ~~he or she~~ the individual does not want the information
38 disclosed; and

39 (3) The person receiving ~~such~~ the information agrees not to use it except in
40 connection with the marketing of a product or service.

41 (l) To an affiliate whose only use of the information will be in connection with an
42 audit of the insurance institution or agent or the marketing of an insurance product

1 or service, provided the affiliate agrees not to disclose the information for any other
2 purpose or to unaffiliated persons.

3 (m) By a consumer reporting agency, provided the disclosure is to a person other
4 than an insurance institution or agent.

5 (n) To a group policyholder for the purpose of reporting claims experience or
6 conducting an audit of the insurance institution's or agent's operations or services,
7 provided the information disclosed is reasonably necessary for the group
8 policyholder to conduct the review or audit.

9 (o) To a professional peer review organization for the purpose of reviewing the
10 service or conduct of a medical-care institution or medical professional.

11 (p) To a governmental authority for the purpose of determining the individual's
12 eligibility for health benefits for which the governmental authority may be liable.

13 (q) To a certificate holder or policyholder for the purpose of providing
14 information regarding the status of an insurance transaction.

15 (r) To a lienholder, mortgagee, assignee, lessor, or other person shown on the
16 records of an insurance institution or agent as having a legal or beneficial interest in
17 a policy of insurance. The information disclosed shall be limited to that which is
18 reasonably necessary to permit the person to protect ~~his or her~~ that person's interest
19 in the policy and shall be consistent with Article 5.5 (commencing with Section
20 770).

21 (s) To an insured or the insured's lawyer when the information disclosed is from
22 an accident report, supplemental report, investigative report or the actual report from
23 a government agency or is a copy of an accident report or other report ~~which~~ that
24 the insured is entitled to obtain under Section 20012 of the Vehicle Code or
25 ~~subdivision (f) of Section 6254 Article 1 (commencing with Section 7923.600) of~~
26 Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.

27 **Comment.** Section 791.13 is amended to reflect nonsubstantive recodification of the California
28 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
29 Reports __ (2019).

30 The section is also amended to make technical changes.

31 **§ 922.41 (amended). Credit for reinsurance**

32 SEC. ____. Section 922.41 of the Insurance Code is amended to read:

33 922.41. (a) Credit shall be allowed a domestic insurer when the reinsurance is
34 ceded to an assuming insurer that has been certified by the commissioner as a
35 reinsurer in this state and secures its obligations in accordance with the requirements
36 of this section. Credit shall be allowed at all times for which statutory financial
37 statement credit for reinsurance is claimed under this section. The credit allowed
38 shall be based upon the security held by or on behalf of the ceding insurer in
39 accordance with a rating assigned to the certified reinsurer by the commissioner.
40 The security shall be in a form consistent with this section, any regulations
41 promulgated by the commissioner, and Section 922.5.

1 (b) In order to be eligible for certification, the assuming insurer shall meet the
2 following requirements:

3 (1) The assuming insurer shall be domiciled and licensed to transact insurance or
4 reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant
5 to subdivisions (f) and (g).

6 (2) The assuming insurer shall maintain minimum capital and surplus, or its
7 equivalent, in an amount to be determined by the commissioner, but no less than
8 two hundred fifty million dollars (\$250,000,000) calculated in accordance with
9 paragraph (4) of subdivision (f) of this section or Section 922.5. This requirement
10 may also be satisfied by an association including incorporated and individual
11 unincorporated underwriters having minimum capital and surplus equivalents (net
12 of liabilities) of at least two hundred fifty million dollars (\$250,000,000) and a
13 central fund containing a balance of at least two hundred fifty million dollars
14 (\$250,000,000).

15 (3) The assuming insurer shall maintain financial strength ratings from two or
16 more rating agencies deemed acceptable by the commissioner. These ratings shall
17 be based on interactive communication between the rating agency and the assuming
18 insurer and shall not be based solely on publicly available information. These
19 financial strength ratings will be one factor used by the commissioner in
20 determining the rating that is assigned to the assuming insurer. Acceptable rating
21 agencies include the following:

22 (A) Standard & Poor's.

23 (B) Moody's Investors Service.

24 (C) Fitch Ratings.

25 (D) A.M. Best Company.

26 (E) Any other nationally recognized statistical rating organization.

27 (4) The assuming insurer shall agree to submit to the jurisdiction of this state,
28 appoint the commissioner or a designated attorney in this state as its agent for
29 service of process in this state, and agree to provide security for 100 percent of the
30 assuming insurer's liabilities attributable to reinsurance ceded by United States
31 ceding insurers if it resists enforcement of a final United States judgment.

32 (5) The assuming insurer shall agree to meet applicable information filing
33 requirements as determined by the commissioner, both with respect to an initial
34 application for certification and on an ongoing basis.

35 (6) The certified reinsurer shall comply with any other requirements deemed
36 relevant by the commissioner.

37 (c)(1) If an applicant for certification has been certified as a reinsurer in a National
38 Association of Insurance Commissioners (NAIC) accredited jurisdiction, the
39 commissioner may defer to that jurisdiction's certification, and has the discretion to
40 defer to the rating assigned by that jurisdiction if the assuming insurer submits a
41 properly executed Form CR-1 (as published on the department's Internet Web site),
42 and such additional information as the commissioner requires. The commissioner,

1 however, may perform an independent review and determination of any applicant.
2 The assuming insurer shall then be considered to be a certified reinsurer in this state.

3 (2) If the commissioner defers to a certification determination by another state,
4 any change in the certified reinsurer's status or rating in the other jurisdiction shall
5 apply automatically in this state as of the date it takes effect in the other jurisdiction
6 unless the commissioner otherwise determines. The certified reinsurer shall notify
7 the commissioner of any change in its status or rating within 10 days after receiving
8 notice of the change.

9 (3) The commissioner may withdraw recognition of the other jurisdiction's rating
10 at any time and assign a new rating in accordance with subdivision (h).

11 (4) The commissioner may withdraw recognition of the other jurisdiction's
12 certification at any time, with written notice to the certified reinsurer. Unless the
13 commissioner suspends or revokes the certified reinsurer's certification in
14 accordance with this section and Section 922.42, the certified reinsurer's
15 certification shall remain in good standing in this state for a period of three months,
16 which shall be extended if additional time is necessary to consider the assuming
17 insurer's application for certification in this state.

18 (d) An association, including incorporated and individual unincorporated
19 underwriters, may be a certified reinsurer. In order to be eligible for certification, in
20 addition to satisfying requirements of subdivision (b), the reinsurer shall meet all of
21 the following requirements:

22 (1) The association shall satisfy its minimum capital and surplus requirements
23 through the capital and surplus equivalents (net of liabilities) of the association and
24 its members, which shall include a joint central fund that may be applied to any
25 unsatisfied obligation of the association or any of its members, in an amount
26 determined by the commissioner to provide adequate protection.

27 (2) The incorporated members of the association shall not be engaged in any
28 business other than underwriting as a member of the association and shall be subject
29 to the same level of regulation and solvency control by the association's domiciliary
30 regulator as are the unincorporated members.

31 (3) Within 90 days after its financial statements are due to be filed with the
32 association's domiciliary regulator, the association shall provide to the
33 commissioner an annual certification by the association's domiciliary regulator of
34 the solvency of each underwriter member or, if a certification is unavailable,
35 financial statements, prepared by independent public accountants, of each
36 underwriter member of the association.

37 (e)(1) The commissioner shall post notice on the department's Internet Web site
38 promptly upon receipt of any application for certification, including instructions on
39 how members of the public may respond to the application. The commissioner shall
40 not take final action on the application until at least 30 days after posting the notice
41 required by this subdivision.

42 (2) The commissioner shall issue written notice to an assuming insurer that has
43 made application and has been approved as a certified reinsurer. Included in that

1 notice shall be the rating assigned the certified reinsurer in accordance with
2 subdivision (h). The commissioner shall publish a list of all certified reinsurers and
3 their ratings.

4 (f) The certified reinsurer shall agree to meet applicable information filing
5 requirements as determined by the commissioner, both with respect to an initial
6 application for certification and on an ongoing basis. All information submitted by
7 certified reinsurers that is not otherwise public information subject to disclosure
8 shall be exempted from disclosure under ~~Chapter 3.5 (commencing with Section~~
9 ~~6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of
10 the Government Code, and shall be withheld from public disclosure. The applicable
11 information filing requirements are as follows:

12 (1) Notification within 10 days of any regulatory actions taken against the
13 certified reinsurer, any change in the provisions of its domiciliary license or any
14 change in rating by an approved rating agency, including a statement describing
15 those changes and the reasons for those changes.

16 (2) Annually, Form CR-F or CR-S, as applicable pursuant to the instructions
17 published on the department's Internet Web site.

18 (3) Annually, the report of the independent auditor on the financial statements of
19 the insurance enterprise, on the basis described in paragraph (4).

20 (4) Annually, audited financial statements, (audited United States Generally
21 Accepted Accounting Principles basis, if available, audited International Financial
22 Reporting Standards basis statements are allowed, but must include an audited
23 footnote reconciling equity and net income to a United States Generally Accepted
24 Accounting Principles basis, or, with the written permission of the commissioner,
25 audited International Financial Reporting Standards statements with reconciliation
26 to United States Generally Accepted Accounting Principles certified by an officer
27 of the company), regulatory filings, and actuarial opinion (as filed with the certified
28 reinsurer's supervisor). Upon the initial certification, audited financial statements
29 for the last three years filed with the certified reinsurer's supervisor.

30 (5) At least annually, an updated list of all disputed and overdue reinsurance
31 claims regarding reinsurance assumed from United States domestic ceding insurers.

32 (6) A certification from the certified reinsurer's domestic regulator that the
33 certified reinsurer is in good standing and maintains capital in excess of the
34 jurisdiction's highest regulatory action level.

35 (7) Any other information that the commissioner may reasonably require.

36 (g) If the commissioner certifies a non-United States domiciled insurer, the
37 commissioner shall create and publish a list of qualified jurisdictions, under which
38 an assuming insurer licensed and domiciled in that jurisdiction is eligible to be
39 considered for certification by the commissioner as a certified reinsurer.

40 (1) In order to determine whether the domiciliary jurisdiction of a non-United
41 States assuming insurer is eligible to be recognized as a qualified jurisdiction, the
42 commissioner shall evaluate the appropriateness and effectiveness of the
43 reinsurance supervisory system of the jurisdiction, both initially and on an ongoing

1 basis, and consider the rights, benefits, and the extent of reciprocal recognition
2 afforded by the non-United States jurisdiction to reinsurers licensed and domiciled
3 in the United States. The commissioner shall determine the appropriate process for
4 evaluating the qualifications of those jurisdictions. Prior to its listing, a qualified
5 jurisdiction shall agree in writing to share information and cooperate with the
6 commissioner with respect to all certified reinsurers domiciled within that
7 jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the
8 commissioner has determined that the jurisdiction does not adequately and promptly
9 enforce final United States judgments and arbitration awards. Additional factors
10 may be considered in the discretion of the commissioner, including, but not limited
11 to, the following:

12 (A) The framework under which the assuming insurer is regulated.

13 (B) The structure and authority of the domiciliary regulator with regard to
14 solvency regulation requirements and financial surveillance.

15 (C) The substance of financial and operating standards for assuming insurers in
16 the domiciliary jurisdiction.

17 (D) The form and substance of financial reports required to be filed or made
18 publicly available by reinsurers in the domiciliary jurisdiction and the accounting
19 principles used.

20 (E) The domiciliary regulator's willingness to cooperate with United States
21 regulators in general and the commissioner in particular.

22 (F) The history of performance by assuming insurers in the domiciliary
23 jurisdiction.

24 (G) Any documented evidence of substantial problems with the enforcement of
25 final United States judgments in the domiciliary jurisdiction.

26 (H) Any relevant international standards or guidance with respect to mutual
27 recognition of reinsurance supervision adopted by the International Association of
28 Insurance Supervisors or a successor organization.

29 (I) Any other matters deemed relevant by the commissioner.

30 (2) The commissioner shall consider the list of qualified jurisdictions published
31 through the NAIC committee process in determining qualified jurisdictions. The
32 commissioner may include on the list published pursuant to this section any
33 jurisdiction on the NAIC list of qualified jurisdictions or on any equivalent list of
34 the United States Treasury.

35 (3) If the commissioner approves a jurisdiction as qualified that does not appear
36 on either the NAIC list of qualified jurisdictions, or the United States Treasury list,
37 the commissioner shall provide thoroughly documented justification in accordance
38 with criteria to be developed under this section.

39 (4) United States jurisdictions that meet the requirements for accreditation under
40 the NAIC financial standards and accreditation program shall be recognized as
41 qualified jurisdictions.

1 (5) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified
2 jurisdiction, the commissioner has the discretion to suspend the reinsurer's
3 certification indefinitely, in lieu of revocation.

4 (h) The commissioner shall assign a rating to each certified reinsurer, giving due
5 consideration to the financial strength ratings that have been assigned by rating
6 agencies deemed acceptable to the commissioner pursuant to this section. The
7 commissioner shall publish a list of all certified reinsurers and their ratings.

8 (1) Each certified reinsurer shall be rated on a legal entity basis, with due
9 consideration being given to the group rating where appropriate, except that an
10 association including incorporated and individual unincorporated underwriters that
11 has been approved to do business as a single certified reinsurer may be evaluated on
12 the basis of its group rating. Factors that may be considered as part of the evaluation
13 process include, but are not limited to, the following:

14 (A) The certified reinsurer's financial strength rating from an acceptable rating
15 agency. The maximum rating that a certified reinsurer may be assigned shall
16 correspond to its financial strength rating as set forth in clauses (i) to (vi), inclusive.
17 The commissioner shall use the lowest financial strength rating received from an
18 approved rating agency in establishing the maximum rating of a certified reinsurer.
19 A failure to obtain or maintain at least two financial strength ratings from acceptable
20 rating agencies shall result in loss of eligibility for certification.

21 (i) Ratings category "Secure - 1" corresponds to A.M. Best Company rating A++;
22 Standard & Poor's rating AAA; Moody's Investors Service rating Aaa; and Fitch
23 Ratings rating AAA.

24 (ii) Ratings category "Secure - 2" corresponds to A.M. Best Company rating A+;
25 Standard & Poor's rating AA+, AA, or AA-; Moody's Investors Service rating Aa1,
26 Aa2, or Aa3; and Fitch Ratings rating AA+, AA, or AA-.

27 (iii) Ratings category "Secure - 3" corresponds to A.M. Best Company rating A;
28 Standard & Poor's rating A+ or A; Moody's Investors Service rating A1 or A2; and
29 Fitch Ratings rating A+ or A.

30 (iv) Ratings category "Secure - 4" corresponds to A.M. Best Company rating A-;
31 Standard & Poor's rating A-; Moody's Investors Service rating A3; and Fitch
32 Ratings rating A-.

33 (v) Ratings category "Secure - 5" corresponds to A.M. Best Company rating B++
34 or B+; Standard & Poor's rating BBB+, BBB, or BBB-; Moody's Investors Service
35 rating Baa1, Baa2, or Baa3; and Fitch Ratings rating BBB+, BBB, or BBB-.

36 (vi) Ratings category "Vulnerable - 6" corresponds to A.M. Best Company rating
37 B, B-, C++, C+, C, C-, D, E, or F; Standard & Poor's rating BB+, BB, BB-, B+, B,
38 B-, CCC, CC, C, D, or R; Moody's Investors Service rating Ba1, Ba2, Ba3, B1, B2,
39 B3, Caa, Ca, or C; and Fitch Ratings rating BB+, BB, BB-, B+, B, B-, CCC+, CC,
40 CCC-, or DD.

41 (B) The business practices of the certified reinsurer in dealing with its ceding
42 insurers, including its record of compliance with reinsurance contractual terms and
43 obligations.

1 (C) For certified reinsurers domiciled in the United States, a review of the most
2 recent applicable NAIC Annual Statement Blank, either Schedule F (for
3 property/casualty reinsurers) or Schedule S (for life and health reinsurers).

4 (D) For certified reinsurers not domiciled in the United States, a review annually
5 of Form CR-F (for property/casualty reinsurers) or Form CR-S (for life and health
6 reinsurers) (as published on the department's Internet Web site).

7 (E) The reputation of the certified reinsurer for prompt payment of claims under
8 reinsurance agreements, based on an analysis of ceding insurers' Schedule F
9 reporting of overdue reinsurance recoverables, including the proportion of
10 obligations that are more than 90 days past due or are in dispute, with specific
11 attention given to obligations payable to companies that are in administrative
12 supervision or receivership.

13 (F) Regulatory actions against the certified reinsurer.

14 (G) The report of the independent auditor on the financial statements of the
15 insurance enterprise, on the basis described in subparagraph (H).

16 (H) For certified reinsurers not domiciled in the United States, audited financial
17 statements, (audited United States Generally Accepted Accounting Principles basis,
18 if available, audited International Financial Reporting Standards basis statements
19 are allowed, but must include an audited footnote reconciling equity and net income
20 to a United States Generally Accepted Accounting Principles basis, or, with the
21 written permission of the commissioner, audited International Financial Reporting
22 Standards statements with reconciliation to United States Generally Accepted
23 Accounting Principles certified by an officer of the company), regulatory filings,
24 and actuarial opinion (as filed with the non-United States jurisdiction supervisor).
25 Upon the initial application for certification, the commissioner shall consider
26 audited financial statements for the last three years filed with its non-United States
27 jurisdiction supervisor.

28 (I) The liquidation priority of obligations to a ceding insurer in the certified
29 reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding.

30 (J) A certified reinsurer's participation in any solvent scheme of arrangement, or
31 similar procedure, which involves United States ceding insurers. The commissioner
32 shall receive prior notice from a certified reinsurer that proposes participation by
33 the certified reinsurer in a solvent scheme of arrangement.

34 (K) Any other information deemed relevant by the commissioner.

35 (2) Based on the analysis conducted under subparagraph (E) of paragraph (1) of a
36 certified reinsurer's reputation for prompt payment of claims, the commissioner
37 may make appropriate adjustments in the security the certified reinsurer is required
38 to post to protect its liabilities to United States ceding insurers, provided that the
39 commissioner shall, at a minimum, increase the security the certified reinsurer is
40 required to post by one rating level under regulations promulgated by the
41 commissioner, if the commissioner finds either of the following:

42 (A) More than 15 percent of the certified reinsurer's ceding insurance clients have
43 overdue reinsurance recoverables on paid losses of 90 days or more that are not in

1 dispute and that exceed one hundred thousand dollars (\$100,000) for each ceding
2 insurer.

3 (B) The aggregate amount of reinsurance recoverables on paid losses that are not
4 in dispute and that are overdue by 90 days or more exceeds fifty million dollars
5 (\$50,000,000).

6 (3) The assuming insurer shall submit a properly executed Form CR-1 (as
7 published on the department's Internet Web site) as evidence of its submission to
8 the jurisdiction of this state, appointment of the commissioner as an agent for service
9 of process in this state, and agreement to provide security for 100 percent of the
10 assuming insurer's liabilities attributable to reinsurance ceded by United States
11 ceding insurers if it resists enforcement of a final United States judgment. The
12 commissioner shall not certify any assuming insurer that is domiciled in a
13 jurisdiction that the commissioner has determined does not adequately and promptly
14 enforce final United States judgments or arbitration awards.

15 (4)(A) In the case of a downgrade by a rating agency or other disqualifying
16 circumstance, the commissioner shall, upon written notice, assign a new rating to
17 the certified reinsurer in accordance with the requirements of this subdivision.

18 (B) The commissioner shall have the authority to suspend, revoke, or otherwise
19 modify a certified reinsurer's certification at any time if the certified reinsurer fails
20 to meet its obligations or security requirements under this section, or if other
21 financial or operating results of the certified reinsurer, or documented significant
22 delays in payment by the certified reinsurer, lead the commissioner to reconsider
23 the certified reinsurer's ability or willingness to meet its contractual obligations.

24 (C) If the rating of a certified reinsurer is upgraded by the commissioner, the
25 certified reinsurer may meet the security requirements applicable to its new rating
26 on a prospective basis, but the commissioner shall require the certified reinsurer to
27 post security under the previously applicable security requirements as to all
28 contracts in force on or before the effective date of the upgraded rating. If the rating
29 of a certified reinsurer is downgraded by the commissioner, the commissioner shall
30 require the certified reinsurer to meet the security requirements applicable to its new
31 rating for all business it has assumed as a certified reinsurer.

32 (D) Upon revocation of the certification of a certified reinsurer by the
33 commissioner, the assuming insurer shall be required to post security in accordance
34 with Section 922.5 in order for the ceding insurer to continue to take credit for
35 reinsurance ceded to the assuming insurer. If funds continue to be held in trust in
36 accordance with subdivision (d) of Section 922.4, the commissioner may allow
37 additional credit equal to the ceding insurer's pro rata share of those funds,
38 discounted to reflect the risk of uncollectibility and anticipated expenses of trust
39 administration. Notwithstanding the change of a certified reinsurer's rating or
40 revocation of its certification, a domestic insurer that has ceded reinsurance to that
41 certified reinsurer shall not be denied credit for reinsurance for a period of three
42 months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is
43 found by the commissioner to be at high risk of uncollectibility.

1 (i) A certified reinsurer shall secure obligations assumed from United States
2 ceding insurers under this subdivision at a level consistent with its rating. The
3 amount of security required in order for full credit to be allowed shall correspond
4 with the following requirements:

5 Ratings security required

6 Secure - 1: 0 percent

7 Secure - 2: 10 percent

8 Secure - 3: 20 percent

9 Secure - 4: 50 percent

10 Secure - 5: 75 percent

11 Vulnerable - 6: 100 percent

12 (1) In order for a domestic ceding insurer to qualify for full financial statement
13 credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall
14 maintain security in a form acceptable to the commissioner and consistent with
15 Section 922.5, or in a multibeneficiary trust in accordance with subdivision (d) of
16 Section 922.4, except as otherwise provided in this subdivision. In order for a
17 domestic insurer to qualify for full financial statement credit, reinsurance contracts
18 entered into or renewed under this section shall include a proper funding clause that
19 requires the certified reinsurer to provide and maintain security in an amount
20 sufficient to avoid the imposition of any financial statement penalty on the ceding
21 insurer under this section for reinsurance ceded to the certified reinsurer.

22 (2) If a certified reinsurer maintains a trust to fully secure its obligations subject
23 to subdivision (d) of Section 922.4, and chooses to secure its obligations incurred
24 as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer
25 shall maintain separate trust accounts for its obligations incurred under reinsurance
26 agreements issued or renewed as a certified reinsurer with reduced security as
27 permitted by this subdivision or comparable laws of other United States jurisdictions
28 and for its obligations subject to subdivision (d) of Section 922.4. It shall be a
29 condition to the grant of certification under this section that the certified reinsurer
30 shall have bound itself, by the language of the trust and agreement with the
31 commissioner with principal regulatory oversight of each of those trust accounts, to
32 fund, upon termination of any of those trust accounts, out of the remaining surplus
33 of those trusts any deficiency of any other of those trust accounts.

34 (3) The minimum trustee surplus requirements provided in subdivision (d) of
35 Section 922.4 are not applicable with respect to a multibeneficiary trust maintained
36 by a certified reinsurer for the purpose of securing obligations incurred under this
37 subdivision, except that the trust shall maintain a minimum trustee surplus of ten
38 million dollars (\$10,000,000).

39 (4) With respect to obligations incurred by a certified reinsurer under this
40 subdivision, if the security is insufficient, the commissioner shall reduce the
41 allowable credit by an amount proportionate to the deficiency, and have the
42 discretion to impose further reductions in allowable credit upon finding that there is

1 a material risk that the certified reinsurer’s obligations will not be paid in full when
2 due.

3 (5) For purposes of this subdivision, a certified reinsurer whose certification has
4 been terminated for any reason shall be treated as a certified reinsurer required to
5 secure 100 percent of its obligations.

6 (A) As used in this subdivision, the term “terminated” means revocation,
7 suspension, voluntary surrender, and inactive status.

8 (B) If the commissioner continues to assign a higher rating as permitted by other
9 provisions of this section, this requirement shall not apply to a certified reinsurer in
10 inactive status or to a reinsurer whose certification has been suspended.

11 (6) The commissioner shall require the certified reinsurer to post 100-percent
12 security in accordance with Section 922.5, for the benefit of the ceding insurer or
13 its estate, upon the entry of an order of rehabilitation, liquidation, or conservation
14 against the ceding insurer.

15 (7) Affiliated reinsurance transactions shall receive the same opportunity for
16 reduced security requirements as all other reinsurance transactions.

17 (8) In order to facilitate the prompt payment of claims, a certified reinsurer shall
18 not be required to post security for catastrophe recoverables for a period of one year
19 from the date of the first instance of a liability reserve entry by the ceding company
20 as a result of a loss from a catastrophic occurrence that is likely to result in
21 significant insured losses, as recognized by the commissioner. The one-year deferral
22 period is contingent upon the certified reinsurer continuing to pay claims in a timely
23 manner, as determined by the commissioner, in writing. Reinsurance recoverables
24 for only the following lines of business as reported on the NAIC annual financial
25 statement related specifically to the catastrophic occurrence shall be included in the
26 deferral:

27 (A) Line 1: Fire.

28 (B) Line 2: Allied lines.

29 (C) Line 3: Farmowners’ multiple peril.

30 (D) Line 4: Homeowners’ multiple peril.

31 (E) Line 5: Commercial multiple peril.

32 (F) Line 9: Inland marine.

33 (G) Line 12: Earthquake.

34 (H) Line 21: Auto physical damage.

35 (9) Credit for reinsurance under this section shall apply only to reinsurance
36 contracts entered into or renewed on or after the effective date of the certification of
37 the assuming insurer. Any reinsurance contract entered into prior to the effective
38 date of the certification of the assuming insurer that is subsequently amended by
39 mutual agreement of the parties to the reinsurance contract after the effective date
40 of the certification of the assuming insurer, or a new reinsurance contract, covering
41 any risk for which collateral was provided previously, shall only be subject to this
42 section with respect to losses incurred and reserves reported from and after the
43 effective date of the amendment or new contract.

1 (10) Nothing in this section shall be construed to prohibit the parties to a
2 reinsurance agreement from agreeing to provisions establishing security
3 requirements that exceed the minimum security requirements established for
4 certified reinsurers under this section.

5 (j) A certified reinsurer that ceases to assume new business in this state may
6 request to maintain its certification in inactive status in order to continue to qualify
7 for a reduction in security for its in-force business. An inactive certified reinsurer
8 shall continue to comply with all applicable requirements of this section, and the
9 commissioner shall assign a rating that takes into account, if relevant, the reasons
10 why the reinsurer is not assuming new business.

11 (k) Notwithstanding this section, credit for reinsurance or deduction from liability
12 by a domestic ceding insurer for cessions to a certified reinsurer may be disallowed
13 upon a finding by the commissioner that the application of the literal provisions of
14 this section does not accomplish its intent, or either the financial condition of the
15 reinsurer or the collateral or other security provided by the reinsurer does not, in
16 substance, satisfy the credit for reinsurance requirements in Section 922.4.

17 (l) This section shall remain in effect only until January 1, 2021, and as of that
18 date is repealed, unless a later enacted statute, that is enacted before January 1, 2021,
19 deletes or extends that date.

20 **Comment.** Section 922.41 is amended to reflect nonsubstantive recodification of the California
21 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
22 Reports __ (2019).

23 The section is also amended to make a technical change.

24 **§ 923.6 (amended). Actuarial Opinion and related matters**

25 SEC. ____. Section 923.6 of the Insurance Code is amended to read:

26 923.6. (a) Every admitted property and casualty insurer, unless otherwise
27 exempted by the domiciliary commissioner, shall annually submit the opinion of an
28 Appointed Actuary entitled "Statement of Actuarial Opinion." This opinion shall be
29 filed in accordance with the appropriate Property and Casualty Annual Statement
30 Instructions of the National Association of Insurance Commissioners (NAIC).

31 (1) For purposes of this section, the term, "property and casualty insurer" means
32 any admitted insurer writing insurance as described in Section 102, 103, 105, 107,
33 108, 109, 110, 111, 112, 113, 114, 115, 116, 118, 119, 119.6, 120, 124, or 124.5.

34 (2) For purposes of this section, the following terms have the same meaning as
35 used in the Property and Casualty Annual Statement Instructions of the NAIC:

36 (A) Actuarial Opinion.

37 (B) Actuarial Opinion Summary.

38 (C) Actuarial Report.

39 (D) Appointed Actuary.

40 (E) Statement of Actuarial Opinion.

41 (F) Property and Casualty Annual Statement Instructions.

1 (3) The commissioner may adopt regulations related to the terms and conditions
2 required by the Property and Casualty Annual Statement Instructions of the NAIC.

3 (b) Every property and casualty insurer domiciled in this state that is required to
4 submit a Statement of Actuarial Opinion shall annually submit an Actuarial Opinion
5 Summary, written by the insurer's Appointed Actuary. This Actuarial Opinion
6 Summary shall be filed in accordance with the appropriate Property and Casualty
7 Annual Statement Instructions of the NAIC and shall be considered as a document
8 supporting the Actuarial Opinion required in subdivision (a).

9 (c) An admitted insurer not domiciled in this state shall provide the Actuarial
10 Opinion Summary upon request of the commissioner.

11 (d) An Actuarial Report and underlying workpapers as required by the appropriate
12 Property and Casualty Annual Statement Instructions of the NAIC shall be prepared
13 to support each Actuarial Opinion. If an insurer fails to provide either a supporting
14 Actuarial Report or workpapers at the request of the commissioner, or if the
15 commissioner determines that the supporting Actuarial Report or workpapers
16 provided by the insurer are otherwise unacceptable to the commissioner, the
17 commissioner may engage a qualified actuary at the expense of the insurer to review
18 the opinion and the basis for the opinion and prepare the supporting Actuarial Report
19 or workpapers.

20 (e) Notwithstanding ~~subdivision (d) of Section 6254~~ Section 7929.000 of the
21 Government Code, subdivision (f), or any other provision of law, the Statement of
22 Actuarial Opinion required by subdivision (a) shall be a public record and open to
23 inspection.

24 (f)(1) Documents, materials, or other information in the possession or control of
25 the commissioner that are considered an Actuarial Report, workpapers, or Actuarial
26 Opinion Summary provided in support of the Statement of Actuarial Opinion, and
27 any other material provided by the insurer to the commissioner in connection with
28 the Actuarial Report, workpapers, or Actuarial Opinion Summary shall be
29 confidential by law and privileged, shall not be made public by the commissioner
30 or any other person and are exempt from the California Public Records Act (~~Chapter~~
31 ~~3.5 (commencing with Section 6250) of Division 7~~ Division 10 (commencing with
32 Section 7920.000) of Title 1 of the Government Code), shall not be subject to
33 subpoena, and shall not be subject to discovery or admissible in evidence in any
34 civil action brought by a private party.

35 (2) This subdivision shall not limit the commissioner's authority to release the
36 documents, materials, and other information described in paragraph (1) to the
37 American Academy of Actuaries' Actuarial Board for Counseling and Discipline
38 (ABCD), or its successor, so long as those documents, materials, and other
39 information are required for the purpose of professional disciplinary proceedings,
40 and the ABCD establishes procedures satisfactory to the commissioner for
41 preserving the confidentiality of the documents, nor shall this subdivision limit the
42 commissioner's authority to use those documents, materials, or other information in

1 furtherance of any regulatory or legal action brought as part of the commissioner’s
2 official duties.

3 (3) The commissioner may also exercise, with respect to the documents,
4 materials, or other information described in paragraph (1), all the authority specified
5 in subdivision (b) of Section 735.5, or any successor provision.

6 **Comment.** Section 923.6 is amended to reflect nonsubstantive recodification of the California
7 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
8 Reports __ (2019).

9 **§ 925.3 (amended). Confidentiality of supplemental information provided or made available**
10 **to commissioner**

11 SEC. ____. Section 925.3 of the Insurance Code is amended to read:

12 925.3. All supplemental information provided or made available to the
13 commissioner pursuant to Sections 925 to 925.2, inclusive, including work papers
14 and other relevant documents of the independent certified public accountants or,
15 independent actuary or other independent professional financial person and the
16 insurer relevant to that information, shall be received in confidence within the
17 meaning of ~~subdivision (d) of Section 6254~~ Section 7929.000 of the Government
18 Code and exempt from the California Public Records Act (~~Chapter 3.5~~
19 ~~(commencing with Section 6250)~~ of ~~Division 7~~ Division 10 ~~(commencing with~~
20 Section 7920.000) of Title 1 of the Government Code). Additionally, that
21 information shall not be subject to subpoena or subpoena duces tecum.

22 **Comment.** Section 925.3 is amended to reflect nonsubstantive recodification of the California
23 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
24 Reports __ (2019).

25 **§ 929.1 (amended). Confidentiality of wildfire risk information submitted to commissioner**

26 SEC. ____. Section 929.1 of the Insurance Code is amended to read:

27 929.1. Information submitted to the commissioner, as required by Section 929,
28 shall be confidential pursuant to ~~subdivision (d) of Section 6254~~ Section 7929.000
29 of the Government Code and exempt from the California Public Records Act
30 (~~Chapter 3.5~~ ~~(commencing with Section 6250)~~ of ~~Division 7~~ Division 10
31 ~~(commencing with Section 7920.000)~~ of Title 1 of the Government Code).
32 Additionally, that information shall not be subject to subpoena or subpoena duces
33 tecum. Testimony by the commissioner, the commissioner’s staff, an employee of
34 the department, or a person to whom the report required by Section 929 was
35 disclosed, regarding the contents of any report submitted pursuant to Section 929,
36 shall be inadmissible as evidence in a civil proceeding.

37 **Comment.** Section 929.1 is amended to reflect nonsubstantive recodification of the California
38 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
39 Reports __ (2019).

40 **§ 935.8 (amended). ORSA-related documents and other information**

41 SEC. ____. Section 935.8 of the Insurance Code is amended to read:

1 935.8. (a) Documents, materials, or other information, including the ORSA
2 Summary Report, in the possession of or control of the Department of Insurance
3 that are obtained by, created by, or disclosed to the commissioner or any other
4 person under this article, are recognized by this state as being proprietary and
5 contain trade secrets. These documents, materials, or other information shall be
6 confidential by law and privileged, shall not be subject to disclosure pursuant to the
7 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of
8 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
9 Government Code), and shall not be subject to subpoena or discovery, or admissible
10 in evidence, in any private civil action. However, the commissioner is authorized to
11 use those documents, materials, or other information in the furtherance of any
12 regulatory or legal action brought as a part of the commissioner's official duties.
13 The commissioner shall not otherwise make those documents, materials, or other
14 information public without the prior written consent of the insurer.

15 (b) Neither the commissioner nor any other person who received documents,
16 materials, or other ORSA-related information, including the ORSA Summary
17 Report, through examination or otherwise, while acting under the authority of the
18 commissioner, or with whom those documents, materials, or other information are
19 shared pursuant to this article, shall be permitted or required to testify in any private
20 civil action concerning those confidential documents, materials, or information,
21 subject to subdivision (a).

22 (c) In order to assist in the performance of the commissioner's regulatory duties,
23 the commissioner:

24 (1) May, upon request, share documents, materials, or other ORSA-related
25 information, including the confidential and privileged documents, materials, or
26 information subject to subdivision (a), including proprietary and trade secret
27 documents and materials, with other state, federal, and international financial
28 regulatory agencies, including members of any supervisory college as described in
29 Section 1215.7, with the NAIC, and with any third-party consultants designated by
30 the commissioner, provided that the recipient agrees in writing to maintain the
31 confidentiality and privileged status of the ORSA-related documents, materials, or
32 other information and has verified in writing the legal authority to maintain
33 confidentiality.

34 (2) May receive documents, materials, or other ORSA-related information,
35 including otherwise confidential and privileged documents, materials, or
36 information, including proprietary and trade secret information or documents, from
37 regulatory officials of other foreign or domestic jurisdictions, including members of
38 any supervisory college as described in Section 1215.7, and from the NAIC, and
39 shall maintain as confidential or privileged any documents, materials, or
40 information received with notice or the understanding that it is confidential or
41 privileged under the laws of the jurisdiction that is the source of the document,
42 material, or information.

1 (3) Shall enter into a written agreement with the NAIC or a third-party consultant
2 governing the sharing and the use of information provided pursuant to this article,
3 consistent with this subdivision that shall do all of the following:

4 (A) Specify procedures and protocols regarding the confidentiality and security
5 of information shared with the NAIC or a third-party consultant pursuant to this
6 article, including procedures and protocols for sharing by the NAIC with other state
7 regulators from states in which the insurance group has domiciled insurers. The
8 agreement shall provide that the recipient agrees in writing to maintain the
9 confidentiality and privileged status of the ORSA-related documents, materials, or
10 other information and has verified in writing the legal authority to maintain
11 confidentiality.

12 (B) Specify that ownership of information shared with the NAIC or a third-party
13 consultant pursuant to this article remains with the commissioner and that the
14 NAIC's or a third-party consultant's use of the information is subject to the direction
15 of the commissioner.

16 (C) Prohibit the NAIC or third-party consultant from storing the information
17 shared pursuant to this article in a permanent database after the underlying analysis
18 is completed.

19 (D) Require prompt notice to be given to an insurer whose confidential
20 information in the possession of the NAIC or a third-party consultant pursuant to
21 this article when that information is subject to a request or subpoena to the NAIC or
22 a third-party consultant for disclosure or production.

23 (E) Require the NAIC or a third-party consultant to consent to intervention by an
24 insurer in any judicial or administrative action in which the NAIC or a third-party
25 consultant may be required to disclose confidential information about the insurer
26 shared with the NAIC or a third-party consultant pursuant to this article.

27 (F) In the case of an agreement involving a third-party consultant, provide for the
28 insurer's written consent.

29 (d) The sharing of information and documents by the commissioner pursuant to
30 this article shall not constitute a delegation of regulatory authority or rulemaking,
31 and the commissioner is solely responsible for the administration, execution, and
32 enforcement of the provisions of this article.

33 (e) A waiver of any applicable privilege or claim of confidentiality in the
34 documents, proprietary and trade secret materials, or other ORSA-related
35 information shall not occur as a result of disclosure of the ORSA-related
36 information or documents to the commissioner under this section or as a result of
37 sharing as authorized in this article.

38 (f) Documents, materials, or other information in the possession or control of the
39 NAIC or a third-party consultant pursuant to this article shall be confidential by law
40 and privileged, shall not be subject to disclosure pursuant to the California Public
41 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
42 10 (commencing with Section 7920.000) of Title 1 of the Government Code), and

1 shall not be subject to subpoena or discovery, or admissible in evidence, in any
2 private civil action.

3 **Comment.** Section 935.8 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
5 Reports __ (2019).

6 **§ 936.6 (amended). Corporate Governance Annual Disclosure and related information**

7 SEC. _____. Section 936.6 of the Insurance Code is amended to read:

8 936.6. (a)(1) Documents, materials, or other information, including the CGAD, in
9 the possession or control of the department that are obtained by, created by, or
10 disclosed to, the commissioner or any other person under this article are recognized
11 by this state as being proprietary and to contain trade secrets. All those documents,
12 materials, or other information shall be confidential by law and privileged, shall not
13 be subject to disclosure by the commissioner pursuant to the California Public
14 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
15 10 (commencing with Section 7920.000) of Title 1 of the Government Code), shall
16 not be subject to subpoena, and shall not be subject to discovery from the
17 commissioner or admissible in evidence in any private civil action if obtained from
18 the commissioner in any manner.

19 (2) However, the commissioner is authorized to use the documents, materials, or
20 other information in the furtherance of any regulatory or legal action brought as a
21 part of the commissioner's official duties. The commissioner shall not otherwise
22 disclose or make public the documents, materials, or other information without the
23 prior written consent of the insurer.

24 (3) This section shall not be construed to require written consent of the insurer
25 before the commissioner may share or receive confidential documents, materials, or
26 other CGAD-related information pursuant to subdivision (c) to assist in the
27 performance of the commissioner's regulatory duties.

28 (b) Neither the commissioner nor any person who received documents, materials,
29 or other CGAD-related information, through examination or otherwise, while acting
30 under the authority of the commissioner, or with whom those documents, materials,
31 or other information are shared pursuant to this article shall be permitted or required
32 to testify in any private civil action concerning any confidential documents,
33 materials, or information described in subdivision (a).

34 (c) In order to assist in the performance of the commissioner's regulatory duties,
35 the commissioner may do both of the following:

36 (1) Upon request, share documents, materials, or other CGAD-related
37 information, including the confidential and privileged documents, materials, or
38 information described in subdivision (a), including proprietary and trade secret
39 documents and materials with other state, federal, and international financial
40 regulatory agencies, including members of any supervisory college as defined in
41 Section 1215.7 (Insurance Holding Company System Regulatory Act), with the
42 NAIC, and with third-party consultants pursuant to Section 936.7, provided that the

1 recipient agrees in writing to maintain the confidentiality and privileged status of
2 the CGAD-related documents, materials, or other information and has verified in
3 writing the legal authority to maintain confidentiality.

4 (2) Receive documents, materials, or other CGAD-related information, including
5 otherwise confidential and privileged documents, materials, or information,
6 including proprietary and trade-secret information or documents, from regulatory
7 officials of other state, federal, and international financial regulatory agencies,
8 including members of any supervisory college as defined in Section 1215.7
9 (Insurance Holding Company System Regulatory Act), and from the NAIC, and
10 shall maintain as confidential or privileged any documents, materials, or
11 information received with notice or the understanding that it is confidential or
12 privileged under the laws of the jurisdiction that is the source of the documents,
13 materials, or information.

14 (d) The sharing of information and documents by the commissioner pursuant to
15 this article shall not constitute a delegation of regulatory authority or rulemaking,
16 and the commissioner is solely responsible for the administration, execution, and
17 enforcement of this article.

18 (e) No waiver of any applicable privilege or claim of confidentiality in the
19 documents, proprietary and trade-secret materials, or other CGAD-related
20 information shall occur as a result of disclosure of that CGAD-related information
21 or those documents to the commissioner under this section or as a result of sharing
22 as authorized in this article.

23 **Comment.** Section 936.6 is amended to reflect nonsubstantive recodification of the California
24 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
25 Reports __ (2019).

26 **§ 1215.8 (amended). Confidentiality, disclosure, sharing, and use of information**

27 SEC. ____. Section 1215.8 of the Insurance Code is amended to read:

28 1215.8. (a) All information, documents, and copies thereof obtained by or
29 disclosed to the commissioner or any other person in the course of an examination
30 or investigation made pursuant to Section 1215.4, 1215.5, 1215.6, or 1215.75, and
31 all information reported or provided pursuant to Section 1215.4, 1215.5, 1215.6, or
32 1215.75 shall be kept confidential, is not subject to disclosure by the commissioner
33 pursuant to the California Public Records Act (~~Chapter 3.5 (commencing with~~
34 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
35 Title 1 of the Government Code), is not subject to subpoena, and is not subject to
36 discovery from the commissioner or admissible into evidence in any private civil
37 action if obtained from the commissioner in any manner. This information shall not
38 be made public by the commissioner or any other person except to insurance
39 departments of other states without the prior written consent of the insurance
40 company to which it pertains, unless the commissioner, after giving the insurer and
41 its affiliates who would be affected thereby notice and opportunity to be heard,
42 determines that the interests of policyholders, shareholders, or the public will be

1 served by the publication thereof, in which event ~~he or she~~ the commissioner may
2 publish all or any part thereof in a manner as ~~he or she~~ the commissioner may deem
3 appropriate.

4 (b) In order to assist in the performance of the commissioner's duties, the
5 commissioner:

6 (1) May, upon request, be required to share documents, materials, or other
7 information, including the confidential and privileged documents, materials, or
8 information subject to subdivision (a), with other state, federal, and international
9 regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state,
10 federal, and international law enforcement authorities, including members of any
11 supervisory college described in Section 1215.7; provided that the recipient agrees
12 in writing to maintain the confidentiality and privileged status of the documents,
13 materials, or other information, and has verified in writing the legal authority to
14 maintain confidentiality.

15 (2) Notwithstanding paragraph (1), may only share confidential and privileged
16 documents, materials, or information reported pursuant to subdivision (m) of
17 Section 1215.4 with commissioners of states having statutes or regulations
18 substantially similar to subdivision (a) and who have agreed in writing not to
19 disclose the information.

20 (3) May receive documents, materials, or information, including otherwise
21 confidential and privileged documents, materials, or information, from the NAIC
22 and its affiliates and subsidiaries and from regulatory and law enforcement officials
23 of other foreign or domestic jurisdictions, and shall maintain as confidential or
24 privileged any documents, materials, or information received with notice or the
25 understanding that it is confidential or privileged under the laws of the jurisdiction
26 that is the source of the documents, materials, or information.

27 (4) May enter into written agreements with the NAIC governing sharing and use
28 of information provided pursuant to this subdivision consistent with this subdivision
29 that shall do the following:

30 (A) Specify procedures and protocols regarding the confidentiality and security
31 of information shared with the NAIC and its affiliates and subsidiaries pursuant to
32 this subdivision, including procedures and protocols for sharing by the NAIC with
33 other state, federal, or international regulators.

34 (B) Specify that ownership of information shared with the NAIC and its affiliates
35 and subsidiaries pursuant to this subdivision remains with the commissioner and the
36 NAIC's use of the information is subject to the direction of the commissioner.

37 (C) Require prompt notice to be given to an insurer whose confidential
38 information in the possession of the NAIC pursuant to this subdivision is subject to
39 a request or subpoena to the NAIC for disclosure or production.

40 (D) Require the NAIC and its affiliates and subsidiaries to consent to intervention
41 by an insurer in any judicial or administrative action in which the NAIC and its
42 affiliates and subsidiaries may be required to disclose confidential information

1 about the insurer shared with the NAIC and its affiliates and subsidiaries pursuant
2 to this subdivision.

3 (c) The sharing of information by the commissioner pursuant to this subdivision
4 shall not constitute a delegation of regulatory authority or rulemaking, and the
5 commissioner is solely responsible for the administration, execution, and
6 enforcement of the provisions of this article.

7 (d) No waiver of any applicable privilege or claim of confidentiality in the
8 documents, materials, or information shall occur as a result of disclosure to the
9 commissioner under this section or as a result of sharing as authorized in subdivision
10 (c).

11 (e) Documents, materials, or other information filed in the possession or control
12 of the NAIC pursuant to this subdivision shall be confidential by law and privileged,
13 shall not be subject to subpoena, and shall not be subject to discovery or admissible
14 in evidence in any private civil action.

15 **Comment.** Section 1215.8 is amended to reflect nonsubstantive recodification of the California
16 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
17 Reports __ (2019).

18 The section is also amended to eliminate gendered pronouns.

19 **§ 1666.5 (amended). Information on licensees and license applicants**

20 SEC. ____. Section 1666.5 of the Insurance Code is amended to read:

21 1666.5. (a)(1) Notwithstanding any other provision of law, the commissioner
22 shall at the time of issuance or renewal of any license under this chapter or Chapter
23 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), or
24 Chapter 8 (commencing with Section 1831) require that any license applicant or
25 licensee provide its federal employer identification number if the license applicant
26 or licensee is a partnership, or ~~his or her~~ the licensee's social security number for all
27 others, except as provided in paragraph (2).

28 (2) The commissioner shall require either a social security number or an
29 individual taxpayer identification number if the license applicant or licensee is an
30 individual applying for or renewing a license under this chapter.

31 (b) Any license applicant or licensee failing to provide the federal identification
32 number, social security number, or individual taxpayer identification number shall
33 be reported by the commissioner to the Franchise Tax Board and, if failing to
34 provide after notification pursuant to paragraph (1) of subdivision (b) of Section
35 19528 of the Revenue and Taxation Code, shall be subject to the penalty provided
36 in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation
37 Code.

38 (c)(1) The commissioner shall, upon request of the Franchise Tax Board, furnish
39 to the board all of the following information with respect to every license applicant
40 or licensee:

41 (A) License applicant's or licensee's name.

42 (B) Address or addresses of record.

1 (C) Federal employer identification number if the entity is a partnership or
2 owner's name and social security number for all others.

3 (D) Type of license.

4 (E) Effective date of license or renewal.

5 (F) Expiration date of license.

6 (G) Whether license is active or inactive, if known.

7 (H) Whether license is new or a renewal.

8 (2) Notwithstanding paragraph (1), the commissioner shall, upon request of the
9 Franchise Tax Board, furnish to the board either a social security number or an
10 individual taxpayer identification number for individuals licensed under this
11 chapter.

12 (d) For the purposes of this section:

13 (1) "License" includes a certificate, registration, or any other authorization needed
14 to engage in the insurance business regulated by this code.

15 (2) "License applicant" means any individual or entity, other than a corporation,
16 in the process of obtaining a license, certificate, registration, or other means to
17 engage in the insurance business regulated by this code.

18 (3) "Licensee" means any individual or entity, other than a corporation,
19 authorized by a license, certificate, registration, or other means to engage in the
20 insurance business regulated by this code.

21 (e) The reports required under this section shall be filed on magnetic media or in
22 other machine-readable form, according to standards furnished by the Franchise Tax
23 Board.

24 (f) The commissioner shall begin providing to the Franchise Tax Board the
25 information required by this section as soon as economically feasible, but no later
26 than July 1, 1987. The information shall be furnished at a time that the Franchise
27 Tax Board may require.

28 (g) Notwithstanding ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
29 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
30 Code, the information furnished pursuant to subdivision (a) and subparagraph (C)
31 of paragraph (1) of, and paragraph (2) of, subdivision (c) shall not be deemed to be
32 a public record and shall not be open to the public for inspection.

33 (h) Any deputy, agent, clerk, officer, or employee of the commissioner, or any
34 former officer or employee or other individual who in the course of ~~his or her~~ that
35 person's employment or duty has or has had access to the information required to
36 be furnished under this section, shall not disclose or make known in any manner
37 that information, except as provided in this section.

38 (1) This section shall not prevent an agency from disclosing or making known in
39 any manner that information when the transfer is necessary for the transferee agency
40 to perform its constitutional or statutory duties, and the use is compatible with a
41 purpose for which the information was collected and the use or transfer is accounted
42 for in accordance with Section 1798.25 of the Civil Code.

1 (2) With respect to information transferred from a law enforcement or regulatory
2 agency, or information transferred to another law enforcement or regulatory agency,
3 a use is compatible if the use of the information requested is needed in an
4 investigation of unlawful activity under the jurisdiction of the requesting agency or
5 for licensing, certification, or regulatory purposes by that agency and on the
6 condition that the law enforcement or regulatory agency requesting the information
7 needed agrees to keep that information confidential in accordance with Section
8 1798.25 of the Civil Code.

9 (3) A law enforcement or regulatory agency that requests information from the
10 commissioner shall, upon request, identify for the commissioner the intended use
11 for the information. The commissioner shall have the discretion to determine
12 whether to transfer the information to the law enforcement or regulatory agency and
13 shall not transfer the information if the commissioner determines that the
14 information will be used for an improper purpose.

15 (i) It is the intent of the Legislature in enacting this section to utilize the social
16 security account number, individual taxpayer identification number, or federal
17 employer identification number for the purpose of establishing the identification of
18 persons affected by state tax laws and, to that end, the information furnished
19 pursuant to this section shall be used exclusively for an agency to perform its
20 constitutional or statutory duties.

21 (j) This section shall become operative on July 1, 2018.

22 **Comment.** Section 1666.5 is amended to reflect nonsubstantive recodification of the California
23 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
24 Reports __ (2019).

25 The section is also amended to eliminate gendered pronouns.

26 **§ 1861.07 (amended). Public inspection**

27 SEC. ____. Section 1861.07 of the Insurance Code is amended to read:

28 1861.07. All information provided to the commissioner pursuant to this article
29 shall be available for public inspection, and the provisions of Section ~~6254(d)~~
30 7929.000 of the Government Code and Section 1857.9 of the Insurance Code shall
31 not apply thereto.

32 **Comment.** Section 1861.07 is amended to reflect nonsubstantive recodification of the California
33 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
34 Reports __ (2019).

35 **§ 1871.1 (amended). Access to public records by insurers and their agents while**
36 **investigating suspected fraud claims**

37 SEC. ____. Section 1871.1 of the Insurance Code is amended to read:

38 1871.1. Insurers and their agents, while they are investigating suspected fraud
39 claims, shall have access to all relevant public records that are required to be open
40 for inspection under ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
41 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
42 Code, and any regulations thereunder. This section restates existing law, and the

1 Legislature does not intend to grant insurers or their agents access to public records
2 other than to those public records available to them under existing law.

3 **Comment.** Section 1871.1 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
5 Reports __ (2019).

6 **§ 10112.82 (amended). Rates and reimbursement**

7 SEC. ____. Section 10112.82 of the Insurance Code is amended to read:

8 10112.82. (a)(1) For services rendered subject to Section 10112.8, effective July
9 1, 2017, unless otherwise agreed to by the noncontracting individual health
10 professional and the insurer, the insurer shall reimburse the greater of the average
11 contracted rate or 125 percent of the amount Medicare reimburses on a fee-for-
12 service basis for the same or similar services in the general geographic region in
13 which the services were rendered. For the purposes of this section, “average
14 contracted rate” means the average of the contracted commercial rates paid by the
15 health insurer for the same or similar services in the geographic region. This
16 subdivision does not apply to subdivision (c) of Section 10112.8 or subdivision (b)
17 of this section.

18 (2)(A) By July 1, 2017, each health insurer shall provide to the commissioner all
19 of the following:

20 (i) Data listing its average contracted rates for the insurer for services most
21 frequently subject to Section 10112.8 in each geographic region in which the
22 services are rendered for the calendar year 2015.

23 (ii) Its methodology for determining the average contracted rate for the insurer for
24 services subject to Section 10112.8. The methodology to determine an average
25 contracted rate shall ensure that the insurer includes the highest and lowest
26 contracted rates for the calendar year 2015.

27 (iii) The policies and procedures used to determine the average contracted rates
28 under this subdivision.

29 (B) For each calendar year after the health insurer’s initial submission of the
30 average contracted rate as specified in subparagraph (A) and until the standardized
31 methodology under paragraph (3) is specified, a health insurer shall adjust the rate
32 initially established pursuant to this subdivision by the Consumer Price Index for
33 Medical Care Services, as published by the United States Bureau of Labor Statistics.

34 (3)(A) By January 1, 2019, the commissioner shall specify a methodology that
35 insurers shall use to determine the average contracted rates for services most
36 frequently subject to Section 10112.8. This methodology shall take into account, at
37 a minimum, information from the independent dispute resolution process, the
38 specialty of the individual health professional, and the geographic region in which
39 the services are rendered. The methodology to determine an average contracted rate
40 shall ensure that the insurer includes the highest and lowest contracted rates.

41 (B) Insurers shall provide to the commissioner the policies and procedures used
42 to determine the average contracted rates in compliance with subparagraph (A).

1 (C) The average contracted rate data submitted pursuant to this section shall be
2 confidential and not subject to disclosure under the California Public Records Act
3 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
4 (commencing with Section 7920.000) of Title 1 of the Government Code).

5 (D) In developing the standardized methodology under this subdivision, the
6 commissioner shall consult with interested parties throughout the process of
7 developing the standards, including the Department of Managed Health Care,
8 representatives of health plans, insurers, health care providers, hospitals, consumer
9 advocates, and other stakeholders it deems appropriate. The commissioner shall
10 hold the first stakeholder meeting no later than July 1, 2017.

11 (4) A health insurer shall include in its reports submitted to the commissioner
12 pursuant to Section 10133.5 and regulations adopted pursuant to that section, in a
13 manner specified by the department, the number of payments made to
14 noncontracting individual health professionals for services at a contracting health
15 facility and subject to Section 10112.8, as well as other data sufficient to determine
16 the proportion of noncontracting individual health professionals to contracting
17 individual health professionals at contracting health facilities, as defined in
18 subdivision (f) of Section 10112.8. The commissioner shall include a summary of
19 this information in its January 1, 2019, report required pursuant to subdivision (j) of
20 Section 10112.81 and its findings regarding the impact of the act that added this
21 section on health insurer contracting and network adequacy.

22 (5) A health insurer that provides services subject to Section 10112.8 shall meet
23 the network adequacy requirements set forth in this chapter, including, but not
24 limited to, Section 10133.5 of this code and Sections 2240.1 and 2240.7 of Title 10
25 of the California Code of Regulations, including, but not limited to, inpatient
26 hospital services and specialist physician services, and if necessary, the
27 commissioner may adopt additional regulations related to those services. This
28 section shall not be construed to limit the commissioner's authority under this
29 chapter.

30 (6) For the purposes of this section, for average contracted rates for individual and
31 small group coverage, geographic region shall be the geographic regions listed in
32 subparagraph (A) of paragraph (2) of subdivision (a) of Section 10753.14. For
33 purposes of this section for Medicare fee-for-service reimbursement, geographic
34 regions shall be the geographic regions specified for physician reimbursement for
35 Medicare fee-for-service by the United States Department of Health and Human
36 Services.

37 (7) A health insurer shall authorize and permit assignment of the insured's right,
38 if any, to any reimbursement for health care services covered under the health
39 insurance policy to a noncontracting individual health professional who furnishes
40 the health care services rendered subject to Section 10112.8. Lack of assignment
41 pursuant to this paragraph shall not be construed to limit the applicability of this
42 section, Section 10112.8, or Section 10112.81.

1 (8) A noncontracting individual health professional or health insurer who disputes
2 the claim reimbursement under this section shall utilize the independent dispute
3 resolution process described in Section 10112.81.

4 (b) If nonemergency services are provided by a noncontracting individual health
5 professional consistent with subdivision (c) of Section 10112.8 to an insured who
6 has voluntarily chosen to use ~~his or her~~ the insured's out-of-network benefit for
7 services covered by an insurer that includes coverage for out-of-network benefits,
8 unless otherwise agreed to by the insurer and the noncontracting individual health
9 professional, the amount paid by the insurer shall be the amount set forth in the
10 insured's policy. This payment is not subject to the independent dispute resolution
11 process described in Section 10112.81.

12 (c) If a health insurer delegates the responsibility for payment of claims to a
13 contracted entity, including, but not limited to, a medical group or independent
14 practice association, then the entity to which that responsibility is delegated shall
15 comply with the requirements of this section.

16 (d)(1) A payment made by the health insurer to the noncontracting health care
17 professional for nonemergency services as required by Section 10112.8 and this
18 section, in addition to the applicable cost sharing owed by the insured, shall
19 constitute payment in full for nonemergency services rendered unless either party
20 uses the dispute resolution process or other lawful means pursuant to Section
21 10112.81.

22 (2) Notwithstanding any other law, the amounts paid by an insurer for services
23 under this section shall not constitute the prevailing or customary charges, the usual
24 fees to the general public, or other charges for other payers for an individual health
25 professional.

26 (3) This subdivision shall not preclude the use of the independent dispute
27 resolution process pursuant to Section 10112.81.

28 (e) This section shall not apply to emergency services and care, as defined in
29 Section 1317.1 of the Health and Safety Code.

30 (f) The definitions in subdivision (f) of Section 10112.8 shall apply for purposes
31 of this section.

32 (g) This section shall not be construed to alter a health insurer's obligations
33 pursuant to Section 10123.13.

34 **Comment.** Section 10112.82 is amended to reflect nonsubstantive recodification of the
35 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
36 Comm'n Reports __ (2019).

37 The section is also amended to eliminate gendered pronouns.

38 **§ 10113.2 (amended). Entering into, brokering, or soliciting life settlements**

39 SEC. ____. Section 10113.2 of the Insurance Code is amended to read:

40 10113.2. (a) This section applies to any person entering into, brokering, or
41 soliciting life settlements pursuant to this section and Sections 10113.1 and 10113.3.

1 (b)(1) Except as provided in subparagraph (B) or (D), a person may not enter into,
2 broker, or solicit life settlements pursuant to Section 10113.1 unless that person has
3 been licensed by the commissioner under this section. The person shall file an
4 application for a license in the form prescribed by the commissioner, and the
5 application shall be accompanied by a fee of one hundred seventy-one dollars
6 (\$171). The annual license renewal fee shall be one hundred seventy-one dollars
7 (\$171). The applicant shall provide any information the commissioner may require.
8 The commissioner may issue a license, or deny the application if, in ~~his or her~~ the
9 commissioner's discretion, it is determined that it is contrary to the interests of the
10 public to issue a license to the applicant. The reasons for a denial shall be set forth
11 in writing.

12 (A) An individual acting as a broker under this section shall complete at least 15
13 hours of continuing education related to life settlements and life settlement
14 transactions, as required and approved by the commissioner, prior to operating as a
15 broker. This requirement shall not apply to a life insurance producer who qualifies
16 under subparagraph (D).

17 (B) A person licensed as an attorney, certified public accountant, or financial
18 planner accredited by a nationally recognized accreditation agency, who is retained
19 to represent the owner, and whose compensation is not paid directly or indirectly by
20 the provider or purchaser, may negotiate a life settlement contract on behalf of the
21 owner without having to obtain a license as a broker.

22 (C) A person licensed to act as a viatical settlement broker or provider as of
23 December 31, 2009, shall be deemed qualified for licensure as a life settlement
24 broker or provider, and shall be subject to all the provisions of this article as if the
25 person were originally licensed as a life settlement broker or provider.

26 (D)(i) A life insurance producer who has been duly licensed as a life agent for at
27 least one year or as a licensed nonresident producer in this state for one year shall
28 be deemed to meet the licensing requirements of this section and shall be permitted
29 to operate as a broker.

30 (ii) Not later than 10 days from the first day of operating as a broker, the life
31 insurance producer shall notify the commissioner that ~~he or she~~ the life insurance
32 producer is acting as a broker, on a form prescribed by the commissioner, and shall
33 pay a fee of eighty-five dollars (\$85).

34 (iii) The fee shall be paid by the life insurance producer for each license term the
35 producer intends to operate as a broker. The fee shall be calculated pursuant to
36 Section 1750. The notification to the commissioner shall include an
37 acknowledgment by the life insurance producer that ~~he or she~~ the life insurance
38 producer will operate as a broker in accordance with this act.

39 (iv) The insurer that issued the policy that is the subject of a life settlement
40 contract shall not be responsible for any act or omission of a broker or provider
41 arising out of, or in connection with, the life settlement transaction, unless the
42 insurer receives compensation for the replacement of the life settlement contract for
43 the provider or broker.

1 (E) The commissioner shall review the examination for the licensing of life
2 insurance agents and may recommend any changes to the examination to the
3 department's curriculum committee in order to carry out the purposes of this section
4 and Sections 10113.1 and 10113.3.

5 (2) Whenever it appears to the commissioner that it is contrary to the interests of
6 the public for a person licensed pursuant to this section to continue to transact life
7 settlements business, ~~he or she~~ the commissioner shall issue a notice to the licensee
8 stating the reasons therefor. If, after a hearing, the commissioner concludes that it is
9 contrary to the interests of the public for the licensee to continue to transact life
10 settlements business, ~~he or she~~ the commissioner may revoke the person's license,
11 or issue an order suspending the license for a period as determined by the
12 commissioner. Any hearing conducted pursuant to this paragraph shall be in
13 accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division
14 3 of Title 2 of the Government Code, except that the hearing may be conducted by
15 administrative law judges chosen pursuant to Section 11502 or appointed by the
16 commissioner, and the commissioner shall have the powers granted therein.

17 (3) Each licensee shall owe and pay in advance to the commissioner an annual
18 renewal fee in an amount to be determined by the commissioner pursuant to
19 paragraph (1) of subdivision (b). This fee shall be for each license year, as defined
20 by Section 1629.

21 (4) Any licensee that intends to discontinue transacting life settlements in this
22 state shall so notify the commissioner, and shall surrender its license.

23 (c) A life settlements licensee shall file with the department a copy of all life
24 settlement forms used in this state. A licensee may not use any life settlement form
25 in this state unless it has been provided in advance to the commissioner. The
26 commissioner may disapprove a life settlement form if, in ~~his or her~~ the
27 commissioner's discretion, the form, or provisions contained therein, are contrary
28 to the interests of the public, or otherwise misleading or unfair to the consumer. In
29 the case of disapproval, the licensee may, within 15 days of notice of the
30 disapproval, request a hearing before the commissioner or ~~his or her~~ the
31 commissioner's designee, and the hearing shall be held within 30 days of the
32 request.

33 (d) Life settlements licensees shall be required to provide any applicant for a life
34 settlement contract, at the time of application for the life settlement contract, all of
35 the following disclosures in writing and signed by the owner, in at least 12-point
36 type:

37 (1) That there are possible alternatives to life settlements, including, but not
38 limited to, accelerated benefits options that may be offered by the life insurer.

39 (2) The fact that some or all of the proceeds of a life settlement may be taxable
40 and that assistance should be sought from a professional tax adviser.

41 (3) Consequences for interruption of public assistance as provided by information
42 provided by the State Department of Health Care Services and the State Department
43 of Social Services under Section 11022 of the Welfare and Institutions Code.

1 (4) That the proceeds from a life settlement could be subject to the claims of
2 creditors.

3 (5) That entering into a life settlement contract may cause other rights or benefits,
4 including conversion rights and waiver of premium benefits that may exist under
5 the policy or certificate of a group policy to be forfeited by the owner and that
6 assistance should be sought from a professional financial adviser.

7 (6) That a change in ownership of the settled policy could limit the insured's
8 ability to purchase insurance in the future on the insured's life because there is a
9 limit to how much coverage insurers will issue on one life.

10 (7) That the owner has a right to rescind a life settlement contract within 30 days
11 of the date it is executed by all parties and the owner has received all required
12 disclosures, or 15 days from receipt by the owner of the proceeds of the settlement,
13 whichever is sooner. Rescission, if exercised by the owner, is effective only if both
14 notice of rescission is given and the owner repays all proceeds and any premiums,
15 loans, and loan interest paid on account of the provider within the rescission period.
16 If the insured dies during the rescission period, the contract shall be deemed to have
17 been rescinded subject to repayment by the owner or the owner's estate of all
18 proceeds and any premiums, loans, and loan interest to the provider.

19 (8) That proceeds will be sent to the owner within three business days after the
20 provider has received the insurer or group administrator's acknowledgment that
21 ownership of the policy or the interest in the certificate has been transferred and the
22 beneficiary has been designated in accordance with the terms of the life settlement
23 contract.

24 (9) The date by which the funds will be available to the owner and the transmitter
25 of the funds.

26 (10) The disclosure document shall include the following language:

27
28 "All medical, financial, or personal information solicited or obtained by a provider
29 or broker about an insured, including the insured's identity or the identity of family
30 members, a spouse, or a significant other may be disclosed as necessary to effect
31 the life settlement contract between the owner and provider. If you are asked to
32 provide this information, you will be asked to consent to the disclosure. The
33 information may be provided to someone who buys the policy or provides funds for
34 the purchase. You may be asked to renew your permission to share information
35 every two years."

36
37 (11) That the insured may be contacted by either the provider or the broker or its
38 authorized representative for the purpose of determining the insured's health status
39 or to verify the insured's address. This contact is limited to once every three months
40 if the insured has a life expectancy of more than one year, and no more than once
41 per month if the insured has a life expectancy of one year or less.

1 (12) Any affiliations or contractual relations between the provider and the broker,
2 and the affiliation, if any, between the provider and the issuer of the policy to be
3 settled.

4 (13) That a broker represents exclusively the owner, and not the insurer or the
5 provider or any other person, and owes a fiduciary duty to the owner, including a
6 duty to act according to the owner's instructions and in the best interest of the owner.

7 (14) The name, business address, and telephone number of the broker.

8 (e) Prior to the execution of the life settlement contract by all parties, the life
9 settlement provider entering into a life settlement contract with the owner shall
10 provide, in a document signed by the owner, the gross purchase price the life
11 settlement provider is paying for the policy, the amount of the purchase price to be
12 paid to the owner, the amount of the purchase price to be paid to the owner's life
13 settlement broker, and the name, business address, and telephone number of the life
14 settlement broker. For purposes of this section, "gross purchase price" means the
15 total amount or value paid by the provider for the purchase of one or more life
16 insurance policies, including commissions and fees.

17 (f) The broker shall provide the owner and the insured with at least all of the
18 following disclosures in writing prior to the signing of the life settlement contract
19 by all parties. The disclosures shall be clearly displayed in the life settlement
20 contract or in a separate document signed by the owner:

21 (1) The name, business address, and telephone number of the broker.

22 (2) A full, complete, and accurate description of all of the offers, counteroffers,
23 acceptances, and rejections relating to the proposed life settlement contract.

24 (3) A disclosure of any affiliations or contractual arrangements between the
25 broker and any person making an offer in connection with the proposed life
26 settlement contract.

27 (4) All estimates of the life expectancy of the insured that are obtained by the
28 licensee in connection with the life settlement, unless that disclosure would violate
29 any California or federal privacy laws.

30 (5) The commissioner may consider any failure to provide the disclosures or
31 rights described in this section as a basis for suspending or revoking a broker's or
32 provider's license pursuant to paragraph (2) of subdivision (b).

33 (g) All medical information solicited or obtained by any person soliciting or
34 entering into a life settlement is subject to Article 6.6 (commencing with Section
35 791) of Chapter 1 of Part 2 of Division 1, concerning confidentiality of medical
36 information.

37 (h) Except as otherwise allowed or required by law, a provider, broker, insurance
38 company, insurance producer, information bureau, rating agency, or company, or
39 any other person with actual knowledge of an insured's identity shall not disclose
40 the identity of an insured or information that there is a reasonable basis to believe
41 that could be used to identify the insured or the insured's financial or medical
42 information to any other person unless the disclosure is one of the following:

1 (1) It is necessary to effect a life settlement contract between the owner and a
2 provider and the owner and insured have provided prior written consent to the
3 disclosure.

4 (2) It is necessary to effectuate the sale of life settlement contracts, or interests
5 therein, as investments, provided the sale is conducted in accordance with applicable
6 state and federal securities law and provided further that the owner and the insured
7 have both provided prior written consent to the disclosure.

8 (3) It is provided in response to an investigation or examination by the
9 commissioner or any other governmental officer or agency or any other provision
10 of law.

11 (4) It is a term or condition to the transfer of a policy by one provider to another
12 provider, in which case the receiving provider shall be required to comply with the
13 confidentiality requirements of Article 6.6 (commencing with Section 791) of
14 Chapter 1 of Part 2 of Division 1.

15 (5) It is necessary to allow the provider or broker or their authorized
16 representatives to make contacts for the purpose of determining health status. For
17 the purposes of this section, the term “authorized representative” shall not include
18 any person who has or may have any financial interest in the settlement contract
19 other than a provider, licensed broker; further, a provider or broker shall require its
20 authorized representative to agree in writing to adhere to the privacy provisions of
21 this act.

22 (6) It is required to purchase stop loss coverage.

23 (i) In addition to other questions an insurance carrier may lawfully pose to a life
24 insurance applicant, insurance carriers may inquire in the application for insurance
25 whether the proposed owner intends to pay premiums with the assistance of
26 financing from a lender that will use the policy as collateral to support the financing.

27 (1) If the premium finance loan provides funds that can be used for a purpose
28 other than paying for the premiums, costs, and expenses associated with obtaining
29 and maintaining the life insurance policy and loan, the application may be rejected
30 as a prohibited practice under this act.

31 (2) If the financing does not violate paragraph (1), the existence of premium
32 financing may not be the sole criterion employed by an insurer in a decision whether
33 to reject an application for life insurance. The insurance carrier may make
34 disclosures to the applicant, either on the application or an amendment to the
35 application to be completed no later than the delivery of the policy, including, but
36 not limited to, the following:

37
38 “If you have entered into a loan arrangement where the policy is used as collateral,
39 and the policy changes ownership at some point in the future in satisfaction of the
40 loan, the following may be true:

41 “(A) A change of ownership could lead to a stranger owning an interest in the
42 insured’s life.

1 “(B) A change of ownership could in the future limit your ability to purchase
2 insurance on the insured’s life because there is a limit to how much coverage
3 insurers will issue on a life.

4 “(C) You should consult a professional adviser since a change in ownership in
5 satisfaction of the loan may result in tax consequences to the owner, depending on
6 the structure of the loan.”

7
8 (3) In addition to the disclosures in paragraph (2), the insurance carrier may
9 require the following certifications from the applicant or the insured:

10
11 “(A) I have not entered into any agreement or arrangement under which I have
12 agreed to make a future sale of this life insurance policy.

13 “(B) My loan arrangement for this policy provides funds sufficient to pay for
14 some or all of the premiums, costs, and expenses associated with obtaining and
15 maintaining my life insurance policy, but I have not entered into any agreement by
16 which I am to receive consideration in exchange for procuring this policy.

17 “(C) The borrower has an insurable interest in the insured.”

18
19 (j) Life insurers shall provide individual life insurance policyholders with a
20 statement informing them that if they are considering making changes in the status
21 of their policy, they should consult with a licensed insurance or financial adviser.
22 The statement may accompany or be included in notices or mailings otherwise
23 provided to the policyholders.

24 (k) The commissioner may, whenever he or she deems it reasonably necessary to
25 protect the interests of the public, examine the business and affairs of any licensee
26 or applicant for a license. The commissioner shall have the authority to order any
27 licensee or applicant to produce any records, books, files, or other information as is
28 reasonably necessary to ascertain whether or not the licensee or applicant is acting
29 or has acted in violation of the law or otherwise contrary to the interests of the
30 public. The expenses incurred in conducting any examination shall be paid by the
31 licensee or applicant.

32 (l) The commissioner may investigate the conduct of any licensee, its officers,
33 employees, agents, or any other person involved in the business of the licensee, or
34 any applicant for a license, whenever the commissioner has reason to believe that
35 the licensee or applicant for a license may have acted, or may be acting, in violation
36 of the law, or otherwise contrary to the interests of the public. The commissioner
37 may initiate an investigation on ~~his or her~~ the commissioner’s own initiative, or
38 upon a complaint filed by any other person.

39 (m) The commissioner may issue orders to licensees whenever ~~he or she~~ the
40 commissioner determines that it is reasonably necessary to ensure or obtain
41 compliance with this section, or Section 10113.3. This authority includes, but is not
42 limited to, orders directing a licensee to cease and desist in any practice that is in
43 violation of this section, or Section 10113.3, or otherwise contrary to the interests

1 of the public. Any licensee to which an order pursuant to this subdivision is issued
2 may, within 15 days of receipt of that order, request a hearing at which the licensee
3 may challenge the order.

4 (n) The commissioner may, after notice and a hearing at which it is determined
5 that a licensee has violated this section or Section 10113.3 or any order issued
6 pursuant to this section, order the licensee to pay a monetary penalty of up to ten
7 thousand dollars (\$10,000), which may be recovered in a civil action. Any hearing
8 conducted pursuant to this subdivision shall be in accordance with Chapter 5
9 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
10 Government Code, except that the hearing may be conducted by administrative law
11 judges chosen pursuant to Section 11502 or appointed by the commissioner, and the
12 commissioner shall have the powers granted therein.

13 (o) Each licensed provider shall file with the commissioner on or before March 1
14 of each year an annual statement in the form prescribed by the commissioner. The
15 information that the commissioner may require in the annual statement shall
16 include, but not be limited to, the total number, aggregate face amount, and life
17 settlement proceeds of policies settled during the immediately preceding calendar
18 year, together with a breakdown of the information by policy issue year. The annual
19 statement shall also include the names of the insurance companies whose policies
20 have been settled and the brokers that have settled those policies, and that
21 information shall be received in confidence within the meaning of ~~subdivision (d)~~
22 ~~of Section 6254~~ Section 7929.000 of the Government Code and exempt from
23 disclosure pursuant to the Public Records Act (~~Chapter 3.5 (commencing with~~
24 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
25 Title 1 of the Government Code). The annual statement shall not include individual
26 transaction data regarding the business of life settlements or information that there
27 is a reasonable basis to believe could be used to identify the owner or the insured.

28 (p) A person who is not a resident of California may not receive or maintain a
29 license unless a written designation of an agent for service of process is filed and
30 maintained with the commissioner. The provisions of Article 3 (commencing with
31 Section 1600) of Chapter 4 of Part 2 of Division 1 shall apply to life settlements
32 licensees as if they were foreign insurers, their license a certificate of authority, and
33 the life settlements a policy, and the commissioner may modify the agreement set
34 forth in Section 1604 accordingly.

35 (q) A person licensed pursuant to this section shall not engage in any false or
36 misleading advertising, solicitation, or practice. In no case shall a broker or
37 provider, directly or indirectly, market, advertise, solicit, or otherwise promote the
38 purchase of a new policy for the sole purpose of or with a primary emphasis on
39 settling the policy or use the words “free,” “no cost,” or words of similar import in
40 the marketing, advertising, soliciting, or otherwise promoting of the purchase of a
41 policy. The provisions of Article 6 (commencing with Section 780) and Article 6.5
42 (commencing with Section 790) of Chapter 1 of Part 2 of Division 1 shall apply to
43 life settlements licensees as if they were insurers, their license a certificate of

1 authority or producer's license, and the life settlements a policy, and the
2 commissioner shall liberally construe these provisions so as to protect the interests
3 of the public.

4 (r) Any person who enters into a life settlement with a life settlements licensee
5 shall have the absolute right to rescind the settlement within 30 days of the date it is
6 executed by all parties and the owner has received all required disclosures, or 15
7 days from receipt by the owner of the proceeds of the settlement, whichever is
8 sooner, and any waiver or settlement language contrary to this subdivision shall be
9 void. Rescission, if exercised by the owner, is effective only if both notice of
10 rescission is given and the owner repays all proceeds and any premiums, loans, and
11 loan interest paid on account of the provider within the rescission period. If the
12 insured dies during the rescission period, the contract shall be deemed to have been
13 rescinded subject to repayment by the owner or the owner's estate of all proceeds
14 and any premiums, loans, and loan interest to the provider.

15 (s) Records of all consummated transactions and life settlement contracts shall be
16 maintained by the provider for three years after the death of the insured and shall be
17 available to the commissioner for inspection during reasonable business hours.

18 (t) A violation of this section is a misdemeanor.

19 **Comment.** Section 10113.2 is amended to reflect nonsubstantive recodification of the California
20 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
21 Reports __ (2019).

22 The section is also amended to eliminate gendered pronouns.

23 **§ 10181.7 (amended). Public disclosure**

24 SEC. ____. Section 10181.7 of the Insurance Code is amended to read:

25 10181.7. (a) Notwithstanding ~~Chapter 3.5 (commencing with Section 6250) of~~
26 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
27 Government Code, all information submitted under this article shall be made
28 publicly available by the department except as provided in subdivision (b).

29 (b)(1) Any contracted rates between a health insurer and a provider shall be
30 deemed confidential information that shall not be made public by the department
31 and are exempt from disclosure under the California Public Records Act (~~Chapter~~
32 ~~3.5 (commencing with Section 6250) of Division 7~~ Division 10 (commencing with
33 Section 7920.000) of Title 1 of the Government Code). The contracted rates
34 between a health insurer and a provider shall not be disclosed by a health insurer to
35 a large group purchaser that receives information pursuant to Section 10181.10.

36 (2) The contracted rates between a health insurer and a large group shall be
37 deemed confidential information that shall not be made public by the department
38 and are exempt from disclosure under the California Public Records Act (~~Chapter~~
39 ~~3.5 (commencing with Section 6250) of Division 7~~ Division 10 (commencing with
40 Section 7920.000) of Title 1 of the Government Code). Information provided to a
41 large group purchaser pursuant to Section 10181.10 shall be deemed confidential
42 information that shall not be made public by the department and shall be exempt

1 from disclosure under the California Public Records Act (~~Chapter 3.5 (commencing~~
2 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
3 of Title 1 of the Government Code).

4 (c) All information submitted to the department under this article shall be
5 submitted electronically in order to facilitate review by the department and the
6 public.

7 (d) In addition, the department and the health insurer shall, at a minimum, make
8 the following information readily available to the public on their Internet Web sites,
9 in plain language and in a manner and format specified by the department, except
10 as provided in subdivision (b). For individual and small group health insurance
11 policies, the information shall be made public for 120 days prior to the
12 implementation of the rate increase. For large group health care insurance policies,
13 the information shall be made public for 60 days prior to the implementation of the
14 rate increase. The information shall include:

15 (1) Justifications for any unreasonable rate increases, including all information
16 and supporting documentation as to why the rate increase is justified.

17 (2) An insurer's overall annual medical trend factor assumptions in each rate
18 filing for all benefits.

19 (3) An insurer's actual costs, by aggregate benefit category to include, hospital
20 inpatient, hospital outpatient, physician services, prescription drugs and other
21 ancillary services, laboratory, and radiology.

22 (4) The amount of the projected trend attributable to the use of services, price
23 inflation, or fees and risk for annual policy trends by aggregate benefit category,
24 such as hospital inpatient, hospital outpatient, physician services, prescription drugs
25 and other ancillary services, laboratory, and radiology.

26 **Comment.** Section 10181.7 is amended to reflect nonsubstantive recodification of the California
27 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
28 Reports __ (2019).

29 **§ 10489.15 (amended). Actuarial opinions**

30 SEC. ____. Section 10489.15 of the Insurance Code is amended to read:

31 10489.15. (a) Each of the following shall apply to actuarial opinions submitted
32 prior to the operative date of the valuation manual:

33 (1) For an actuarial opinion, every life insurance company doing business in this
34 state shall annually submit the opinion of a qualified actuary as to whether the
35 reserves and related actuarial items held in support of the policies and contracts
36 specified by the commissioner by regulation are computed appropriately, are based
37 on assumptions that satisfy contractual provisions, are consistent with prior reported
38 amounts, and comply with applicable laws of this state. The commissioner shall
39 define by regulation the specifics of this opinion and add any other items deemed to
40 be necessary to its scope.

41 (2)(A) For an actuarial analysis of reserves and assets supporting reserves, every
42 life insurance company, except as exempted by regulation, shall also annually

1 include in the opinion required by paragraph (1), an opinion of the same qualified
2 actuary as to whether the reserves and related actuarial items held in support of the
3 policies and contracts specified by the commissioner by regulation, when
4 considered in light of the assets held by the company with respect to the reserves
5 and related actuarial items, including, but not limited to, the investment earnings on
6 the assets and the considerations anticipated to be received and retained under the
7 policies and contracts, make adequate provision for the company's obligations
8 under the policies and contracts, including, but not limited to, the benefits under and
9 expenses associated with the policies and contracts.

10 (B) The commissioner may provide by regulation for a transition period for
11 establishing any higher reserves that the qualified actuary may deem necessary in
12 order to render the opinion required by this section.

13 (3) An opinion required by paragraphs (1) and (2) shall be governed by the
14 following:

15 (A) A memorandum, in form and substance acceptable to the commissioner as
16 specified by regulation, shall be prepared to support each actuarial opinion.

17 (B) If the insurance company fails to provide a supporting memorandum at the
18 request of the commissioner within a period specified by regulation, or the
19 commissioner determines that the supporting memorandum provided by the
20 insurance company fails to meet the standards prescribed by the regulations or is
21 otherwise unacceptable to the commissioner, the commissioner may engage a
22 qualified actuary at the expense of the company to review the opinion and the basis
23 for the opinion and prepare the supporting memorandum required by the
24 commissioner.

25 (4) Every opinion required by this subdivision shall be governed by the following
26 provisions:

27 (A) The opinion shall be submitted with the annual statement reflecting the
28 valuation of the reserve liabilities for each year ending on or after December 31,
29 1992.

30 (B) The opinion shall apply to all business in force, including individual and
31 group health insurance plans, in form and substance acceptable to the commissioner
32 as specified by regulation.

33 (C) The opinion shall be based on standards adopted from time to time by the
34 Actuarial Standards Board and on any additional standards as the commissioner may
35 by regulation prescribe.

36 (D) In the case of an opinion required to be submitted by a foreign or alien
37 company, the commissioner may accept the opinion filed by that company with the
38 insurance supervisory official of another state if the commissioner determines that
39 the opinion reasonably meets the requirements applicable to a company domiciled
40 in this state.

41 (E) For the purposes of this paragraph, "qualified actuary" means a member in
42 good standing of the American Academy of Actuaries who meets the requirements
43 set forth in the regulation.

1 (F) The qualified actuary shall be liable for ~~his or her~~ the actuary's negligence or
2 other tortious conduct.

3 (G) Disciplinary action by the commissioner against the company or the qualified
4 actuary may be defined in regulations by the commissioner.

5 (H) Except as provided in subparagraphs (L), (M), and (N), documents, materials,
6 or other information in the possession or control of the Department of Insurance that
7 are a memorandum in support of the opinion, and any other material provided by
8 the company to the commissioner in connection with the memorandum, shall be
9 confidential by law and privileged, shall not be subject to disclosure pursuant to the
10 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of
11 Division 7 Division 10 (commencing with Section 7920.000) of Title 1 of the
12 Government Code), and shall not be subject to subpoena or discovery or admissible
13 in evidence in any private civil action. However, the commissioner is authorized to
14 use those documents, materials, or other information in the furtherance of any
15 regulatory or legal action brought as a part of the commissioner's official duties.

16 (I) The commissioner, any person who received documents, materials, or other
17 information while acting under the authority of the commissioner, or any person
18 with whom those documents, materials, or other information are shared pursuant to
19 clause (i) of subparagraph (J), shall not be permitted or required to testify in any
20 private civil action concerning those confidential documents, materials, or
21 information subject to subparagraph (H).

22 (J) In order to assist in the performance of the commissioner's duties, the
23 commissioner:

24 (i) May share documents, materials, or other information, including the
25 confidential and privileged documents, materials, or information subject to
26 subparagraph (H), with other state, federal, and international regulatory agencies,
27 with the NAIC and its affiliates and subsidiaries, and with state, federal, and
28 international law enforcement authorities, provided that the recipient agrees to
29 maintain the confidentiality and privileged status of the document, material, or other
30 information.

31 (ii) May receive documents, materials, or information, including otherwise
32 confidential and privileged documents, materials, or information, from the NAIC
33 and its affiliates and subsidiaries, and from regulatory and law enforcement officials
34 of other foreign or domestic jurisdictions, and shall maintain as confidential or
35 privileged any document, material, or information received with notice or the
36 understanding that it is confidential or privileged under the laws of the jurisdiction
37 that is the source of the document, material, or information.

38 (iii) Enter into agreements governing sharing and use of information consistent
39 with subparagraphs (H) to (J), inclusive.

40 (K) No waiver of any applicable privilege or claim of confidentiality in the
41 documents, materials, or information shall occur as a result of disclosure of the
42 documents, materials, or information to the commissioner under this section or as a
43 result of sharing as authorized in subparagraph (J).

1 (L) A memorandum in support of the opinion, and any other material provided by
2 the company to the commissioner in connection with the memorandum, may be
3 subject to subpoena for the purpose of defending an action seeking damages from
4 the actuary submitting the memorandum by reason of an action required by this
5 section or by regulations promulgated pursuant to this section.

6 (M) The memorandum or the other material may otherwise be released by the
7 commissioner with the written consent of the company or to the American Academy
8 of Actuaries upon request stating that the memorandum or other material is required
9 for the purpose of professional disciplinary proceedings and setting forth procedures
10 satisfactory to the commissioner for preserving the confidentiality of the
11 memorandum or the other material.

12 (N) Once any portion of the confidential memorandum is cited by the company in
13 its marketing efforts or is cited before a governmental agency other than a state
14 insurance department or is released by the company to the news media, all portions
15 of the confidential memorandum shall no longer be confidential.

16 (b) Each of the following shall apply to actuarial opinions submitted after the
17 operative date of the valuation manual:

18 (1) For an actuarial opinion, every company with outstanding life insurance
19 contracts, accident and health insurance contracts, or deposit-type contracts in this
20 state and subject to regulation by the commissioner shall annually submit the
21 opinion of the appointed actuary as to whether the reserves and related actuarial
22 items held in support of the policies and contracts are computed appropriately, are
23 based on assumptions that satisfy contractual provisions, are consistent with prior
24 reported amounts, and comply with applicable laws of this state. The valuation
25 manual shall prescribe the specifics of this opinion, including any items deemed to
26 be necessary to its scope.

27 (2) For an actuarial analysis of reserves and assets supporting reserves, every
28 company with outstanding life insurance contracts, accident and health insurance
29 contracts, or deposit-type contracts in this state and subject to regulation by the
30 commissioner, except as exempted in the valuation manual, shall also annually
31 include in the opinion required by paragraph (1) an opinion of the same appointed
32 actuary as to whether the reserves and related actuarial items held in support of the
33 policies and contracts specified in the valuation manual, when considered in light
34 of the assets held by the company with respect to the reserves and related actuarial
35 items, including, but not limited to, the investment earnings on the assets and the
36 considerations anticipated to be received and retained under the policies and
37 contracts, adequately provide for the company's obligations under the policies and
38 contracts, including, but not limited to, the benefits under and expenses associated
39 with the policies and contracts.

40 (3) Every opinion required by this subdivision shall be governed by both of the
41 following provisions:

1 (A) A memorandum, in form and substance as specified in the valuation manual,
2 and acceptable to the commissioner, shall be prepared to support each actuarial
3 opinion.

4 (B) If the insurance company fails to provide a supporting memorandum at the
5 request of the commissioner within a period specified in the valuation manual, or
6 the commissioner determines that the supporting memorandum provided by the
7 insurance company fails to meet the standards prescribed by the valuation manual
8 or is otherwise unacceptable to the commissioner, the commissioner may engage a
9 qualified actuary at the expense of the company to review the opinion and the basis
10 for the opinion and prepare the supporting memorandum required by the
11 commissioner.

12 (4) Every opinion subject to this subdivision shall be governed by the following
13 provisions:

14 (A) The opinion shall be in form and substance as specified in the valuation
15 manual and acceptable to the commissioner.

16 (B) The opinion shall be submitted with the annual statement reflecting the
17 valuation of the reserve liabilities for each year ending on or after the operative date
18 of the valuation manual.

19 (C) The opinion shall apply to all policies and contracts subject to paragraph (2),
20 plus other actuarial liabilities as may be specified in the valuation manual.

21 (D) The opinion shall be based on standards adopted from time to time by the
22 Actuarial Standards Board or its successor, and on ~~such~~ additional standards as may
23 be prescribed in the valuation manual.

24 (E) If an opinion is required to be submitted by a foreign or alien company, the
25 commissioner may accept the opinion filed by that company with the insurance
26 supervisory official of another state if the commissioner determines that the opinion
27 reasonably meets the requirements applicable to a company domiciled in this state.

28 (F) The qualified actuary shall be liable for his or her negligence or other tortious
29 conduct.

30 (G) Disciplinary action by the commissioner against the company or the
31 appointed actuary may be defined in regulations by the commissioner.

32 (c) Nothing in this section shall be construed to limit the right of access to, or
33 prohibit the admissibility as evidence in a private civil action of, any information,
34 documents, data, or other materials not held for the purposes of this article by the
35 commissioner or a person acting under the authority of the commissioner, including
36 nondepartment actuaries and other consultants hired to implement this article, or a
37 person with whom the commissioner has shared confidential information pursuant
38 to clause (i) of subparagraph (J) of paragraph (4) of subdivision (a).

39 **Comment.** Section 10489.15 is amended to reflect nonsubstantive recodification of the
40 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
41 Comm'n Reports __ (2019).

42 The section is also amended to make technical changes.

1 **§ 10489.99 (amended). Confidential information of company**

2 SEC. _____. Section 10489.99 of the Insurance Code is amended to read:

3 10489.99. (a) For purposes of this section, “confidential information” means:

4 (1) A memorandum in support of an opinion submitted pursuant to Section
5 10489.15 and any other documents, materials, and other information, including, but
6 not limited to, all working papers, and copies thereof, created, produced, or obtained
7 by or disclosed to the commissioner or any other person in connection with the
8 memorandum.

9 (2) All documents, materials, and other information, including, but not limited to,
10 all working papers, and copies thereof, created, produced, or obtained by or
11 disclosed to the commissioner or any other person in the course of an examination
12 made under subdivision (f) of Section 10489.96. However, if an examination report
13 or other material prepared in connection with an examination made under Article 4
14 (commencing with Section 729) of Chapter 1 of Part 2 of Division 1 is not held as
15 private and confidential information under that article, an examination report or
16 other material prepared in connection with an examination made under subdivision
17 (f) of Section 10489.96 shall not be “confidential information” to the same extent
18 as if the examination report or other material had been prepared under Article 4
19 (commencing with Section 729) of Chapter 1 of Part 2 of Division 1.

20 (3) Any reports, documents, materials, and other information developed by a
21 company in support of, or in connection with, an annual certification by the
22 company under paragraph (2) of subdivision (b) of Section 10489.97 evaluating the
23 effectiveness of the company’s internal controls with respect to a principle-based
24 valuation and any other documents, materials, and other information, including, but
25 not limited to, all working papers, and copies thereof, created, produced, or obtained
26 by or disclosed to the commissioner or any other person in connection with those
27 reports, documents, materials, and other information.

28 (4) Any principle-based valuation report developed under paragraph (3) of
29 subdivision (b) of Section 10489.97 and any other documents, materials, and other
30 information, including, but not limited to, all working papers, and copies thereof,
31 created, produced, or obtained by or disclosed to the commissioner or any other
32 person in connection with the report.

33 (5) All of the following:

34 (A) Any documents, materials, data, and other information submitted by a
35 company pursuant to Section 10489.98, to be known collectively, as “experience
36 data.”

37 (B) Experience data plus any other documents, materials, data, and other
38 information, including, but not limited to, all working papers, and copies thereof,
39 created or produced in connection with the experience data, in each case that
40 includes any potentially company-identifying or personally identifiable
41 information, that is provided to or obtained by the commissioner, to be known,
42 collectively, as “experience materials.”

1 (C) Any other documents, materials, data, and other information, including, but
2 not limited to, all working papers, and copies thereof, created, produced, or obtained
3 by or disclosed to the commissioner or any other person in connection with the
4 experience materials.

5 (b)(1) Except as provided in this section, a company's confidential information
6 shall be confidential by law and privileged, shall not be subject to disclosure
7 pursuant to the California Public Records Act (~~Chapter 3.5 (commencing with~~
8 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
9 Title 1 of the Government Code), and shall not be subject to subpoena or discovery
10 or admissible in evidence in any private civil action. However, the commissioner is
11 authorized to use the confidential information in a regulatory or legal action brought
12 against the company as a part of the commissioner's official duties.

13 (2) The commissioner, any person who received confidential information while
14 acting under the authority of the commissioner, or any person with whom those
15 documents, materials, or other information are shared pursuant to paragraph (3),
16 shall not be permitted or required to testify in a private civil action concerning any
17 confidential information.

18 (3) In order to assist in the performance of the commissioner's duties, the
19 commissioner may share confidential information with the following recipients,
20 provided that the recipient agrees, and has the legal authority to agree, to maintain
21 the confidentiality and privileged status of the documents, materials, data, and other
22 information in the same manner and to the same extent as required for the
23 commissioner:

24 (A) Other state, federal, and international regulatory agencies and with the NAIC
25 and its affiliates and subsidiaries.

26 (B) In the case of confidential information specified in paragraphs (1) and (4) of
27 subdivision (a) of Section 10489.99 only, with the Actuarial Board for Counseling
28 and Discipline or its successor upon request stating that the confidential information
29 is required for the purpose of professional disciplinary proceedings and with state,
30 federal, and international law enforcement officials.

31 (4) The commissioner may receive documents, materials, data, and other
32 information, including otherwise confidential and privileged documents, materials,
33 data, or information, from the NAIC and its affiliates and subsidiaries, from
34 regulatory or law enforcement officials of other foreign or domestic jurisdictions,
35 and from the Actuarial Board for Counseling and Discipline or its successor and
36 shall maintain as confidential or privileged any document, material, data, or other
37 information received with notice or the understanding that it is confidential or
38 privileged under the laws of the jurisdiction that is the source of the document,
39 material, or other information.

40 (5) The commissioner may enter into agreements governing sharing and use of
41 information consistent with this subdivision.

1 (6) A waiver of any applicable privilege or claim of confidentiality in the
2 information shall not occur as a result of disclosure to the commissioner under this
3 section or as a result of sharing as authorized in paragraph (3).

4 (7) A privilege established under the law of any state or jurisdiction that is
5 substantially similar to the privilege established under this subdivision shall be
6 available and enforced in any proceeding in, and in any court of, this state.

7 (8) For purposes of this section, “regulatory agency,” “law enforcement agency,”
8 and the “NAIC” include, but are not limited to, their employees, agents, consultants,
9 and contractors.

10 (c) Notwithstanding subdivision (b), any confidential information specified in
11 paragraphs (1) and (4) of subdivision (a):

12 (1) May be subject to subpoena for the purpose of defending an action seeking
13 damages from the appointed actuary submitting the related memorandum in support
14 of an opinion submitted under Section 10489.15 or principle-based valuation report
15 developed under paragraph (3) of subdivision (b) of Section 10489.97 by reason of
16 an action required by this article or by regulations promulgated pursuant to this
17 article.

18 (2) May otherwise be released by the commissioner with the written consent of
19 the company.

20 (3) Once any portion of a memorandum in support of an opinion submitted under
21 Section 10489.15 or a principle-based valuation report developed pursuant to
22 paragraph (3) of subdivision (b) of Section 10489.97 is cited by the company in its
23 marketing or is publicly volunteered to or before a governmental agency other than
24 a state insurance department or is released by the company to the news media, all
25 portions of the memorandum or report shall no longer be confidential.

26 (d) This section shall not be construed to limit the right of access to, or prohibit
27 the admissibility as evidence in a private civil action of, any information,
28 documents, data, or other materials not held for the purposes of this article by the
29 commissioner or a person acting under the authority of the commissioner, including
30 nondepartment actuaries and other consultants hired to implement this article, or a
31 person with whom the commissioner has shared confidential information pursuant
32 to paragraph (3) of subdivision (b).

33 **Comment.** Section 10489.99 is amended to reflect nonsubstantive recodification of the
34 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
35 Comm’n Reports __ (2019).

36 **§ 11785 (amended). Appointments to positions with State Compensation Insurance Fund**

37 SEC. _____. Section 11785 of the Insurance Code is amended to read:

38 11785. (a) The board of directors shall appoint a president, a chief financial
39 officer, a chief operating officer, a chief information technology officer, a chief
40 investment officer, a chief risk officer, a general counsel, a chief medical officer, a
41 chief actuarial officer, a chief claims operations officer, and a chief of internal
42 affairs. The board may appoint a chief underwriting officer, a senior vice president

1 of insurance services, an executive vice president of corporate claims, an executive
2 vice president of strategic planning, and a pricing actuary. The board of directors
3 shall set the salary for each position in amounts that are reasonably necessary to
4 attract and retain individuals of superior qualifications. The board shall submit its
5 salary-setting criteria, including salary surveys, to the Department of Human
6 Resources. These positions shall not be subject to otherwise applicable provisions
7 of the Government Code and the Public Contract Code, and for those purposes the
8 fund shall not be considered a state agency or other public entity. The president shall
9 manage and conduct the business and affairs of the fund under the general direction
10 and subject to the approval of the board of directors, and shall perform other duties
11 as the board of directors prescribes.

12 (b) Section 87406 of the Government Code, the Milton Marks Postgovernment
13 Employment Restrictions Act of 1990, shall apply to the fund. Members of the
14 board, a person who held a position designated in subdivision (a), and any other
15 person designated by the fund shall be deemed to be designated employees for the
16 purpose of that act.

17 (c) Both the Bagley-Keene Open Meeting Act (Article 9 (commencing with
18 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
19 Code) and the California Public Records Act (Chapter 3.5 (~~commencing with~~
20 ~~Section 6250~~) of ~~Division 7~~ Division 10 (commencing with Section 7920.000) of
21 Title 1 of the Government Code) shall apply to the fund.

22 (d)(1) The board shall, by September 1, 2018, and subsequently on a biennial
23 basis, make a report to the Legislature and to the committees of the Senate and
24 Assembly having jurisdiction over insurance that provides any salary-setting criteria
25 and salary surveys submitted to the Department of Human Resources pursuant to
26 subdivision (a), and the salary and total compensation of each position appointed
27 pursuant to subdivision (a), for the previous two fiscal years.

28 (2) A report submitted pursuant to this subdivision shall be submitted in
29 compliance with Section 9795 of the Government Code.

30 **Comment.** Section 11785 is amended to reflect nonsubstantive recodification of the California
31 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
32 Reports __ (2019).

33 **§ 11873 (amended). Laws applicable to State Compensation Insurance Fund**

34 SEC. ____. Section 11873 of the Insurance Code is amended to read:

35 11873. (a) Except as provided by subdivision (b), the fund shall not be subject to
36 the provisions of the Government Code made applicable to state agencies generally
37 or collectively, unless the section specifically names the fund as an agency to which
38 the provision applies.

39 (b) The fund shall be subject to the provisions of Chapter 10.3 (commencing with
40 Section 3512) of Division 4 of Title 1 of, ~~Chapter 3.5 (commencing with Section~~
41 ~~6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of,
42 Chapter 6.5 (commencing with Section 8543) of Division 1 of Title 2 of, Article 9

1 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of,
2 the Government Code, and Division 5 (commencing with Section 18000) of Title 2
3 of the Government Code, with the exception of all of the following provisions of
4 that division:

5 (1) Article 1 (commencing with Section 19820) and Article 2 (commencing with
6 Section 19823) of Chapter 2 of Part 2.6 of Division 5.

7 (2) Sections 19849.2, 19849.3, 19849.4, and 19849.5.

8 (3) Chapter 4.5 (commencing with Section 19993.1) of Part 2.6 of Division 5.

9 (c) Except as provided in subdivisions (d) and (e) for the period from July 1, 2012,
10 to June 30, 2013, inclusive, and notwithstanding any provision of the Government
11 Code or any other provision of law, the positions funded by the State Compensation
12 Insurance Fund are exempt from any hiring freezes and staff cutbacks otherwise
13 required by law. This subdivision is declaratory of existing law.

14 (d) Notwithstanding any other law, employees of the fund shall, without
15 limitation, be subject to any and all reductions in state employee compensation
16 imposed by the Legislature on other state employees for the period from July 1,
17 2012, to June 30, 2013, inclusive, regardless of the means adopted to effect those
18 reductions.

19 (e) With the exception of the reductions authorized in subdivision (d), if any
20 provision of this section, or any practice or procedure adopted pursuant to this
21 section, is in conflict with the provisions of a memorandum of understanding
22 reached pursuant to Section 3517.5 of the Government Code, the memorandum of
23 understanding shall be controlling without further legislative action, except that if
24 the provisions of a memorandum of understanding require the expenditure of funds,
25 the provisions shall not become effective unless approved by the Legislature in the
26 annual Budget Act.

27 **Comment.** Section 11873 is amended to reflect nonsubstantive recodification of the California
28 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
29 Reports __ (2019).

30 **§ 12921.2 (amended). Inspection and copying of public records of department and**
31 **commissioner**

32 SEC. ____. Section 12921.2 of the Insurance Code is amended to read:

33 12921.2. All public records of the department and the commissioner subject to
34 disclosure under ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
35 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
36 Code shall be available for inspection and copying pursuant to those provisions at
37 the offices of the department in the City and County of San Francisco, in the City
38 of Los Angeles, and in the City of Sacramento. Adequate copy facilities for this
39 purpose shall be made available. Notwithstanding any other provision of law, a
40 person requesting copies of these records shall receive the copies from employees
41 of the department and the fee charged for the copies shall not exceed the actual cost
42 of producing the copies. ~~Notwithstanding Section 6256 of the Government Code,~~

1 ~~any~~ Any public record submitted to the department as computer data on an
2 electronic medium shall, in addition to any other formats, be made available to the
3 public pursuant to this section through an electronic medium.

4 **Comment.** The first sentence of Section 12921.2 is amended to reflect nonsubstantive
5 recodification of the California Public Records Act (“CPRA”). See *California Public Records Act*
6 *Clean-Up*, __ Cal. L. Revision Comm’n Reports __ (2019).

7 The last sentence of Section 12921.2 is amended to reflect the repeal of Government Code
8 Section 6256. See 1998 Cal. Stat. ch. 620, § 7. Among other things, former Government Code
9 Section 6256 said: “Computer data shall be provided in a form determined by the agency.” The
10 CPRA no longer includes such a requirement. See Gov’t Code §§ 7922.570-7922.580 (information
11 in electronic format).

12 **§ 12968 (amended). Records of enforcement action against licensee**

13 SEC. ____. Section 12968 of the Insurance Code is amended to read:

14 12968. (a) Every pleading issued by the commissioner to initiate a formal
15 enforcement action against a licensee under this code, and every order issued by the
16 commissioner or a court of competent jurisdiction or other document that resolves
17 a formal enforcement action, shall be displayed on the department’s internet web
18 site, if the document is a public record that is not exempt from disclosure to the
19 public pursuant to the California Public Records Act (~~Chapter 3.5 (commencing~~
20 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
21 of Title 1 of the Government Code).

22 (b) Notwithstanding Section 12969, if an enforcement action against a licensee is
23 withdrawn, then each pleading, document, or order against that licensee shall be
24 removed from the department’s Internet Web site within 30 days of the withdrawal
25 of the action. If a pleading, document, or order contains allegations against multiple
26 licensees, and the department withdraws all allegations against any one or more of
27 the licensees, then the department shall post, on its Internet Web site, a statement in
28 the previously posted pleading, document, or order that clarifies that the
29 enforcement action against that specific licensee has been withdrawn.

30 **Comment.** Section 12968 is amended to reflect nonsubstantive recodification of the California
31 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
32 Reports __ (2019).

33 LABOR CODE

34 **§ 138.7 (amended). Access to individually identifiable information**

35 SEC. ____. Section 138.7 of the Labor Code is amended to read:

36 138.7. (a) Except as expressly permitted in subdivision (b), a person or public or
37 private entity not a party to a claim for workers’ compensation benefits shall not
38 obtain individually identifiable information obtained or maintained by the division
39 regarding that claim. For purposes of this section, “individually identifiable
40 information” means any data concerning an injury or claim that is linked to a
41 uniquely identifiable employee, employer, claims administrator, or any other person
42 or entity.

1 (b)(1)(A) The administrative director, or a statistical agent designated by the
2 administrative director, may use individually identifiable information for purposes
3 of creating and maintaining the workers' compensation information system as
4 specified in Section 138.6.

5 (B) The administrative director may publish the identity of claims administrators
6 in the annual report disclosing the compliance rates of claims administrators
7 pursuant to subdivision (d) of Section 138.6.

8 (2)(A) The State Department of Public Health may use individually identifiable
9 information for purposes of establishing and maintaining a program on occupational
10 health and occupational disease prevention as specified in Section 105175 of the
11 Health and Safety Code.

12 (B)(i) The State Department of Health Care Services may use individually
13 identifiable information for purposes of seeking recovery of Medi-Cal costs
14 incurred by the state for treatment provided to injured workers that should have been
15 incurred by employers and insurance carriers pursuant to Article 3.5 (commencing
16 with Section 14124.70) of Chapter 7 of Part 3 of Division 9 of the Welfare and
17 Institutions Code.

18 (ii) The Department of Industrial Relations shall furnish individually identifiable
19 information to the State Department of Health Care Services, and the State
20 Department of Health Care Services may furnish the information to its designated
21 agent, provided that the individually identifiable information shall not be disclosed
22 for use other than the purposes described in clause (i). The administrative director
23 may adopt regulations solely for the purpose of governing access by the State
24 Department of Health Care Services or its designated agents to the individually
25 identifiable information as defined in subdivision (a).

26 (3)(A) Individually identifiable information may be used by the Division of
27 Workers' Compensation and the Division of Occupational Safety and Health as
28 necessary to carry out their duties. The administrative director shall adopt
29 regulations governing the access to the information described in this subdivision by
30 these divisions. Any regulations adopted pursuant to this subdivision shall set forth
31 the specific uses for which this information may be obtained.

32 (B) Individually identifiable information maintained in the workers'
33 compensation information system and the Division of Workers' Compensation may
34 be used by researchers employed by or under contract to the Commission on Health
35 and Safety and Workers' Compensation as necessary to carry out the commission's
36 research. The administrative director shall adopt regulations governing the access
37 to the information described in this subdivision by commission researchers. These
38 regulations shall set forth the specific uses for which this information may be
39 obtained and include provisions guaranteeing the confidentiality of individually
40 identifiable information. Individually identifiable information obtained under this
41 subdivision shall not be disclosed to commission members. Individually identifiable
42 information obtained by researchers under contract to the commission pursuant to
43 this subparagraph may not be disclosed to any other person or entity, public or

1 private, for a use other than that research project for which the information was
2 obtained. Within a reasonable period of time after the research for which the
3 information was obtained has been completed, the data collected shall be modified
4 in a manner so that the subjects cannot be identified, directly or through identifiers
5 linked to the subjects.

6 (C) Individually identifiable information may be used by the Office of Self-
7 Insurance Plans of the Department of Industrial Relations as necessary to carry out
8 its duties, including evaluating the costs of administration, workers' compensation
9 benefit expenditures, and solvency and performance of the public self-insured
10 employers' workers compensation programs.

11 (4) The administrative director shall adopt regulations allowing reasonable access
12 to individually identifiable information by other persons or public or private entities
13 for the purpose of bona fide statistical research. This research shall not divulge
14 individually identifiable information concerning a particular employee, employer,
15 claims administrator, or any other person or entity. The regulations adopted pursuant
16 to this paragraph shall include provisions guaranteeing the confidentiality of
17 individually identifiable information. Within a reasonable period of time after the
18 research for which the information was obtained has been completed, the data
19 collected shall be modified in a manner so that the subjects cannot be identified,
20 directly or through identifiers linked to the subjects.

21 (5)(A) This section shall not operate to exempt from disclosure any information
22 that is considered to be a public record pursuant to the California Public Records
23 Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
24 (commencing with Section 7920.000) of Title 1 of the Government Code) contained
25 in an individual's file once an application for adjudication has been filed pursuant
26 to Section 5501.5.

27 (B) Individually identifiable information shall not be provided to any person or
28 public or private entity who is not a party to the claim unless that person ~~identifies~~
29 ~~himself or herself or that public or private entity identifies itself~~ entity identifies
30 who is making the request and states the reason for making the request. The
31 administrative director may require the person or public or private entity making the
32 request to produce information to verify that the name and address of the requester
33 is valid and correct. If the purpose of the request is related to preemployment
34 screening, the administrative director shall notify the person about whom the
35 information is requested that the information was provided and shall include the
36 following in 12-point type:

37
38 "IT MAY BE A VIOLATION OF FEDERAL AND STATE LAW TO
39 DISCRIMINATE AGAINST A JOB APPLICANT BECAUSE THE APPLICANT
40 HAS FILED A CLAIM FOR WORKERS' COMPENSATION BENEFITS."
41

42 (C) Any residence address is confidential and shall not be disclosed to any person
43 or public or private entity except to a party to the claim, a law enforcement agency,

1 an office of a district attorney, any person for a journalistic purpose, or other
2 governmental agency.

3 (D) This paragraph does not prohibit the use of individually identifiable
4 information for purposes of identifying bona fide lien claimants.

5 (c) Except as provided in subdivision (b), individually identifiable information
6 obtained by the division is privileged and is not subject to subpoena in a civil
7 proceeding unless, after reasonable notice to the division and a hearing, a court
8 determines that the public interest and the intent of this section will not be
9 jeopardized by disclosure of the information. This section shall not operate to
10 restrict access to information by any law enforcement agency or district attorney's
11 office or to limit admissibility of that information in a criminal proceeding.

12 (d) It is unlawful for any person who has received individually identifiable
13 information from the division pursuant to this section to provide that information to
14 any person who is not entitled to it under this section.

15 **Comment.** Section 138.7 is amended to reflect nonsubstantive recodification of the California
16 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
17 Reports __ (2019).

18 The section is also amended to eliminate gendered pronouns.

19 **§ 147.2 (amended). Hazard Evaluation System and Information Service (HESIS)**

20 SEC. ____. Section 147.2 of the Labor Code is amended to read:

21 147.2. (a) As used in this section, "Hazard Evaluation System and Information
22 Service" or "HESIS" means the repository established pursuant to subdivision (b).

23 (b) In accordance with Chapter 2 (commencing with Section 6350) of Part 1 of
24 Division 5 of this code and Section 105175 of the Health and Safety Code, the
25 Department of Industrial Relations, by interagency agreement with the State
26 Department of Public Health, shall establish a repository of current data on toxic
27 materials and harmful physical agents in use or potentially in use in places of
28 employment in the state, known as the Hazard Evaluation System and Information
29 Service, or HESIS.

30 (c) HESIS shall fulfill all of the following functions:

31 (1) Provide reliable information of practical use to employers, employees,
32 representatives of employees, and other governmental agencies on the possible
33 hazards to employees of exposure to toxic materials or harmful physical agents.

34 (2) Collect and evaluate toxicological and epidemiological data and any other
35 information that may be pertinent to establishing harmful effects on health of
36 exposure to toxic materials or harmful physical agents. Nothing in this subdivision
37 shall be construed as authorizing HESIS to require employers, other than chemical
38 manufacturers, formulators, suppliers, distributors, importers, and their agents, to
39 report any information not otherwise required by law.

40 (3) When there is new scientific or medical information and the Chief of HESIS,
41 in consultation with the Director of Industrial Relations and the Chief of the
42 Division of Environmental and Occupational Disease Control in the State

1 Department of Public Health, determines that a substance may be in use in a place
2 of employment, may pose a hazard under a reasonable anticipated condition of use,
3 and potentially poses a serious new or unrecognized health hazard to an employee,
4 including, but not limited to, cancer, reproductive or developmental harm, organ
5 system impairment, or death, chemical manufacturers, formulators, suppliers,
6 distributors, importers, and their agents, as specified in subparagraph (A), shall
7 provide to HESIS the names and addresses of their customers who have purchased
8 certain chemicals, as specified by HESIS, or commercial products containing those
9 chemicals and information related to those shipments, including the quantities and
10 dates of shipments, and the proportion of a specified chemical within a mixture
11 containing the specified chemical, upon written request by HESIS, for every product
12 the final destination of which may be a place of employment in California. This
13 paragraph shall not apply to a retail seller of the substance, whether sold individually
14 or as part of a commercial product to the public. The following shall apply to this
15 paragraph:

16 (A) On or after January 1, 2016, the information requested shall include current
17 and past customers for not more than a one-year period prior to the date the request
18 is issued. The information shall be provided within a reasonable timeframe, not to
19 exceed 30 calendar days from the date the request is issued. The information shall
20 be provided in a format specified by the State Department of Public Health but
21 consistent with the responding entity's current data system.

22 (B) Unless, pursuant to other law or regulation the following persons, any other
23 person, or any governmental entity is required to publicly disclose the following
24 information, the names and addresses of customers, the quantities and dates of
25 shipments, and the proportion of a specified chemical within a mixture provided by
26 chemical manufacturers, formulators, suppliers, distributors, importers, and their
27 agents pursuant to this paragraph shall be considered confidential and, except as
28 specified in this subparagraph, exempt from public disclosure under the California
29 ~~Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7~~
30 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
31 Code). HESIS may disclose that information to officers or employees of the State
32 Department of Public Health, to officers or employees of the state who are
33 responsible for carrying out the purposes of Division 5 (commencing with Section
34 6300), or to the state agencies of the state officers specified in paragraphs (5) and
35 (6). Any officer, employee, or agency to which the information is disclosed shall be
36 subject to this subparagraph.

37 (C) The State Department of Public Health shall be entitled to reimbursement of
38 attorney's fees and costs incurred in seeking an injunction to enforce this paragraph.

39 (4) Recommend to the Chief of the Division of Occupational Safety and Health
40 Administration that an occupational safety and health standard be developed
41 whenever it has been determined that a substance in use or potentially in use in
42 places of employment is potentially toxic at the concentrations or under the
43 conditions used.

1 (5) Notify the Director of Pesticide Regulation of any information developed by
2 HESIS that is relevant to carrying out ~~his or her~~ the director's responsibilities under
3 Chapters 2 (commencing with Section 12751) and 3 (commencing with Section
4 14001) of Division 7 of the Food and Agricultural Code.

5 (6) Notify the Secretary for Environmental Protection of any information
6 developed by HESIS that is relevant to carrying out ~~his or her~~ the secretary's
7 responsibilities.

8 (d) The Director of Industrial Relations shall appoint an advisory committee to
9 HESIS. The advisory committee shall consist of four representatives from labor,
10 four representatives from management, four active practitioners in the occupational
11 health field, and three persons knowledgeable in biomedical statistics or information
12 storage and retrieval systems. The advisory committee shall meet on a regular basis
13 at the request of the director. The committee shall be consulted by, and shall advise
14 the director at each phase of the structuring and functioning of the repository and
15 alert system with regard to, the procedures, methodology, validity, and practical
16 utility of collecting, evaluating, and disseminating information concerning
17 hazardous substances, consistent with the primary goals and objectives of the
18 repository.

19 (e) Nothing in this section shall be construed to limit the ability of the State
20 Department of Public Health to propose occupational safety and health standards to
21 the Occupational Safety and Health Standards Board.

22 (f) Policies and procedures shall be developed to assure, to the extent possible,
23 that HESIS uses and does not duplicate the resources of the federal government and
24 other states.

25 (g) On or before December 31 of each year, the Department of Industrial
26 Relations shall submit a report to the Legislature detailing the implementation and
27 operation of HESIS including, but not limited to, the amount and source of funds
28 allocated and spent on repository activities, the toxic materials and harmful physical
29 agents investigated during the past year and recommendations made concerning
30 them, actions taken to inform interested persons of the possible hazards of exposure
31 to toxic materials and harmful physical agents, and any recommendations for
32 legislative changes relating to the functions of HESIS.

33 **Comment.** Section 147.2 is amended to reflect nonsubstantive recodification of the California
34 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
35 Reports __ (2019).

36 The section is also amended to eliminate gendered pronouns.

37 **§ 432.3 (amended). Salary history information**

38 SEC. _____. Section 432.3 of the Labor Code is amended to read:

39 432.3. (a) An employer shall not rely on the salary history information of an
40 applicant for employment as a factor in determining whether to offer employment
41 to an applicant or what salary to offer an applicant.

1 (b) An employer shall not, orally or in writing, personally or through an agent,
2 seek salary history information, including compensation and benefits, about an
3 applicant for employment.

4 (c) An employer, upon reasonable request, shall provide the pay scale for a
5 position to an applicant applying for employment. For purposes of this section, “pay
6 scale” means a salary or hourly wage range. For purposes of this section “reasonable
7 request” means a request made after an applicant has completed an initial interview
8 with the employer.

9 (d) Section 433 does not apply to this section.

10 (e) This section does not apply to salary history information disclosable to the
11 public pursuant to federal or state law, including the California Public Records Act
12 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
13 (commencing with Section 7920.000) of Title 1 of the Government Code) or the
14 federal Freedom of Information Act (Section 552 of Title 5 of the United States
15 Code).

16 (f) This section applies to all employers, including state and local government
17 employers and the Legislature.

18 (g) Nothing in this section shall prohibit an applicant from voluntarily and without
19 prompting disclosing salary history information to a prospective employer.

20 (h) If an applicant voluntarily and without prompting discloses salary history
21 information to a prospective employer, nothing in this section shall prohibit that
22 employer from considering or relying on that voluntarily disclosed salary history
23 information in determining the salary for that applicant.

24 **Comment.** Section 432.3 is amended to reflect nonsubstantive recodification of the California
25 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
26 Reports __ (2019).

27 **§ 1776 (amended). Payroll records**

28 SEC. ____. Section 1776 of the Labor Code is amended to read:

29 1776. (a) Each contractor and subcontractor shall keep accurate payroll records,
30 showing the name, address, social security number, work classification, straight
31 time and overtime hours worked each day and week, and the actual per diem wages
32 paid to each journeyman, apprentice, worker, or other employee employed by ~~him~~
33 ~~or her~~ the contractor or subcontractor in connection with the public work. Each
34 payroll record shall contain or be verified by a written declaration that it is made
35 under penalty of perjury, stating both of the following:

36 (1) The information contained in the payroll record is true and correct.

37 (2) The employer has complied with the requirements of Sections 1771, 1811, and
38 1815 for any work performed by ~~his or her~~ that person’s employees on the public
39 works project.

40 (b) The payroll records enumerated under subdivision (a) shall be certified and
41 shall be available for inspection at all reasonable hours at the principal office of the
42 contractor on the following basis:

1 (1) A certified copy of an employee’s payroll record shall be made available for
2 inspection or furnished to the employee or ~~his or her~~ the employee’s authorized
3 representative on request.

4 (2) A certified copy of all payroll records enumerated in subdivision (a) shall be
5 made available for inspection or furnished upon request to a representative of the
6 body awarding the contract and the Division of Labor Standards Enforcement of the
7 Department of Industrial Relations.

8 (3) A certified copy of all payroll records enumerated in subdivision (a) shall be
9 made available upon request by the public for inspection or for copies thereof.
10 However, a request by the public shall be made through either the body awarding
11 the contract or the Division of Labor Standards Enforcement. If the requested
12 payroll records have not been provided pursuant to paragraph (2), the requesting
13 party shall, prior to being provided the records, reimburse the costs of preparation
14 by the contractor, subcontractors, and the entity through which the request was
15 made. The public may not be given access to the records at the principal office of
16 the contractor.

17 (c) Unless required to be furnished directly to the Labor Commissioner in
18 accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified
19 payroll records shall be on forms provided by the Division of Labor Standards
20 Enforcement or shall contain the same information as the forms provided by the
21 division. The payroll records may consist of printouts of payroll data that are
22 maintained as computer records, if the printouts contain the same information as the
23 forms provided by the division and the printouts are verified in the manner specified
24 in subdivision (a).

25 (d) A contractor or subcontractor shall file a certified copy of the records
26 enumerated in subdivision (a) with the entity that requested the records within 10
27 days after receipt of a written request.

28 (e) Except as provided in subdivision (f), any copy of records made available for
29 inspection as copies and furnished upon request to the public or any public agency
30 by the awarding body or the Division of Labor Standards Enforcement shall be
31 marked or obliterated to prevent disclosure of an individual’s name, address, and
32 social security number. The name and address of the contractor awarded the contract
33 or the subcontractor performing the contract shall not be marked or obliterated. Any
34 copy of records made available for inspection by, or furnished to, a multiemployer
35 Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(5)) that requests the records for the
36 purposes of allocating contributions to participants shall be marked or obliterated
37 only to prevent disclosure of an individual’s full social security number, but shall
38 provide the last four digits of the social security number. Any copy of records made
39 available for inspection by, or furnished to, a joint labor-management committee
40 established pursuant to the federal Labor Management Cooperation Act of 1978 (29
41 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an
42 individual’s social security number.

1 (f)(1) Notwithstanding any other provision of law, agencies that are included in
2 the Joint Enforcement Strike Force on the Underground Economy established
3 pursuant to Section 329 of the Unemployment Insurance Code and other law
4 enforcement agencies investigating violations of law shall, upon request, be
5 provided nonredacted copies of certified payroll records. Any copies of records or
6 certified payroll made available for inspection and furnished upon request to the
7 public by an agency included in the Joint Enforcement Strike Force on the
8 Underground Economy or to a law enforcement agency investigating a violation of
9 law shall be marked or redacted to prevent disclosure of an individual's name,
10 address, and social security number.

11 (2) An employer shall not be liable for damages in a civil action for any reasonable
12 act or omission taken in good faith in compliance with this subdivision.

13 (g) The contractor shall inform the body awarding the contract of the location of
14 the records enumerated under subdivision (a), including the street address, city, and
15 county, and shall, within five working days, provide a notice of a change of location
16 and address.

17 (h) The contractor or subcontractor has 10 days in which to comply subsequent to
18 receipt of a written notice requesting the records enumerated in subdivision (a). In
19 the event that the contractor or subcontractor fails to comply within the 10-day
20 period, ~~he or she~~ the contractor or subcontractor shall, as a penalty to the state or
21 political subdivision on whose behalf the contract is made or awarded, forfeit one
22 hundred dollars (\$100) for each calendar day, or portion thereof, for each worker,
23 until strict compliance is effectuated. Upon the request of the Division of Labor
24 Standards Enforcement, these penalties shall be withheld from progress payments
25 then due. A contractor is not subject to a penalty assessment pursuant to this section
26 due to the failure of a subcontractor to comply with this section.

27 (i) The body awarding the contract shall cause to be inserted in the contract
28 stipulations to effectuate this section.

29 (j) The director shall adopt rules consistent with the California Public Records Act
30 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
31 (commencing with Section 7920.000) of Title 1 of the Government Code) and the
32 Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of
33 Part 4 of Division 3 of the Civil Code) governing the release of these records,
34 including the establishment of reasonable fees to be charged for reproducing copies
35 of records required by this section.

36 **Comment.** Section 1776 is amended to reflect nonsubstantive recodification of the California
37 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
38 Reports __ (2019).

39 The section is also amended to eliminate gendered pronouns.

40 **§ 2810 (amended). Contract for labor or services with construction, farm labor, garment,**
41 **janitorial, security guard, or warehouse contractor**

42 SEC. ____. Section 2810 of the Labor Code is amended to read:

1 2810. (a) A person or entity shall not enter into a contract or agreement for labor
2 or services with a construction, farm labor, garment, janitorial, security guard, or
3 warehouse contractor, where the person or entity knows or should know that the
4 contract or agreement does not include funds sufficient to allow the contractor to
5 comply with all applicable local, state, and federal laws or regulations governing
6 the labor or services to be provided.

7 (b) There is a rebuttable presumption affecting the burden of proof that there has
8 been no violation of subdivision (a) where the contract or agreement with a
9 construction, farm labor, garment, janitorial, security guard, or warehouse
10 contractor meets all of the requirements in subdivision (d).

11 (c) Subdivision (a) does not apply to a person or entity who executes a collective
12 bargaining agreement covering the workers employed under the contract or
13 agreement, or to a person who enters into a contract or agreement for labor or
14 services to be performed on ~~his or her~~ that person's home residences, provided that
15 a family member resides in the residence or residences for which the labor or
16 services are to be performed for at least a part of the year.

17 (d) To meet the requirements of subdivision (b), a contract or agreement with a
18 construction, farm labor, garment, janitorial, security guard, or warehouse
19 contractor for labor or services shall be in writing, in a single document, and contain
20 all of the following provisions, in addition to any other provisions that may be
21 required by regulations adopted by the Labor Commissioner from time to time:

22 (1) The name, address, and telephone number of the person or entity and the
23 construction, farm labor, garment, janitorial, security guard, or warehouse
24 contractor through whom the labor or services are to be provided.

25 (2) A description of the labor or services to be provided and a statement of when
26 those services are to be commenced and completed.

27 (3) The employer identification number for state tax purposes of the construction,
28 farm labor, garment, janitorial, security guard, or warehouse contractor.

29 (4) The workers' compensation insurance policy number and the name, address,
30 and telephone number of the insurance carrier of the construction, farm labor,
31 garment, janitorial, security guard, or warehouse contractor.

32 (5) The vehicle identification number of any vehicle that is owned by the
33 construction, farm labor, garment, janitorial, security guard, or warehouse
34 contractor and used for transportation in connection with any service provided
35 pursuant to the contract or agreement, the number of the vehicle liability insurance
36 policy that covers the vehicle, and the name, address, and telephone number of the
37 insurance carrier.

38 (6) The address of any real property to be used to house workers in connection
39 with the contract or agreement.

40 (7) The total number of workers to be employed under the contract or agreement,
41 the total amount of all wages to be paid, and the date or dates when those wages are
42 to be paid.

1 (8) The amount of the commission or other payment made to the construction,
2 farm labor, garment, janitorial, security guard, or warehouse contractor for services
3 under the contract or agreement.

4 (9) The total number of persons who will be utilized under the contract or
5 agreement as independent contractors, along with a list of the current local, state,
6 and federal contractor license identification numbers that the independent
7 contractors are required to have under local, state, or federal laws or regulations.

8 (10) The signatures of all parties, and the date the contract or agreement was
9 signed.

10 (e)(1) To qualify for the rebuttable presumption set forth in subdivision (b), a
11 material change to the terms and conditions of a contract or agreement between a
12 person or entity and a construction, farm labor, garment, janitorial, security guard,
13 or warehouse contractor must be in writing, in a single document, and contain all of
14 the provisions listed in subdivision (d) that are affected by the change.

15 (2) If a provision required to be contained in a contract or agreement pursuant to
16 paragraph (7) or (9) of subdivision (d) is unknown at the time the contract or
17 agreement is executed, the best estimate available at that time is sufficient to satisfy
18 the requirements of subdivision (d). If an estimate is used in place of actual figures
19 in accordance with this paragraph, the parties to the contract or agreement have a
20 continuing duty to ascertain the information required pursuant to paragraph (7) or
21 (9) of subdivision (d) and to reduce that information to writing in accordance with
22 the requirements of paragraph (1) once that information becomes known.

23 (f) A person or entity who enters into a contract or agreement referred to in
24 subdivisions (d) or (e) shall keep a copy of the written contract or agreement for a
25 period of not less than four years following the termination of the contract or
26 agreement. Upon the request of the Labor Commissioner, any person or entity who
27 enters into the contract or agreement shall provide to the Labor Commissioner a
28 copy of the provisions of the contract or agreement, and any other documentation,
29 related to paragraphs (1) to (10), inclusive, of subdivision (d). Documents obtained
30 pursuant to this section are exempt from disclosure under the California Public
31 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
32 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

33 (g)(1) An employee aggrieved by a violation of subdivision (a) may file an action
34 for damages to recover the greater of all of ~~his or her~~ the employee's actual damages
35 or two hundred fifty dollars (\$250) per employee per violation for an initial violation
36 and one thousand dollars (\$1,000) per employee for each subsequent violation, and,
37 upon prevailing in an action brought pursuant to this section, may recover costs and
38 reasonable attorney's fees. An action under this section shall not be maintained
39 unless it is pleaded and proved that an employee was injured as a result of a violation
40 of a labor law or regulation in connection with the performance of the contract or
41 agreement.

1 (2) An employee aggrieved by a violation of subdivision (a) may also bring an
2 action for injunctive relief and, upon prevailing, may recover costs and reasonable
3 attorney’s fees.

4 (h) The phrase “construction, farm labor, garment, janitorial, security guard, or
5 warehouse contractor” includes any person, as defined in this code, whether or not
6 licensed, who is acting in the capacity of a construction, farm labor, garment,
7 janitorial, security guard, or warehouse contractor.

8 (i)(1) The term “knows” includes the knowledge, arising from familiarity with the
9 normal facts and circumstances of the business activity engaged in, that the contract
10 or agreement does not include funds sufficient to allow the contractor to comply
11 with applicable laws.

12 (2) The phrase “should know” includes the knowledge of any additional facts or
13 information that would make a reasonably prudent person undertake to inquire
14 whether, taken together, the contract or agreement contains sufficient funds to allow
15 the contractor to comply with applicable laws.

16 (3) A failure by a person or entity to request or obtain any information from the
17 contractor that is required by any applicable statute or by the contract or agreement
18 between them, constitutes knowledge of that information for purposes of this
19 section.

20 (j) For the purposes of this section, “warehouse” means a facility the primary
21 operation of which is the storage or distribution of general merchandise, refrigerated
22 goods, or other products.

23 **Comment.** Section 2810 is amended to reflect nonsubstantive recodification of the California
24 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
25 Reports __ (2019).

26 The section is also amended to eliminate gendered pronouns.

27 **§ 4600.5 (amended). Certification as health care organization to provide health care to**
28 **injured employees**

29 SEC. ____. Section 4600.5 of the Labor Code is amended to read:

30 4600.5. (a) Any health care service plan licensed pursuant to the Knox-Keene
31 Health Care Service Plan Act, a disability insurer licensed by the Department of
32 Insurance, or any entity, including, but not limited to, workers’ compensation
33 insurers and third-party administrators authorized by the administrative director
34 under subdivision (e), may make written application to the administrative director
35 to become certified as a health care organization to provide health care to injured
36 employees for injuries and diseases compensable under this article.

37 (b) Each application for certification shall be accompanied by a reasonable fee
38 prescribed by the administrative director, sufficient to cover the actual cost of
39 processing the application. A certificate is valid for the period that the director may
40 prescribe unless sooner revoked or suspended.

41 (c) If the health care organization is a health care service plan licensed pursuant
42 to the Knox-Keene Health Care Service Plan Act, and has provided the Managed

1 Care Unit of the Division of Workers' Compensation with the necessary
2 documentation to comply with this subdivision, that organization shall be deemed
3 to be a health care organization able to provide health care pursuant to Section
4 4600.3, without further application duplicating the documentation already filed with
5 the Department of Managed Health Care. These plans shall be required to remain in
6 good standing with the Department of Managed Health Care, and shall meet the
7 following additional requirements:

8 (1) Proposes to provide all medical and health care services that may be required
9 by this article.

10 (2) Provides a program involving cooperative efforts by the employees, the
11 employer, and the health plan to promote workplace health and safety, consultative
12 and other services, and early return to work for injured employees.

13 (3) Proposes a timely and accurate method to meet the requirements set forth by
14 the administrative director for all carriers of workers' compensation coverage to
15 report necessary information regarding medical and health care service cost and
16 utilization, rates of return to work, average time in medical treatment, and other
17 measures as determined by the administrative director to enable the director to
18 determine the effectiveness of the plan.

19 (4) Agrees to provide the administrative director with information, reports, and
20 records prepared and submitted to the Department of Managed Health Care in
21 compliance with the Knox-Keene Health Care Service Plan Act, relating to financial
22 solvency, provider accessibility, peer review, utilization review, and quality
23 assurance, upon request, if the administrative director determines the information is
24 necessary to verify that the plan is providing medical treatment to injured employees
25 in compliance with the requirements of this code.

26 Disclosure of peer review proceedings and records to the administrative director
27 shall not alter the status of the proceedings or records as privileged and confidential
28 communications pursuant to Sections 1370 and 1370.1 of the Health and Safety
29 Code.

30 (5) Demonstrates the capability to provide occupational medicine and related
31 disciplines.

32 (6) Complies with any other requirement the administrative director determines is
33 necessary to provide medical services to injured employees consistent with the
34 intent of this article, including, but not limited to, a written patient grievance policy.

35 (d) If the health care organization is a disability insurer licensed by the
36 Department of Insurance, and is in compliance with subdivision (d) of Sections
37 10133 and 10133.5 of the Insurance Code, the administrative director shall certify
38 the organization to provide health care pursuant to Section 4600.3 if the director
39 finds that the plan is in good standing with the Department of Insurance and meets
40 the following additional requirements:

41 (1) Proposes to provide all medical and health care services that may be required
42 by this article.

1 (2) Provides a program involving cooperative efforts by the employees, the
2 employer, and the health plan to promote workplace health and safety, consultative
3 and other services, and early return to work for injured employees.

4 (3) Proposes a timely and accurate method to meet the requirements set forth by
5 the administrative director for all carriers of workers' compensation coverage to
6 report necessary information regarding medical and health care service cost and
7 utilization, rates of return to work, average time in medical treatment, and other
8 measures as determined by the administrative director to enable the director to
9 determine the effectiveness of the plan.

10 (4) Agrees to provide the administrative director with information, reports, and
11 records prepared and submitted to the Department of Insurance in compliance with
12 the Insurance Code relating to financial solvency, provider accessibility, peer
13 review, utilization review, and quality assurance, upon request, if the administrative
14 director determines the information is necessary to verify that the plan is providing
15 medical treatment to injured employees consistent with the intent of this article.

16 Disclosure of peer review proceedings and records to the administrative director
17 shall not alter the status of the proceedings or records as privileged and confidential
18 communications pursuant to subdivision (d) of Section 10133 of the Insurance
19 Code.

20 (5) Demonstrates the capability to provide occupational medicine and related
21 disciplines.

22 (6) Complies with any other requirement the administrative director determines is
23 necessary to provide medical services to injured employees consistent with the
24 intent of this article, including, but not limited to, a written patient grievance policy.

25 (e) If the health care organization is a workers' compensation insurer, third-party
26 administrator, or any other entity that the administrative director determines meets
27 the requirements of Section 4600.6, the administrative director shall certify the
28 organization to provide health care pursuant to Section 4600.3 if the director finds
29 that it meets the following additional requirements:

30 (1) Proposes to provide all medical and health care services that may be required
31 by this article.

32 (2) Provides a program involving cooperative efforts by the employees, the
33 employer, and the health plan to promote workplace health and safety, consultative
34 and other services, and early return to work for injured employees.

35 (3) Proposes a timely and accurate method to meet the requirements set forth by
36 the administrative director for all carriers of workers' compensation coverage to
37 report necessary information regarding medical and health care service cost and
38 utilization, rates of return to work, average time in medical treatment, and other
39 measures as determined by the administrative director to enable the director to
40 determine the effectiveness of the plan.

41 (4) Agrees to provide the administrative director with information, reports, and
42 records relating to provider accessibility, peer review, utilization review, quality
43 assurance, advertising, disclosure, medical and financial audits, and grievance

1 systems, upon request, if the administrative director determines the information is
2 necessary to verify that the plan is providing medical treatment to injured employees
3 consistent with the intent of this article.

4 Disclosure of peer review proceedings and records to the administrative director
5 shall not alter the status of the proceedings or records as privileged and confidential
6 communications pursuant to subdivision (d) of Section 10133 of the Insurance
7 Code.

8 (5) Demonstrates the capability to provide occupational medicine and related
9 disciplines.

10 (6) Complies with any other requirement the administrative director determines is
11 necessary to provide medical services to injured employees consistent with the
12 intent of this article, including, but not limited to, a written patient grievance policy.

13 (7) Complies with the following requirements:

14 (A) An organization certified by the administrative director under this subdivision
15 may not provide or undertake to arrange for the provision of health care to
16 employees, or to pay for or to reimburse any part of the cost of that health care in
17 return for a prepaid or periodic charge paid by or on behalf of those employees.

18 (B) Every organization certified under this subdivision shall operate on a fee-for-
19 service basis. As used in this section, fee for service refers to the situation where the
20 amount of reimbursement paid by the employer to the organization or providers of
21 health care is determined by the amount and type of health care rendered by the
22 organization or provider of health care.

23 (C) An organization certified under this subdivision is prohibited from assuming
24 risk.

25 (f)(1) A workers' compensation health care provider organization authorized by
26 the Department of Business Oversight on December 31, 1997, shall be eligible for
27 certification as a health care organization under subdivision (e).

28 (2) An entity that had, on December 31, 1997, submitted an application with the
29 Commissioner of Business Oversight under Part 3.2 (commencing with Section
30 5150) shall be considered an applicant for certification under subdivision (e) and
31 shall be entitled to priority in consideration of its application. The Commissioner of
32 Business Oversight shall provide complete files for all pending applications to the
33 administrative director on or before January 31, 1998.

34 (g) The provisions of this section shall not affect the confidentiality or admission
35 in evidence of a claimant's medical treatment records.

36 (h) Charges for services arranged for or provided by health care service plans
37 certified by this section and that are paid on a per-enrollee-periodic-charge basis
38 shall not be subject to the schedules adopted by the administrative director pursuant
39 to Section 5307.1.

40 (i) Nothing in this section shall be construed to expand or constrict any
41 requirements imposed by law on a health care service plan or insurer when operating
42 as other than a health care organization pursuant to this section.

1 (j) In consultation with interested parties, including the Department of Business
2 Oversight and the Department of Insurance, the administrative director shall adopt
3 rules necessary to carry out this section.

4 (k) The administrative director shall refuse to certify or may revoke or suspend
5 the certification of any health care organization under this section if the director
6 finds that:

7 (1) The plan for providing medical treatment fails to meet the requirements of this
8 section.

9 (2) A health care service plan licensed by the Department of Managed Health
10 Care, a workers' compensation health care provider organization authorized by the
11 Department of Business Oversight, or a carrier licensed by the Department of
12 Insurance is not in good standing with its licensing agency.

13 (3) Services under the plan are not being provided in accordance with the terms
14 of a certified plan.

15 (l)(1) When an injured employee requests chiropractic treatment for work-related
16 injuries, the health care organization shall provide the injured worker with access to
17 the services of a chiropractor pursuant to guidelines for chiropractic care established
18 by paragraph (2). Within five working days of the employee's request to see a
19 chiropractor, the health care organization and any person or entity who directs the
20 kind or manner of health care services for the plan shall refer an injured employee
21 to an affiliated chiropractor for work-related injuries that are within the guidelines
22 for chiropractic care established by paragraph (2). Chiropractic care rendered in
23 accordance with guidelines for chiropractic care established pursuant to paragraph
24 (2) shall be provided by duly licensed chiropractors affiliated with the plan.

25 (2) The health care organization shall establish guidelines for chiropractic care in
26 consultation with affiliated chiropractors who are participants in the health care
27 organization's utilization review process for chiropractic care, which may include
28 qualified medical evaluators knowledgeable in the treatment of chiropractic
29 conditions. The guidelines for chiropractic care shall, at a minimum, explicitly
30 require the referral of any injured employee who so requests to an affiliated
31 chiropractor for the evaluation or treatment, or both, of neuromusculoskeletal
32 conditions.

33 (3) Whenever a dispute concerning the appropriateness or necessity of
34 chiropractic care for work-related injuries arises, the dispute shall be resolved by
35 the health care organization's utilization review process for chiropractic care in
36 accordance with the health care organization's guidelines for chiropractic care
37 established by paragraph (2).

38 Chiropractic utilization review for work-related injuries shall be conducted in
39 accordance with the health care organization's approved quality assurance standards
40 and utilization review process for chiropractic care. Chiropractors affiliated with the
41 plan shall have access to the health care organization's provider appeals process
42 and, in the case of chiropractic care for work-related injuries, the review shall

1 include review by a chiropractor affiliated with the health care organization, as
2 determined by the health care organization.

3 (4) The health care organization shall inform employees of the procedures for
4 processing and resolving grievances, including those related to chiropractic care,
5 including the location and telephone number where grievances may be submitted.

6 (5) All guidelines for chiropractic care and utilization review shall be consistent
7 with the standards of this code that require care to cure or relieve the effects of the
8 industrial injury.

9 (m) Individually identifiable medical information on patients submitted to the
10 division shall not be subject to the California Public Records Act (~~Chapter 3.5~~
11 ~~(commencing with Section 6250)~~ of ~~Division 7~~ Division 10 (commencing with
12 Section 7920.000) of Title 1 of the Government Code).

13 (n)(1) When an injured employee requests acupuncture treatment for work-related
14 injuries, the health care organization shall provide the injured worker with access to
15 the services of an acupuncturist pursuant to guidelines for acupuncture care
16 established by paragraph (2). Within five working days of the employee's request
17 to see an acupuncturist, the health care organization and any person or entity who
18 directs the kind or manner of health care services for the plan shall refer an injured
19 employee to an affiliated acupuncturist for work-related injuries that are within the
20 guidelines for acupuncture care established by paragraph (2). Acupuncture care
21 rendered in accordance with guidelines for acupuncture care established pursuant to
22 paragraph (2) shall be provided by duly licensed acupuncturists affiliated with the
23 plan.

24 (2) The health care organization shall establish guidelines for acupuncture care in
25 consultation with affiliated acupuncturists who are participants in the health care
26 organization's utilization review process for acupuncture care, which may include
27 qualified medical evaluators. The guidelines for acupuncture care shall, at a
28 minimum, explicitly require the referral of any injured employee who so requests to
29 an affiliated acupuncturist for the evaluation or treatment, or both, of
30 neuromusculoskeletal conditions.

31 (3) Whenever a dispute concerning the appropriateness or necessity of
32 acupuncture care for work-related injuries arises, the dispute shall be resolved by
33 the health care organization's utilization review process for acupuncture care in
34 accordance with the health care organization's guidelines for acupuncture care
35 established by paragraph (2).

36 Acupuncture utilization review for work-related injuries shall be conducted in
37 accordance with the health care organization's approved quality assurance standards
38 and utilization review process for acupuncture care. Acupuncturists affiliated with
39 the plan shall have access to the health care organization's provider appeals process
40 and, in the case of acupuncture care for work-related injuries, the review shall
41 include review by an acupuncturist affiliated with the health care organization, as
42 determined by the health care organization.

1 (4) The health care organization shall inform employees of the procedures for
2 processing and resolving grievances, including those related to acupuncture care,
3 including the location and telephone number where grievances may be submitted.

4 (5) All guidelines for acupuncture care and utilization review shall be consistent
5 with the standards of this code that require care to cure or relieve the effects of the
6 industrial injury.

7 **Comment.** Section 4600.5 is amended to reflect nonsubstantive recodification of the California
8 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
9 Reports __ (2019).

10 **§ 4610 (amended). Utilization review and medical treatment**

11 SEC. ____. Section 4610 of the Labor Code is amended to read:

12 4610. (a) For purposes of this section, “utilization review” means utilization
13 review or utilization management functions that prospectively, retrospectively, or
14 concurrently review and approve, modify, or deny, based in whole or in part on
15 medical necessity to cure and relieve, treatment recommendations by physicians, as
16 defined in Section 3209.3, prior to, retrospectively, or concurrent with the provision
17 of medical treatment services pursuant to Section 4600.

18 (b) For all dates of injury occurring on or after January 1, 2018, emergency
19 treatment services and medical treatment rendered for a body part or condition that
20 is accepted as compensable by the employer and is addressed by the medical
21 treatment utilization schedule adopted pursuant to Section 5307.7, by a member of
22 the medical provider network or health care organization, or by a physician
23 predesignated pursuant to subdivision (d) of Section 4600, within the 30 days
24 following the initial date of injury, shall be authorized without prospective
25 utilization review, except as provided in subdivision (c). The services rendered
26 under this subdivision shall be consistent with the medical treatment utilization
27 schedule. In the event that the employee is not subject to treatment with a medical
28 provider network, health care organization, or predesignated physician pursuant to
29 subdivision (d) of Section 4600, the employee shall be eligible for treatment under
30 this section within 30 days following the initial date of injury if the treatment is
31 rendered by a physician or facility selected by the employer. For treatment rendered
32 by a medical provider network physician, health care organization physician, a
33 physician predesignated pursuant to subdivision (d) of Section 4600, or an
34 employer-selected physician, the report required under Section 6409 and a complete
35 request for authorization shall be submitted by the physician within five days
36 following the employee’s initial visit and evaluation.

37 (c) Unless authorized by the employer or rendered as emergency medical
38 treatment, the following medical treatment services, as defined in rules adopted by
39 the administrative director, that are rendered through a member of the medical
40 provider network or health care organization, a predesignated physician, an
41 employer-selected physician, or an employer-selected facility, within the 30 days

1 following the initial date of injury, shall be subject to prospective utilization review
2 under this section:

3 (1) Pharmaceuticals, to the extent they are neither expressly exempted from
4 prospective review nor authorized by the drug formulary adopted pursuant to
5 Section 5307.27.

6 (2) Nonemergency inpatient and outpatient surgery, including all presurgical and
7 postsurgical services.

8 (3) Psychological treatment services.

9 (4) Home health care services.

10 (5) Imaging and radiology services, excluding X-rays.

11 (6) All durable medical equipment, whose combined total value exceeds two
12 hundred fifty dollars (\$250), as determined by the official medical fee schedule.

13 (7) Electrodiagnostic medicine, including, but not limited to, electromyography
14 and nerve conduction studies.

15 (8) Any other service designated and defined through rules adopted by the
16 administrative director.

17 (d)(1) Except for emergency treatment services, any request for payment for
18 treatment provided under subdivision (b) shall comply with Section 4603.2 and be
19 submitted to the employer, or its insurer or claims administrator, within 30 days of
20 the date the service was provided.

21 (2)(A) In the case of emergency treatment services, any request for payment for
22 treatment provided under subdivision (b) shall comply with Section 4603.2 and be
23 submitted to the employer, or its insurer or claims administrator, within 180 days of
24 the date the service was provided.

25 (B) For the purposes of this subdivision, “emergency treatment services” means
26 treatment for an emergency medical condition defined in subdivision (b) of Section
27 1317.1 of the Health and Safety Code and provided in a licensed general acute care
28 hospital, as defined in Section 1250 of the Health and Safety Code.

29 (e) If a physician fails to submit the report required under Section 6409 and a
30 complete request for authorization, as described in subdivision (b), an employer may
31 remove the physician’s ability under this subdivision to provide further medical
32 treatment to the employee that is exempt from prospective utilization review.

33 (f) An employer may perform retrospective utilization review for any treatment
34 provided pursuant to subdivision (b) solely for the purpose of determining if the
35 physician is prescribing treatment consistent with the schedule for medical
36 treatment utilization, including, but not limited to, the drug formulary adopted
37 pursuant to Section 5307.27.

38 (1) If it is found after retrospective utilization reviews that there is a pattern and
39 practice of the physician or provider failing to render treatment consistent with the
40 schedule for medical treatment utilization, including the drug formulary, the
41 employer may remove the ability of the predesignated physician, employer-selected
42 physician, or the member of the medical provider network or health care
43 organization under this subdivision to provide further medical treatment to any

1 employee that is exempt from prospective utilization review. The employer shall
2 notify the physician or provider of the results of the retrospective utilization review
3 and the requirement for prospective utilization review for all subsequent medical
4 treatment.

5 (2) The results of retrospective utilization review may constitute a showing of
6 good cause for an employer's petition requesting a change of physician or provider
7 pursuant to Section 4603 and may serve as grounds for termination of the physician
8 or provider from the medical provider network or health care organization.

9 (g) Each employer shall establish a utilization review process in compliance with
10 this section, either directly or through its insurer or an entity with which an employer
11 or insurer contracts for these services.

12 (1) Each utilization review process that modifies or denies requests for
13 authorization of medical treatment shall be governed by written policies and
14 procedures. These policies and procedures shall ensure that decisions based on the
15 medical necessity to cure and relieve of proposed medical treatment services are
16 consistent with the schedule for medical treatment utilization, including the drug
17 formulary, adopted pursuant to Section 5307.27.

18 (2) Unless otherwise indicated in this section, a physician providing treatment
19 under Section 4600 shall send any request for authorization for medical treatment,
20 with supporting documentation, to the claims administrator for the employer,
21 insurer, or other entity according to rules adopted by the administrative director.
22 The employer, insurer, or other entity shall employ or designate a medical director
23 who holds an unrestricted license to practice medicine in this state issued pursuant
24 to Section 2050 or 2450 of the Business and Professions Code. The medical director
25 shall ensure that the process by which the employer or other entity reviews and
26 approves, modifies, or denies requests by physicians prior to, retrospectively, or
27 concurrent with the provision of medical treatment services complies with the
28 requirements of this section. Nothing in this section shall be construed as restricting
29 the existing authority of the Medical Board of California.

30 (3)(A) A person other than a licensed physician who is competent to evaluate the
31 specific clinical issues involved in the medical treatment services, if these services
32 are within the scope of the physician's practice, requested by the physician, shall
33 not modify or deny requests for authorization of medical treatment for reasons of
34 medical necessity to cure and relieve or due to incomplete or insufficient
35 information under subdivisions (i) and (j).

36 (B)(i) The employer, or any entity conducting utilization review on behalf of the
37 employer, shall neither offer nor provide any financial incentive or consideration to
38 a physician based on the number of modifications or denials made by the physician
39 under this section.

40 (ii) An insurer or third-party administrator shall not refer utilization review
41 services conducted on behalf of an employer under this section to an entity in which
42 the insurer or third-party administrator has a financial interest as defined under
43 Section 139.32. This prohibition does not apply if the insurer or third-party

1 administrator provides the employer and the administrative director with prior
2 written disclosure of both of the following:

3 (I) The entity conducting the utilization review services.

4 (II) The insurer or third-party administrator's financial interest in the entity.

5 (C) The administrative director has authority pursuant to this section to review
6 any compensation agreement, payment schedule, or contract between the employer,
7 or any entity conducting utilization review on behalf of the employer, and the
8 utilization review physician. Any information disclosed to the administrative
9 director pursuant to this paragraph shall be considered confidential information and
10 not subject to disclosure pursuant to the California Public Records Act (~~Chapter 3.5~~
11 ~~(commencing with Section 6250)~~ of Division 10 (commencing with
12 Section 7920.000) of Title 1 of the Government Code). Disclosure of the
13 information to the administrative director pursuant to this subdivision shall not
14 waive the provisions of the Evidence Code relating to privilege.

15 (4) A utilization review process that modifies or denies requests for authorization
16 of medical treatment shall be accredited on or before July 1, 2018, and shall retain
17 active accreditation while providing utilization review services, by an independent,
18 nonprofit organization to certify that the utilization review process meets specified
19 criteria, including, but not limited to, timeliness in issuing a utilization review
20 decision, the scope of medical material used in issuing a utilization review decision,
21 peer-to-peer consultation, internal appeal procedure, and requiring a policy
22 preventing financial incentives to doctors and other providers based on the
23 utilization review decision. The administrative director shall adopt rules to
24 implement the selection of an independent, nonprofit organization for those
25 accreditation purposes. Until those rules are adopted, the administrative director
26 shall designate URAC as the accrediting organization. The administrative director
27 may adopt rules to do any of the following:

28 (A) Require additional specific criteria for measuring the quality of a utilization
29 review process for purposes of accreditation.

30 (B) Exempt nonprofit, public sector internal utilization review programs from the
31 accreditation requirement pursuant to this section, if the administrative director has
32 adopted minimum standards applicable to nonprofit, public sector internal
33 utilization review programs that meet or exceed the accreditation standards
34 developed pursuant to this section.

35 (5) On or before July 1, 2018, each employer, either directly or through its insurer
36 or an entity with which an employer or insurer contracts for utilization review
37 services, shall submit a description of the utilization review process that modifies
38 or denies requests for authorization of medical treatment and the written policies
39 and procedures to the administrative director for approval. Approved utilization
40 review process descriptions and the accompanying written policies and procedures
41 shall be disclosed by the employer to employees and physicians and made available
42 to the public by posting on the employer's, claims administrator's, or utilization
43 review organization's Internet Web site.

1 (h) The criteria or guidelines used in the utilization review process to determine
2 whether to approve, modify, or deny medical treatment services shall be all of the
3 following:

4 (1) Developed with involvement from actively practicing physicians.

5 (2) Consistent with the schedule for medical treatment utilization, including the
6 drug formulary, adopted pursuant to Section 5307.27.

7 (3) Evaluated at least annually, and updated if necessary.

8 (4) Disclosed to the physician and the employee, if used as the basis of a decision
9 to modify or deny services in a specified case under review.

10 (5) Available to the public upon request. An employer shall only be required to
11 disclose the criteria or guidelines for the specific procedures or conditions
12 requested. An employer may charge members of the public reasonable copying and
13 postage expenses related to disclosing criteria or guidelines pursuant to this
14 paragraph. Criteria or guidelines may also be made available through electronic
15 means. A charge shall not be required for an employee whose physician's request
16 for medical treatment services is under review.

17 (i) In determining whether to approve, modify, or deny requests by physicians
18 prior to, retrospectively, or concurrent with the provisions of medical treatment
19 services to employees, all of the following requirements shall be met:

20 (1) Except for treatment requests made pursuant to the formulary, prospective or
21 concurrent decisions shall be made in a timely fashion that is appropriate for the
22 nature of the employee's condition, not to exceed five working days from the receipt
23 of a request for authorization for medical treatment and supporting information
24 reasonably necessary to make the determination, but in no event more than 14 days
25 from the date of the medical treatment recommendation by the physician.
26 Prospective decisions regarding requests for treatment covered by the formulary
27 shall be made no more than five working days from the date of receipt of the medical
28 treatment request. The request for authorization and supporting documentation may
29 be submitted electronically under rules adopted by the administrative director.

30 (2) In cases where the review is retrospective, a decision resulting in denial of all
31 or part of the medical treatment service shall be communicated to the individual
32 who received services, or to the individual's designee, within 30 days of the receipt
33 of the information that is reasonably necessary to make this determination. If
34 payment for a medical treatment service is made within the time prescribed by
35 Section 4603.2, a retrospective decision to approve the service need not otherwise
36 be communicated.

37 (3) If the employee's condition is one in which the employee faces an imminent
38 and serious threat to his or her health, including, but not limited to, the potential loss
39 of life, limb, or other major bodily function, or the normal timeframe for the
40 decisionmaking process, as described in paragraph (1), would be detrimental to the
41 employee's life or health or could jeopardize the employee's ability to regain
42 maximum function, decisions to approve, modify, or deny requests by physicians
43 prior to, or concurrent with, the provision of medical treatment services to

1 employees shall be made in a timely fashion that is appropriate for the nature of the
2 employee's condition, but not to exceed 72 hours after the receipt of the information
3 reasonably necessary to make the determination.

4 (4)(A) Final decisions to approve, modify, or deny requests by physicians for
5 authorization prior to, or concurrent with, the provision of medical treatment
6 services to employees shall be communicated to the requesting physician within 24
7 hours of the decision by telephone, facsimile, or, if agreed to by the parties, secure
8 email.

9 (B) Decisions resulting in modification or denial of all or part of the requested
10 health care service shall be communicated in writing to the employee, and to the
11 physician if the initial communication under subparagraph (A) was by telephone,
12 within 24 hours for concurrent review, or within two business days of the decision
13 for prospective review, as prescribed by the administrative director. If the request is
14 modified or denied, disputes shall be resolved in accordance with Section 4610.5, if
15 applicable, or otherwise in accordance with Section 4062.

16 (C) In the case of concurrent review, medical care shall not be discontinued until
17 the employee's physician has been notified of the decision and a care plan has been
18 agreed upon by the physician that is appropriate for the medical needs of the
19 employee. Medical care provided during a concurrent review shall be care that is
20 medically necessary to cure and relieve, and an insurer or self-insured employer
21 shall only be liable for those services determined medically necessary to cure and
22 relieve. If the insurer or self-insured employer disputes whether or not one or more
23 services offered concurrently with a utilization review were medically necessary to
24 cure and relieve, the dispute shall be resolved pursuant to Section 4610.5, if
25 applicable, or otherwise pursuant to Section 4062. A compromise between the
26 parties that an insurer or self-insured employer believes may result in payment for
27 services that were not medically necessary to cure and relieve shall be reported by
28 the insurer or the self-insured employer to the licensing board of the provider or
29 providers who received the payments, in a manner set forth by the respective board
30 and in a way that minimizes reporting costs both to the board and to the insurer or
31 self-insured employer, for evaluation as to possible violations of the statutes
32 governing appropriate professional practices. Fees shall not be levied upon insurers
33 or self-insured employers making reports required by this section.

34 (5) Communications regarding decisions to approve requests by physicians shall
35 specify the specific medical treatment service approved. Responses regarding
36 decisions to modify or deny medical treatment services requested by physicians
37 shall include a clear and concise explanation of the reasons for the employer's
38 decision, a description of the criteria or guidelines used, and the clinical reasons for
39 the decisions regarding medical necessity. If a utilization review decision to deny a
40 medical service is due to incomplete or insufficient information, the decision shall
41 specify all of the following:

42 (A) The reason for the decision.

43 (B) A specific description of the information that is needed.

1 (C) The date(s) and time(s) of attempts made to contact the physician to obtain
2 the necessary information.

3 (D) A description of the manner in which the request was communicated.

4 (j)(1) Unless otherwise indicated in this section, a physician providing treatment
5 under Section 4600 shall send any request for authorization for medical treatment,
6 with supporting documentation, to the claims administrator for the employer,
7 insurer, or other entity according to rules adopted by the administrative director. If
8 an employer, insurer, or other entity subject to this section requests medical
9 information from a physician in order to determine whether to approve, modify, or
10 deny requests for authorization, that employer, insurer, or other entity shall request
11 only the information reasonably necessary to make the determination.

12 (2) If the employer, insurer, or other entity cannot make a decision within the
13 timeframes specified in paragraph (1), (2), or (3) of subdivision (i) because the
14 employer or other entity is not in receipt of, or in possession of, all of the information
15 reasonably necessary to make a determination, the employer shall immediately
16 notify the physician and the employee, in writing, that the employer cannot make a
17 decision within the required timeframe, and specify the information that must be
18 provided by the physician for a determination to be made. Upon receipt of all
19 information reasonably necessary and requested by the employer, the employer shall
20 approve, modify, or deny the request for authorization within the timeframes
21 specified in paragraph (1), (2), or (3) of subdivision (i).

22 (k) A utilization review decision to modify or deny a treatment recommendation
23 shall remain effective for 12 months from the date of the decision without further
24 action by the employer with regard to a further recommendation by the same
25 physician, or another physician within the requesting physician's practice group, for
26 the same treatment unless the further recommendation is supported by a documented
27 change in the facts material to the basis of the utilization review decision.

28 (l) Utilization review of a treatment recommendation shall not be required while
29 the employer is disputing liability for injury or treatment of the condition for which
30 treatment is recommended pursuant to Section 4062.

31 (m) If utilization review is deferred pursuant to subdivision (l), and it is finally
32 determined that the employer is liable for treatment of the condition for which
33 treatment is recommended, the time for the employer to conduct retrospective
34 utilization review in accordance with paragraph (2) of subdivision (i) shall begin on
35 the date the determination of the employer's liability becomes final, and the time
36 for the employer to conduct prospective utilization review shall commence from the
37 date of the employer's receipt of a treatment recommendation after the
38 determination of the employer's liability.

39 (n) Each employer, insurer, or other entity subject to this section shall maintain
40 telephone access during California business hours for physicians to request
41 authorization for health care services and to conduct peer-to-peer discussions
42 regarding issues, including the appropriateness of a requested treatment,

1 modification of a treatment request, or obtaining additional information needed to
2 make a medical necessity decision.

3 (o) The administrative director shall develop a system for the mandatory
4 electronic reporting of documents related to every utilization review performed by
5 each employer, which shall be administered by the Division of Workers'
6 Compensation. The administrative director shall adopt regulations specifying the
7 documents to be submitted by the employer and the authorized transmission format
8 and timeframe for their submission. For purposes of this subdivision, "employer"
9 means the employer, the insurer of an insured employer, a claims administrator, or
10 a utilization review organization, or other entity acting on behalf of any of them.

11 (p) If the administrative director determines that the employer, insurer, or other
12 entity subject to this section has failed to meet any of the timeframes in this section,
13 or has failed to meet any other requirement of this section, the administrative
14 director may assess, by order, administrative penalties for each failure. A
15 proceeding for the issuance of an order assessing administrative penalties shall be
16 subject to appropriate notice to, and an opportunity for a hearing with regard to, the
17 person affected. The administrative penalties shall not be deemed to be an exclusive
18 remedy for the administrative director. These penalties shall be deposited in the
19 Workers' Compensation Administration Revolving Fund.

20 (q) The administrative director shall contract with an outside, independent
21 research organization on or after March 1, 2019, to evaluate the impact of the
22 provision of medical treatment within the first 30 days after a claim is filed, for a
23 claim filed on or after January 1, 2017, and before January 1, 2019. The report shall
24 be provided to the administrative director, the Senate Committee on Labor and
25 Industrial Relations, and the Assembly Committee on Insurance before January 1,
26 2020.

27 (r) This section shall become operative on January 1, 2018.

28 **Comment.** Section 4610 is amended to reflect nonsubstantive recodification of the California
29 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
30 Reports __ (2019).

31 **§ 6322 (amended). Trade secrets and other confidential information**

32 SEC. ____. Section 6322 of the Labor Code is amended to read:

33 6322. All information reported to or otherwise obtained by the chief or his
34 representatives of the chief in connection with any inspection or proceeding of the
35 division ~~which that~~ contains or ~~which that~~ might reveal a trade secret referred to in
36 Section 1905 of Title 18 of the United States Code, or other information that is
37 confidential pursuant to ~~Chapter 3.5 (commencing with Section 6250) of Division~~
38 7 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
39 Code, shall be considered confidential, except that ~~such this~~ information may be
40 disclosed to other officers or employees of the division concerned with carrying out
41 the purposes of the division or when relevant in any proceeding of the division. The
42 appeals board, standards board, the courts, or the director shall in ~~any such that type~~

1 of proceeding issue ~~such~~ orders as may be appropriate to protect the confidentiality
2 of trade secrets. Violation of this section is a misdemeanor.

3 **Comment.** Section 6322 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
5 Reports __ (2019).

6 The section is also amended to make it gender neutral and make other technical changes.

7 **§ 6396 (amended). Trade secrets obtained by Director of Industrial Relations**

8 SEC. _____. Section 6396 of the Labor Code is amended to read:

9 6396. (a) The Director of Industrial Relations shall protect from disclosure any
10 and all trade secrets coming into ~~his or her~~ the director's possession, as defined in
11 ~~subdivision (d) of Section 6254.7~~ subdivision (f) of Section 7924.510 of the
12 Government Code, when requested in writing or by appropriate stamping or
13 marking of documents by the manufacturer or producer of a mixture.

14 (b) Any information reported to or otherwise obtained by the Director of
15 Industrial Relations, or any of ~~his or her~~ the director's representatives or employees,
16 which is exempt from disclosure under subdivision (a), shall not be disclosed to
17 anyone except an officer or employee of the state or of the United States of America,
18 in connection with the official duties of that officer or employee under any law for
19 the protection of health, or to contractors with the state and their employees if in the
20 opinion of the director the disclosure is necessary and required for the satisfactory
21 performance of a contract for performance of work in connection with this act.

22 (c) Any officer or employee of the state, or former officer or employee, who by
23 virtue of that employment or official position has obtained possession of or has
24 access to material the disclosure of which is prohibited by this section, and who,
25 knowing that disclosure of the material is prohibited, knowingly and willfully
26 discloses the material in any manner to any person not entitled to receive it, is guilty
27 of a misdemeanor. Any contractor with the state and any employee of that
28 contractor, who has been furnished information as authorized by this section, shall
29 be considered to be an employee of the state for purposes of this section.

30 (d) Information certified to by appropriate officials of the United States, as
31 necessarily kept secret for national defense purposes, shall be accorded the full
32 protections against disclosure as specified by that official or in accordance with the
33 laws of the United States.

34 (e)(1) The director, upon his or her own initiative, or upon receipt of a request
35 pursuant to the California Public Records Act, ~~(Chapter 3.5 (commencing with~~
36 ~~Section 6250) of Division 7 Act (Division 10 (commencing with Section 7920.000)~~
37 ~~of Title 1 of the Government Code) Code~~, for the release of data submitted and
38 designated as a trade secret by an employer, manufacturer, or producer of a mixture,
39 shall determine whether any or all of the data so submitted are a properly designated
40 trade secret.

41 (2) If the director determines that the data is not a trade secret, the director shall
42 notify the employer, manufacturer, or producer of a mixture by certified mail.

1 (3) The employer, manufacturer, or producer of a mixture shall have 15 days after
2 receipt of notification to provide the director with a complete justification and
3 statement of the grounds on which the trade secret privilege is claimed. This
4 justification and statement shall be submitted by certified mail.

5 (4) The director shall determine whether the data are protected as a trade secret
6 within 15 days after receipt of the justification and statement, or if no justification
7 and statement is filed, within 30 days of the original notice, and shall notify the
8 employer or manufacturer and any party who has requested the data pursuant to the
9 California Public Records Act of that determination by certified mail. If the director
10 determines that the data are not protected as a trade secret, the final notice shall also
11 specify a date, not sooner than 15 days after the date of mailing of the final notice,
12 when the data shall be available to the public.

13 (5) Prior to the date specified in the final notice, an employer, manufacturer, or
14 producer of a mixture may institute an action in an appropriate superior court for a
15 declaratory judgment as to whether the data are subjected to protection under
16 subdivision (a).

17 (f) This section does not authorize a manufacturer to refuse to disclose
18 information required pursuant to this chapter to the director.

19 **Comment.** Section 6396 is amended to reflect nonsubstantive recodification of the California
20 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
21 Reports __ (2019).

22 The section is also amended to eliminate gendered pronouns and correct a punctuation error.

23 **§ 7873 (amended). Information identified as trade secret by petroleum refinery employer**

24 SEC. _____. Section 7873 of the Labor Code is amended to read:

25 7873. (a) As used in this section, “trade secret” means a trade secret as defined in
26 ~~subdivision (d) of Section 6254.7~~ subdivision (f) of Section 7924.510 of the
27 Government Code or Section 1061 of the Evidence Code, and shall include the
28 schedule submitted to the division pursuant to subdivision (b) of Section 7872 of
29 this code, and the scheduling, duration, layout, configuration, and type of work to
30 be performed during a turnaround. Upon completion of a turnaround, the scheduling
31 and duration of that turnaround shall no longer be considered a trade secret. The
32 wages, hours, benefits, job classifications, and training standards for employees
33 performing work for petroleum refinery employers is not a trade secret.

34 (b)(1) If a petroleum refinery employer believes that information submitted to the
35 division pursuant to Section 7872 may involve the release of a trade secret, the
36 petroleum refinery employer shall nevertheless provide this information to the
37 division. The petroleum refinery employer may, at the time of submission, identify
38 all or a portion of the information submitted to the division as trade secret and, to
39 the extent feasible, segregate records designated as trade secret from the other
40 records.

1 (2) Subject to subdivisions (c), (d), and (g), the division shall not release to the
2 public any information designated as a trade secret by the petroleum refinery
3 employer pursuant to paragraph (1).

4 (c)(1) Upon the receipt of a request for the release of information to the public
5 that includes information that the petroleum refinery employer has notified the
6 division is a trade secret pursuant to paragraph (1) of subdivision (b), the division
7 shall notify the petroleum refinery employer in writing of the request by certified
8 mail, return receipt requested.

9 (2) The division shall release the requested information to the public, unless both
10 of the following occur:

11 (A) Within 30 days of receipt of the notice of the request for information, the
12 petroleum refinery employer files an action in an appropriate court for a declaratory
13 judgment that the information is subject to protection as a trade secret, as defined in
14 subdivision (a), and promptly notifies the division of that action.

15 (B) Within 120 days of receipt of the notice of the request for information, the
16 petroleum refinery employer obtains an order prohibiting disclosure of the
17 information to the public and promptly notifies the division of that action.

18 (3) This subdivision shall not be construed to allow a petroleum refinery employer
19 to refuse to disclose the information required pursuant to this section to the division.

20 (d) Except as provided in subdivision (c), any information that has been
21 designated as a trade secret by a petroleum refinery employer shall not be released
22 to any member of the public, except that ~~such~~ the information may be disclosed to
23 other officers or employees of the division when relevant in any proceeding of the
24 division.

25 (e)(1) The petroleum refinery employer filing an action pursuant to paragraph (2)
26 of subdivision (c) shall provide notice of the action to the person requesting the
27 release of the information at the same time that the defendant in the action is served.

28 (2) A person who has requested the release of information that includes
29 information that the petroleum refinery employer has notified the division is a trade
30 secret pursuant to paragraph (1) of subdivision (b) may intervene in an action by the
31 petroleum refinery employer filed pursuant to paragraph (2) of subdivision (c). The
32 court shall permit that person to intervene.

33 (f) The public agency shall not bear the court costs for any party named in
34 litigation filed pursuant to this section.

35 (g) This section shall not be construed to prohibit the exchange of trade secrets
36 between local, state, or federal public agencies or state officials when those trade
37 secrets are relevant and reasonably necessary to the exercise of their authority.

38 (h) If the person requesting the release of information identified by a petroleum
39 refinery employer as a trade secret files an action against the division to order
40 disclosure of that information, the division shall promptly notify the petroleum
41 refinery employer in writing of the action by certified mail, return receipt requested.
42 The petroleum refinery employer may intervene in an action filed by the person

1 requesting the release of trade secrets identified by the petroleum refinery employer.
2 The court shall permit the petroleum refinery employer to intervene.

3 (i) An officer or employee of the division who, by virtue of that employment or
4 official position, has possession of, or has access to, trade secret information, and
5 who, knowing that disclosure of the information to the general public is prohibited
6 by this section, knowingly and willfully discloses the information in any manner to
7 a person ~~he or she~~ that the officer or employee knows is not entitled to receive it, is
8 guilty of a misdemeanor. A contractor with the division and an employee of the
9 contractor, who has been furnished information as authorized by this section, shall
10 be considered an employee of the division for purposes of this section.

11 **Comment.** Section 7873 is amended to reflect nonsubstantive recodification of the California
12 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
13 Reports __ (2019).

14 The section is also amended to make technical changes.

15 **MILITARY AND VETERANS CODE**

16 **§ 55 (amended). Inspector general**

17 SEC. _____. Section 55 of the Military and Veterans Code is amended to read:

18 55. (a) A person serving in the position of inspector general shall satisfy all of the
19 following requirements:

20 (1) Be appointed by the Governor, with consideration of the recommendation of
21 the Adjutant General and notification to the Senate Committee on Rules, and shall
22 serve a four-year term from the effective date of appointment. The inspector general
23 may not be removed from office during that term, except for good cause. An
24 inspector general may not serve more than two consecutive terms.

25 (2) Meet the same qualifications established in this code for the Assistant Adjutant
26 General.

27 (3) Be subordinate to the Adjutant General and serve on state active duty at the
28 grade of O-6 or higher.

29 (b)(1) The inspector general may not serve as the Adjutant General or the
30 Assistant Adjutant General for four years from the date of leaving the position of
31 inspector general.

32 (2) A commissioned officer on state active duty appointed to the position of
33 inspector general who, immediately prior to that duty, held a permanent state active
34 duty position shall remain on state active duty upon vacating the inspector general
35 position.

36 (c) The department shall, from the amount annually appropriated to it for purposes
37 of this office, continue to fund the position of inspector general.

38 (d) The inspector general shall have access to all employees and documents of the
39 department.

40 (e) The inspector general may receive communications from any person,
41 including, but not limited to, any member of the department.

1 (f) The inspector general shall, at a minimum, continue to perform the functions
2 of inspections, assistance, investigations, and teaching and training. The functions
3 of the inspector general shall be performed in accordance with applicable service
4 laws, rules, and regulations governing federal inspectors general.

5 (g) The inspector general shall continue to maintain a toll-free public telephone
6 number and an Internet Web site to receive complaints and allegations, including,
7 but not limited to, those described in subdivision (h) or the California Military
8 Whistleblower Protection Act. The inspector general shall continue to post the
9 telephone number and Internet Web site in clear view at every California National
10 Guard armory, flight facility, airfield, or installation.

11 (h)(1) At the discretion of the inspector general or the Adjutant General, or upon
12 a written request by the Governor, a Member of the Legislature, any member of the
13 department, or any member of the public, the inspector general may investigate any
14 complaint or allegation regarding the following:

15 (A) A violation of law, including, but not limited to, regulations, the Uniform
16 Code of Military Justice, and any law prohibiting sexual harassment or unlawful
17 discrimination.

18 (B) Gross mismanagement, a gross waste of funds, an abuse of authority, or a
19 substantial and specified danger to the public health or safety.

20 (2)(A) For all written requests submitted by a Member of the Legislature, the
21 inspector general shall respond in writing with ~~his or her~~ the inspector general's
22 findings. The response shall contain only ~~that~~ information that may be lawfully
23 disclosed, and, if a complaint or allegation is at issue, the response shall contain, at
24 a minimum, information regarding whether the complaint or allegation was
25 unfounded or sustained.

26 (B) If the inspector general conducts an investigation at the request of a Member
27 of the Legislature, the inspector general shall submit to that member a report of ~~his~~
28 ~~or her~~ the findings of that investigation. The report shall contain only information
29 that may be lawfully disclosed, and shall contain, at a minimum, information
30 regarding whether the complaint or allegations were unfounded or sustained.

31 (3)(A) A request described in paragraph (1) is not a public record and is not
32 subject to disclosure under the California Public Records Act set forth in ~~Chapter~~
33 ~~3.5 (commencing with Section 6250) of Division 7~~ Division 10 (commencing with
34 Section 7920.000) of Title 1 of the Government Code.

35 (B) The inspector general shall not disclose to any person or entity the identity of
36 a person making a written request or an allegation or complaint described in
37 paragraph (1), unless the person making the request, allegation, or complaint has
38 consented to the disclosure in writing.

39 (4)(A) When deemed appropriate by the inspector general, the inspector general
40 may refer to the Chief of the National Guard Bureau any complaints or allegations
41 described in paragraph (1), any violations of the Uniform Code of Military Justice,
42 or any violations of any other state or federal law.

1 (B) When deemed appropriate by the inspector general, the inspector general may
2 refer to the State Auditor any complaints or allegations described in subparagraph
3 (B) of paragraph (1) or any violation of state or federal law.

4 (i) If the inspector general receives, or becomes aware of, an allegation,
5 complaint, or misconduct regarding the Adjutant General or the Assistant Adjutant
6 General, the inspector general shall immediately refer the matter to the Chief of the
7 National Guard Bureau and the Governor for review. The inspector general, by
8 order of the Governor, shall conduct an investigation regarding the allegations
9 concerning the Adjutant General or the Assistant Adjutant General concurrently
10 with any federal investigation where appropriate. The inspector general shall report
11 the findings to the Governor under this subdivision.

12 (j)(1)(A) The inspector general shall, on or before July 1, 2013, and on or before
13 July 1 each year thereafter, submit a report to the Governor, the Legislature, the
14 Senate Committee on Veterans Affairs, and the Assembly Committee on Veterans
15 Affairs. The report shall include, but not be limited to, a description of significant
16 problems discovered by the office and a summary of investigations conducted by
17 the office during the previous year. Upon submitting the report to the Governor, the
18 Legislature, the Senate Committee on Veterans Affairs, and the Assembly
19 Committee on Veterans Affairs the report shall be made available to the public and
20 posted on the office's Internet Web site.

21 (B) A report to be submitted pursuant to subparagraph (A) shall be submitted in
22 compliance with Section 9795 of the Government Code.

23 (2) Upon the completion of an investigation conducted by the inspector general
24 pursuant to paragraph (1) of subdivision (h) or Section 56, ~~he or she~~ the inspector
25 general shall also prepare and issue on a quarterly basis a public report that includes
26 all investigations completed in the previous quarter. The inspector general shall
27 submit a copy of the quarterly report to the Legislature, the Senate Committee on
28 Veterans Affairs, and the Assembly Committee on Veterans Affairs. The inspector
29 general shall have the discretion to redact or otherwise protect the names of
30 individuals, specific locations, or other facts that, if not redacted, might hinder
31 prosecution under state or federal law or the Uniform Code of Military Justice
32 related to the investigation, or where disclosure of the information is otherwise
33 prohibited by law, and to decline to produce any of the underlying materials. In a
34 case where allegations were deemed to be unfounded, all applicable identifying
35 information shall be redacted. Each quarterly report shall be made available to the
36 public and posted on the office's Internet Web site.

37 (k) For purposes of this section, all of the following shall apply:

38 (1) "Department" means the Military Department.

39 (2) "Inspector general" means the California Military Department Inspector
40 General.

41 (3) "Member of the department" means the Adjutant General, any person under
42 the command of the Adjutant General, any person employed by the department,
43 including, but not limited to, any service member or employee of the office of the

1 Adjutant General, the California National Guard, the State Military Reserve, the
2 California Cadet Corps, or the Naval Militia, any person on state active duty, any
3 person with a state commission, or any civil service or part-time employee of the
4 department.

5 (4) “Office” means the Office of the California Military Department Inspector
6 General.

7 **Comment.** Section 55 is amended to reflect nonsubstantive recodification of the California
8 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
9 Reports __ (2019).

10 The section is also amended to eliminate gendered pronouns and make another technical change.

11 **§ 56 (amended). California Military Whistleblower Protection Act**

12 SEC. _____. Section 56 of the Military and Veterans Code is amended to read:

13 56. (a) This section shall be known, and may be cited, as the “California Military
14 Whistleblower Protection Act.”

15 (b) Notwithstanding any other law, a person shall not do any of the following:

16 (1)(A) Restrict a member of the department from communicating with a Member
17 of Congress, the Governor, a Member of the Legislature, or any state or federal
18 inspector general.

19 (B) Subparagraph (A) shall not apply to a communication that is unlawful.

20 (2) Take, or threaten to take, an unfavorable personnel action, or withhold, or
21 threaten to withhold, a favorable personnel action, as a reprisal against a member of
22 the department for making a communication to any person, including, but not
23 limited to, any of the following:

24 (A) A Member of Congress.

25 (B) The Governor.

26 (C) A Member of the Legislature.

27 (D) The inspector general.

28 (E) The State Auditor.

29 (F) A federal inspector general or any other inspector general appointed under the
30 Inspector General Act of 1978.

31 (G) Any member of a Department of Defense audit, inspection, investigation, or
32 law enforcement organization.

33 (H) Any local, state, or federal law enforcement agency.

34 (I) Any person or organization in the chain of command of the department.

35 (J) Any other person or organization designated pursuant to regulation or any
36 other established administrative procedures for ~~such~~ communications of this type.

37 (c) Notwithstanding any other law, if a member of the department submits to an
38 inspector general an allegation that a personnel action prohibited by paragraph (2)
39 of subdivision (b) has been taken or has been threatened to be taken against the
40 member of the department, the inspector general shall take action as provided by
41 subdivision (d).

1 (d) An inspector general receiving an allegation pursuant to subdivision (c) shall
2 do all of the following:

3 (1) Expeditiously determine whether there is sufficient evidence, in accordance
4 with federal regulations governing federal inspectors general, to warrant an
5 investigation of the allegation.

6 (2) Conduct a separate investigation of the information that the member making
7 the allegation believes constitutes evidence of wrongdoing under both of the
8 following circumstances:

9 (A) There has not been a previous investigation.

10 (B) There has been a previous investigation but the inspector general determines
11 that the previous investigation was biased or otherwise inadequate.

12 (3) Upon determining that an investigation of an allegation is warranted,
13 expeditiously investigate the allegation.

14 (e) If the inspector general is not outside the immediate chain of command of both
15 the member submitting the allegation and the individual or individuals alleged to
16 have taken a personnel action prohibited by paragraph (2) of subdivision (b), the
17 inspector general shall refer the allegation to the Chief of the National Guard Bureau
18 and the Governor.

19 (f)(1) After completion of an investigation the inspector general shall submit a
20 report on the results of the investigation to the Adjutant General and a copy of the
21 report on the results of the investigation to the member of the department who made
22 the allegation. The report shall be transmitted to the Adjutant General, and the copy
23 of the report shall be transmitted to the member, not later than 30 days after the
24 completion of the investigation.

25 (2) The report on the results of the investigation transmitted to the Adjutant
26 General shall contain a thorough review of the facts and circumstances relevant to
27 the allegation and the complaint or disclosure and shall include documents acquired
28 during the course of the investigation, including summaries of interviews
29 conducted. The report may include a recommendation as to the disposition of the
30 complaint.

31 (3) Except for that information that is not required to be disclosed under the
32 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of~~
33 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
34 Government Code, in the copy of the report transmitted to the member of the
35 department the inspector general shall ensure the maximum disclosure of
36 information that may be lawfully disclosed. The copy of the report need not,
37 however, include summaries of interviews conducted, or any document acquired,
38 during the course of the investigation. These items shall be transmitted to the
39 member of the department, if the member requests the items, with the copy of the
40 report or after the transmittal to the member of the copy of the report, regardless of
41 whether the request for those items is made before or after the copy of the report is
42 transmitted to the member.

1 (4) If, in the course of an investigation of an allegation under this section, the
2 inspector general determines that it is not possible to submit the report required by
3 this subdivision within 180 days after the date of receipt of the allegation being
4 investigated, the inspector general shall provide to the Adjutant General and to the
5 member making the allegation a notice of all of the following:

6 (A) The reasons why the report may not be submitted within that time.

7 (B) When the report will be submitted.

8 (g) Nothing in this article is intended to supersede the rights, benefits, processes,
9 and procedures already afforded to members of the department under existing law.

10 (h) For purposes of this section, all of the following shall apply:

11 (1) A “communication” means any communication or report in which a member
12 of the department complains of, or discloses information that the member of the
13 department reasonably believes constitutes evidence of, any of the following:

14 (A) A violation of law, including, but not limited to, regulations, the Uniform
15 Code of Military Justice, and any law prohibiting sexual harassment or unlawful
16 discrimination.

17 (B) Gross mismanagement, a gross waste of funds, an abuse of authority, or a
18 substantial and specified danger to the public health or safety.

19 (2) “Department” means the Military Department.

20 (3) “Inspector general” means the California Military Department Inspector
21 General.

22 (4) “Member of the department” has the same meaning as defined in Section 55.

23 (5) “Office” means the Office of the California Military Department Inspector
24 General.

25 **Comment.** Section 56 is amended to reflect nonsubstantive recodification of the California
26 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
27 Reports __ (2019).

28 The section is also amended to make a technical change.

29 PENAL CODE

30 **§ 146e (amended). Disclosure of residence address or telephone number of peace officer or**
31 **other specified person**

32 SEC. ____. Section 146e of the Penal Code is amended to read:

33 146e. (a) Every person who maliciously, and with the intent to obstruct justice or
34 the due administration of the laws, or with the intent or threat to inflict imminent
35 physical harm in retaliation for the due administration of the laws, publishes,
36 disseminates, or otherwise discloses the residence address or telephone number of
37 any peace officer, nonsworn police dispatcher, employee of a city police department
38 or county sheriff’s office, or public safety official, or that of the spouse or children
39 of these persons who reside with them, while designating the peace officer,
40 nonsworn police dispatcher, employee of a city police department or county

1 sheriff’s office, or public safety official, or relative of these persons as such, without
2 the authorization of the employing agency, is guilty of a misdemeanor.

3 (b) A violation of subdivision (a) with regard to any peace officer, employee of a
4 city police department or county sheriff’s office, or public safety official, or the
5 spouse or children of these persons, that results in bodily injury to the peace officer,
6 employee of the city police department or county sheriff’s office, or public safety
7 official, or the spouse or children of these persons, is a felony punishable by
8 imprisonment pursuant to subdivision (h) of Section 1170.

9 (c) For purposes of this section, “public safety official” is defined in
10 Section ~~6254.24~~ 7930.535 of the Government Code.

11 **Comment.** Section 146e is amended to reflect nonsubstantive recodification of the California
12 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
13 Reports __ (2019).

14 **§ 186.34 (amended). Gang databases**

15 SEC. ____. Section 186.34 of the Penal Code is amended to read:

16 186.34. (a) For purposes of this section and Sections 186.35 and 186.36, the
17 following definitions apply:

18 (1) “Criminal street gang” means an ongoing organization, association, or group
19 of three or more persons, whether formal or informal, having as one of its primary
20 activities the commission of crimes enumerated in paragraphs (1) to (25), inclusive,
21 and paragraphs (31) to (33), inclusive, of subdivision (e) of Section 186.22 who
22 have a common identifying sign, symbol, or name, and whose members individually
23 or collectively engage in or have engaged in a pattern of definable criminal activity.

24 (2) “Gang database” means any database accessed by a law enforcement agency
25 that designates a person as a gang member or associate, or includes or points to
26 information, including, but not limited to, fact-based or uncorroborated information,
27 that reflects a designation of that person as a gang member or associate.

28 (3) “Law enforcement agency” means a governmental agency or a subunit of a
29 governmental agency, and its authorized support staff and contractors, whose
30 primary function is detection, investigation, or apprehension of criminal offenders,
31 or whose primary duties include detention, pretrial release, posttrial release,
32 correctional supervision, or the collection, storage, or dissemination of criminal
33 history record information.

34 (4) “Shared gang database” means a gang database that is accessed by an agency
35 or person outside of the agency that created the records that populate the database.

36 (b) Notwithstanding subdivision (a), the following are not subject to this section,
37 or Sections 186.35 and 186.36:

38 (1) Databases that designate persons as gang members or associates using only
39 criminal offender record information, as defined in Section 13102, or information
40 collected pursuant to Section 186.30.

41 (2) Databases accessed solely by jail or custodial facility staff for classification or
42 operational decisions in the administration of the facility.

1 (c)(1) To the extent a local law enforcement agency elects to utilize a shared gang
2 database prior to a local law enforcement agency designating a person as a suspected
3 gang member, associate, or affiliate in a shared gang database, or submitting a
4 document to the Attorney General's office for the purpose of designating a person
5 in a shared gang database, or otherwise identifying the person in a shared gang
6 database, the local law enforcement agency shall provide written notice to the
7 person, and shall, if the person is under 18 years of age, provide written notice to
8 the person and ~~his or her~~ the person's parent or guardian, of the designation and the
9 basis for the designation, unless providing that notification would compromise an
10 active criminal investigation or compromise the health or safety of the minor.

11 (2) The notice described in paragraph (1) shall describe the process for the person,
12 or, if the person is under 18 years of age, for ~~his or her~~ the person's parent or
13 guardian, or an attorney working on behalf of the person, to contest the designation
14 of the person in the database. The notice shall also inform the person of the reason
15 for ~~his or her~~ the person's designation in the database.

16 (d)(1)(A) A person, or, if the person is under 18 years of age, ~~his or her~~ the
17 person's parent or guardian, or an attorney working on behalf of the person, may
18 request information of any law enforcement agency as to whether the person is
19 designated as a suspected gang member, associate, or affiliate in a shared gang
20 database accessible by that law enforcement agency and the name of the law
21 enforcement agency that made the designation. A request pursuant to this paragraph
22 shall be in writing.

23 (B) If a person about whom information is requested pursuant to subparagraph
24 (A) is designated as a suspected gang member, associate, or affiliate in a shared
25 gang database by that law enforcement agency, the person making the request may
26 also request information as to the basis for the designation for the purpose of
27 contesting the designation as described in subdivision (e).

28 (2) The law enforcement agency shall provide information requested under
29 paragraph (1), unless doing so would compromise an active criminal investigation
30 or compromise the health or safety of the person if the person is under 18 years of
31 age.

32 (3) The law enforcement agency shall respond to a valid request pursuant to
33 paragraph (1) in writing to the person making the request within 30 calendar days
34 of receipt of the request.

35 (e) Subsequent to the notice described in subdivision (c) or the law enforcement
36 agency's response to an information request described in subdivision (d), the person
37 designated or to be designated as a suspected gang member, associate, or affiliate,
38 or ~~his or her~~ the person's parent or guardian if the person is under 18 years of age,
39 may submit written documentation to the local law enforcement agency contesting
40 the designation. The local law enforcement agency shall review the documentation,
41 and if the agency determines that the person is not a suspected gang member,
42 associate, or affiliate, the agency shall remove the person from the shared gang
43 database. The local law enforcement agency shall provide the person and, if the

1 person is under 18 years of age, ~~his or her~~ the person's parent or guardian, with
2 written verification of the agency's decision within 30 days of submission of the
3 written documentation contesting the designation. If the law enforcement agency
4 denies the request for removal, the notice of its determination shall state the reason
5 for the denial. If the law enforcement agency does not provide a verification of the
6 agency's decision within the required 30-day period, the request to remove the
7 person from the gang database shall be deemed denied. The person or, if the person
8 is under 18 years of age, ~~his or her~~ the person's parent or guardian may petition the
9 court to review the law enforcement agency's denial of the request for removal and
10 order the law enforcement agency to remove the person from the shared gang
11 database pursuant to Section 186.35.

12 (f) Nothing in this section shall require a local law enforcement agency to disclose
13 any information protected under Section 1040 or 1041 of the Evidence Code or
14 ~~Section 6254 any provision listed in Section 7920.505~~ of the Government Code.

15 **Comment.** Section 186.34 is amended to reflect nonsubstantive recodification of the California
16 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
17 Reports __ (2019).

18 The section is also amended to eliminate gendered pronouns.

19 **§ 290.07 (amended). Access of SARATSO personnel to records relating to registered sex**
20 **offender**

21 SEC. ____. Section 290.07 of the Penal Code is amended to read:

22 290.07. Notwithstanding any other provision of law, a person authorized by
23 statute to administer the State Authorized Risk Assessment Tool for Sex Offenders
24 (SARATSO) and trained pursuant to Section 290.06 or 290.09, and a person acting
25 under authority from the SARATSO Review Committee as an expert to train,
26 monitor, or review scoring by persons who administer the SARATSO pursuant to
27 Section 290.05 or 1203 of this code or Section 706 of the Welfare and Institutions
28 Code, shall be granted access to all relevant records pertaining to a registered sex
29 offender, including, but not limited to, criminal histories, sex offender registration
30 records, police reports, probation and presentencing reports, judicial records and
31 case files, juvenile records, psychological evaluations and psychiatric hospital
32 reports, sexually violent predator treatment program reports, and records that have
33 been sealed by the courts or the Department of Justice. Records and information
34 obtained under this section shall not be subject to the California Public Records Act,
35 ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
36 (commencing with Section 7920.000) of Title 1 of the Government Code.

37 **Comment.** Section 290.07 is amended to reflect nonsubstantive recodification of the California
38 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
39 Reports __ (2019).

1 § 290.46 (as amended by 2018 Cal. Stat. ch. 423, § 57) (operative until Jan. 1, 2022)
2 (amended). Internet Web site to be maintained by Department of Justice

3 SEC. ____ . Section 290.46 of the Penal Code, as amended by Section 57 of Chapter
4 423 of the Statutes of 2018, is amended to read:

5 290.46. (a)(1) On or before the dates specified in this section, the Department of
6 Justice shall make available information concerning persons who are required to
7 register pursuant to Section 290 to the public via an Internet Web site as specified
8 in this section. The department shall update the Internet Web site on an ongoing
9 basis. All information identifying the victim by name, birth date, address, or
10 relationship to the registrant shall be excluded from the Internet Web site. The name
11 or address of the person's employer and the listed person's criminal history other
12 than the specific crimes for which the person is required to register shall not be
13 included on the Internet Web site. The Internet Web site shall be translated into
14 languages other than English as determined by the department.

15 (2)(A) On or before July 1, 2010, the Department of Justice shall make available
16 to the public, via an Internet Web site as specified in this section, as to any person
17 described in subdivision (b), (c), or (d), the following information:

18 (i) The year of conviction of ~~his or her~~ the person's most recent offense requiring
19 registration pursuant to Section 290.

20 (ii) The year ~~he or she~~ the person was released from incarceration for that offense.

21 (iii) Whether ~~he or she~~ the person was subsequently incarcerated for any other
22 felony, if that fact is reported to the department. If the department has no information
23 about a subsequent incarceration for any felony, that fact shall be noted on the
24 Internet Web site.

25 However, no year of conviction shall be made available to the public unless the
26 department also is able to make available the corresponding year of release of
27 incarceration for that offense, and the required notation regarding any subsequent
28 felony.

29 (B)(i) Any state facility that releases from incarceration a person who was
30 incarcerated because of a crime for which ~~he or she~~ the person is required to register
31 as a sex offender pursuant to Section 290 shall, within 30 days of release, provide
32 the year of release for ~~his or her~~ the person's most recent offense requiring
33 registration to the Department of Justice in a manner and format approved by the
34 department.

35 (ii) Any state facility that releases a person who is required to register pursuant to
36 Section 290 from incarceration whose incarceration was for a felony committed
37 subsequently to the offense for which ~~he or she~~ the person is required to register
38 shall, within 30 days of release, advise the Department of Justice of that fact.

39 (iii) Any state facility that, prior to January 1, 2007, released from incarceration a
40 person who was incarcerated because of a crime for which ~~he or she~~ the person is
41 required to register as a sex offender pursuant to Section 290 shall provide the year
42 of release for ~~his or her~~ the person's most recent offense requiring registration to the
43 Department of Justice in a manner and format approved by the department. The

1 information provided by the Department of Corrections and Rehabilitation shall be
2 limited to information that is currently maintained in an electronic format.

3 (iv) Any state facility that, prior to January 1, 2007, released a person who is
4 required to register pursuant to Section 290 from incarceration whose incarceration
5 was for a felony committed subsequently to the offense for which ~~he or she~~ the
6 person is required to register shall advise the Department of Justice of that fact in a
7 manner and format approved by the department. The information provided by the
8 Department of Corrections and Rehabilitation shall be limited to information that is
9 currently maintained in an electronic format.

10 (3) The State Department of State Hospitals shall provide to the Department of
11 Justice the names of all persons committed to its custody pursuant to Article 4
12 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare
13 and Institutions Code, within 30 days of commitment, and shall provide the names
14 of all of those persons released from its custody within five working days of release.

15 (b)(1) On or before July 1, 2005, with respect to a person who has been convicted
16 of the commission or the attempted commission of any of the offenses listed in, or
17 who is described in, paragraph (2), the Department of Justice shall make available
18 to the public via the Internet Web site ~~his or her~~ the person's name and known
19 aliases, a photograph, a physical description, including gender and race, date of
20 birth, criminal history, prior adjudication as a sexually violent predator, the address
21 at which the person resides, and any other information that the Department of Justice
22 deems relevant, but not the information excluded pursuant to subdivision (a). On or
23 before January 1, 2013, the department shall make available to the public via the
24 Internet Web site ~~his or her~~ the person's static SARATSO score and information on
25 an elevated risk level based on the SARATSO future violence tool.

26 (2) This subdivision shall apply to the following offenses and offenders:

27 (A) Section 187 committed in the perpetration, or an attempt to perpetrate, rape
28 or any act punishable under Section 286, 287, 288, or 289, or former Section 288a.

29 (B) Section 207 committed with intent to violate Section 261, 286, 287, 288, or
30 289, or former Section 288a.

31 (C) Section 209 committed with intent to violate Section 261, 286, 287, 288, or
32 289, or former Section 288a.

33 (D) Paragraph (2) or (6) of subdivision (a) of Section 261.

34 (E) Section 264.1.

35 (F) Section 269.

36 (G) Subdivision (c) or (d) of Section 286.

37 (H) Subdivision (a), (b), or (c) of Section 288, provided that the offense is a
38 felony.

39 (I) Subdivision (c) or (d) of Section 287 or of former Section 288a.

40 (J) Section 288.3, provided that the offense is a felony.

41 (K) Section 288.4, provided that the offense is a felony.

42 (L) Section 288.5.

43 (M) Subdivision (a) or (j) of Section 289.

1 (N) Section 288.7.

2 (O) Any person who has ever been adjudicated a sexually violent predator, as
3 defined in Section 6600 of the Welfare and Institutions Code.

4 (P) A felony violation of Section 311.1.

5 (Q) A felony violation of subdivision (b), (c), or (d) of Section 311.2.

6 (R) A felony violation of Section 311.3.

7 (S) A felony violation of subdivision (a), (b), or (c) of Section 311.4.

8 (T) Section 311.10.

9 (U) A felony violation of Section 311.11.

10 (c)(1) On or before July 1, 2005, with respect to a person who has been convicted
11 of the commission or the attempted commission of any of the offenses listed in
12 paragraph (2), the Department of Justice shall make available to the public via the
13 Internet Web site ~~his or her~~ the person's name and known aliases, a photograph, a
14 physical description, including gender and race, date of birth, criminal history, the
15 community of residence and ZIP Code in which the person resides or the county in
16 which the person is registered as a transient, and any other information that the
17 Department of Justice deems relevant, but not the information excluded pursuant to
18 subdivision (a). On or before July 1, 2006, the Department of Justice shall determine
19 whether any person convicted of an offense listed in paragraph (2) also has one or
20 more prior or subsequent convictions of an offense listed in subdivision (c) of
21 Section 290, and, for those persons, the Department of Justice shall make available
22 to the public via the Internet Web site the address at which the person resides.
23 However, the address at which the person resides shall not be disclosed until a
24 determination is made that the person is, by virtue of ~~his or her~~ the person's
25 additional prior or subsequent conviction of an offense listed in subdivision (c) of
26 Section 290, subject to this subdivision.

27 (2) This subdivision shall apply to the following offenses:

28 (A) Section 220, except assault to commit mayhem.

29 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

30 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 286.

31 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 287
32 or of former Section 288a.

33 (E) Subdivision (b), (d), (e), or (i) of Section 289.

34 (d)(1) On or before July 1, 2005, with respect to a person who has been convicted
35 of the commission or the attempted commission of any of the offenses listed in, or
36 who is described in, this subdivision, the Department of Justice shall make available
37 to the public via the Internet Web site ~~his or her~~ the person's name and known
38 aliases, a photograph, a physical description, including gender and race, date of
39 birth, criminal history, the community of residence and ZIP Code in which the
40 person resides or the county in which the person is registered as a transient, and any
41 other information that the Department of Justice deems relevant, but not the
42 information excluded pursuant to subdivision (a) or the address at which the person
43 resides.

1 (2) This subdivision shall apply to the following offenses and offenders:

2 (A) Subdivision (a) of Section 243.4, provided that the offense is a felony.

3 (B) Section 266, provided that the offense is a felony.

4 (C) Section 266c, provided that the offense is a felony.

5 (D) Section 266j.

6 (E) Section 267.

7 (F) Subdivision (c) of Section 288, provided that the offense is a misdemeanor.

8 (G) Section 288.3, provided that the offense is a misdemeanor.

9 (H) Section 288.4, provided that the offense is a misdemeanor.

10 (I) Section 626.81.

11 (J) Section 647.6.

12 (K) Section 653c.

13 (L) Any person required to register pursuant to Section 290 based upon an out-of-
14 state conviction, unless that person is excluded from the Internet Web site pursuant
15 to subdivision (e). However, if the Department of Justice has determined that the
16 out-of-state crime, if committed or attempted in this state, would have been
17 punishable in this state as a crime described in subdivision (c) of Section 290, the
18 person shall be placed on the Internet Web site as provided in subdivision (b) or (c),
19 as applicable to the crime.

20 (e)(1) If a person has been convicted of the commission or the attempted
21 commission of any of the offenses listed in this subdivision, and ~~he or she~~ the person
22 has been convicted of no other offense listed in subdivision (b), (c), or (d) other than
23 those listed in this subdivision, that person may file an application with the
24 Department of Justice, on a form approved by the department, for exclusion from
25 the Internet Web site. If the department determines that the person meets the
26 requirements of this subdivision, the department shall grant the exclusion and no
27 information concerning the person shall be made available via the Internet Web site
28 described in this section. ~~He or she~~ The person bears the burden of proving the facts
29 that make ~~him or her~~ the person eligible for exclusion from the Internet Web site.
30 However, a person who has filed for or been granted an exclusion from the Internet
31 Web site is not relieved of ~~his or her~~ the person's duty to register as a sex offender
32 pursuant to Section 290 nor from any otherwise applicable provision of law.

33 (2) This subdivision shall apply to the following offenses:

34 (A) A felony violation of subdivision (a) of Section 243.4.

35 (B) Section 647.6, if the offense is a misdemeanor.

36 (C) A felony violation of Section 311.1, subdivision (b), (c), or (d) of Section
37 311.2, or Section 311.3, 311.4, 311.10, or 311.11 if the person submits to the
38 department a certified copy of a probation report filed in court that clearly states that
39 all victims involved in the commission of the offense were at least 16 years of age
40 or older at the time of the commission of the offense.

41 (D)(i) An offense for which the offender successfully completed probation,
42 provided that the offender submits to the department a certified copy of a probation
43 report, presentencing report, report prepared pursuant to Section 288.1, or other

1 official court document that clearly demonstrates that the offender was the victim’s
2 parent, stepparent, sibling, or grandparent and that the crime did not involve either
3 oral copulation or penetration of the vagina or rectum of either the victim or the
4 offender by the penis of the other or by any foreign object.

5 (ii) An offense for which the offender is on probation at the time of ~~his or her~~ the
6 offender’s application, provided that the offender submits to the department a
7 certified copy of a probation report, presentencing report, report prepared pursuant
8 to Section 288.1, or other official court document that clearly demonstrates that the
9 offender was the victim’s parent, stepparent, sibling, or grandparent and that the
10 crime did not involve either oral copulation or penetration of the vagina or rectum
11 of either the victim or the offender by the penis of the other or by any foreign object.

12 (iii) If, subsequent to ~~his or her~~ the offender’s application, the offender commits
13 a violation of probation resulting in ~~his or her~~ the offender’s incarceration in county
14 jail or state prison, ~~his or her~~ the offender’s exclusion, or application for exclusion,
15 from the Internet Web site shall be terminated.

16 (iv) For the purposes of this subparagraph, “successfully completed probation”
17 means that during the period of probation the offender neither received additional
18 county jail or state prison time for a violation of probation nor was convicted of
19 another offense resulting in a sentence to county jail or state prison.

20 (3) If the department determines that a person who was granted an exclusion under
21 a former version of this subdivision would not qualify for an exclusion under the
22 current version of this subdivision, the department shall rescind the exclusion, make
23 a reasonable effort to provide notification to the person that the exclusion has been
24 rescinded, and, no sooner than 30 days after notification is attempted, make
25 information about the offender available to the public on the Internet Web site as
26 provided in this section.

27 (4) Effective January 1, 2012, no person shall be excluded pursuant to this
28 subdivision unless the offender has submitted to the department documentation
29 sufficient for the department to determine that ~~he or she~~ the person has a SARATSO
30 risk level of low or moderate-low.

31 (f) The Department of Justice shall make a reasonable effort to provide
32 notification to persons who have been convicted of the commission or attempted
33 commission of an offense specified in subdivision (b), (c), or (d), that on or before
34 July 1, 2005, the department is required to make information about specified sex
35 offenders available to the public via an Internet Web site as specified in this section.
36 The Department of Justice shall also make a reasonable effort to provide notice that
37 some offenders are eligible to apply for exclusion from the Internet Web site.

38 (g)(1) A designated law enforcement entity, as defined in subdivision (f) of
39 Section 290.45, may make available information concerning persons who are
40 required to register pursuant to Section 290 to the public via an Internet Web site as
41 specified in paragraph (2).

42 (2) The law enforcement entity may make available by way of an Internet Web
43 site the information described in subdivision (c) if it determines that the public

1 disclosure of the information about a specific offender by way of the entity's
2 Internet Web site is necessary to ensure the public safety based upon information
3 available to the entity concerning that specific offender.

4 (3) The information that may be provided pursuant to this subdivision may
5 include the information specified in subdivision (b) of Section 290.45. However,
6 that offender's address may not be disclosed unless ~~he or she~~ the offender is a person
7 whose address is on the Department of Justice's Internet Web site pursuant to
8 subdivision (b) or (c).

9 (h) For purposes of this section, "offense" includes the statutory predecessors of
10 that offense, or any offense committed in another jurisdiction that, if committed or
11 attempted to be committed in this state, would have been punishable in this state as
12 an offense listed in subdivision (c) of Section 290.

13 (i) Notwithstanding Section ~~6254.5~~ 7921.505 of the Government Code, disclosure
14 of information pursuant to this section is not a waiver of exemptions under ~~Chapter~~
15 ~~3.5 (commencing with Section 6250)~~ of Title 1 of ~~Division 7~~ Division 10
16 (commencing with Section 7920.000) of the Government Code and does not affect
17 other statutory restrictions on disclosure in other situations.

18 (j)(1) Any person who uses information disclosed pursuant to this section to
19 commit a misdemeanor shall be subject to, in addition to any other penalty or fine
20 imposed, a fine of not less than ten thousand dollars (\$10,000) and not more than
21 fifty thousand dollars (\$50,000).

22 (2) Any person who uses information disclosed pursuant to this section to commit
23 a felony shall be punished, in addition and consecutive to any other punishment, by
24 a five-year term of imprisonment pursuant to subdivision (h) of Section 1170.

25 (k) Any person who is required to register pursuant to Section 290 who enters an
26 Internet Web site established pursuant to this section shall be punished by a fine not
27 exceeding one thousand dollars (\$1,000), imprisonment in a county jail for a period
28 not to exceed six months, or by both that fine and imprisonment.

29 (l)(1) A person is authorized to use information disclosed pursuant to this section
30 only to protect a person at risk.

31 (2) Except as authorized under paragraph (1) or any other provision of law, use of
32 any information that is disclosed pursuant to this section for purposes relating to any
33 of the following is prohibited:

- 34 (A) Health insurance.
- 35 (B) Insurance.
- 36 (C) Loans.
- 37 (D) Credit.
- 38 (E) Employment.
- 39 (F) Education, scholarships, or fellowships.
- 40 (G) Housing or accommodations.
- 41 (H) Benefits, privileges, or services provided by any business establishment.

42 (3) This section shall not affect authorized access to, or use of, information
43 pursuant to, among other provisions, Sections 11105 and 11105.3, Section 8808 of

1 the Family Code, Sections 777.5 and 14409.2 of the Financial Code, Sections
2 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7 of the
3 Labor Code.

4 (4)(A) Any use of information disclosed pursuant to this section for purposes
5 other than those provided by paragraph (1) or in violation of paragraph (2) shall
6 make the user liable for the actual damages, and any amount that may be determined
7 by a jury or a court sitting without a jury, not exceeding three times the amount of
8 actual damage, and not less than two hundred fifty dollars (\$250), and attorney's
9 fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand
10 dollars (\$25,000).

11 (B) Whenever there is reasonable cause to believe that any person or group of
12 persons is engaged in a pattern or practice of misuse of the information available
13 via an Internet Web site established pursuant to this section in violation of paragraph
14 (2), the Attorney General, any district attorney, or city attorney, or any person
15 aggrieved by the misuse is authorized to bring a civil action in the appropriate court
16 requesting preventive relief, including an application for a permanent or temporary
17 injunction, restraining order, or other order against the person or group of persons
18 responsible for the pattern or practice of misuse. The foregoing remedies shall be
19 independent of any other remedies or procedures that may be available to an
20 aggrieved party under other provisions of law, including Part 2 (commencing with
21 Section 43) of Division 1 of the Civil Code.

22 (m) The public notification provisions of this section are applicable to every
23 person described in this section, without regard to when ~~his or her~~ the person's
24 crimes were committed or ~~his or her~~ the person's duty to register pursuant to Section
25 290 arose, and to every offense described in this section, regardless of when it was
26 committed.

27 (n) A designated law enforcement entity and its employees shall be immune from
28 liability for good faith conduct under this section.

29 (o) The Attorney General, in collaboration with local law enforcement and others
30 knowledgeable about sex offenders, shall develop strategies to assist members of
31 the public in understanding and using publicly available information about
32 registered sex offenders to further public safety. These strategies may include, but
33 are not limited to, a hotline for community inquiries, neighborhood and business
34 guidelines for how to respond to information posted on this Internet Web site, and
35 any other resource that promotes public education about these offenders.

36 (p) This section shall remain in effect only until January 1, 2022, and as of that
37 date is repealed.

38 **Comment.** Section 290.46 is amended to reflect nonsubstantive recodification of the California
39 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
40 Reports __ (2019).

41 The section is also amended to eliminate gendered pronouns.

1 § 290.46 (as amended by 2018 Cal. Stat. ch. 423, § 58) (operative Jan. 1, 2022) (amended).

2 Internet Web site to be maintained by Department of Justice

3 SEC. _____. Section 290.46 of the Penal Code, as amended by Section 58 of Chapter
4 423 of the Statutes of 2018, is amended to read:

5 290.46. (a)(1) On or before the dates specified in this section, the Department of
6 Justice shall make available information concerning persons who are required to
7 register pursuant to Section 290 to the public via an Internet Web site as specified
8 in this section. The department shall update the Internet Web site on an ongoing
9 basis. All information identifying the victim by name, birth date, address, or
10 relationship to the registrant shall be excluded from the Internet Web site. The name
11 or address of the person's employer and the listed person's criminal history other
12 than the specific crimes for which the person is required to register shall not be
13 included on the Internet Web site. The Internet Web site shall be translated into
14 languages other than English as determined by the department.

15 (2)(A) On or before July 1, 2010, the Department of Justice shall make available
16 to the public, via an Internet Web site as specified in this section, as to any person
17 described in subdivision (b), the following information:

18 (i) The year of conviction of ~~his or her~~ the person's most recent offense requiring
19 registration pursuant to Section 290.

20 (ii) The year ~~he or she~~ the person was released from incarceration for that offense.

21 However, no year of conviction shall be made available to the public unless the
22 department also is able to make available the corresponding year of release of
23 incarceration for that offense, and the required notation regarding any subsequent
24 felony.

25 (B)(i) Any state facility that releases from incarceration a person who was
26 incarcerated because of a crime for which ~~he or she~~ the person is required to register
27 as a sex offender pursuant to Section 290 shall, within 30 days of release, provide
28 the year of release for ~~his or her~~ the person's most recent offense requiring
29 registration to the Department of Justice in a manner and format approved by the
30 department.

31 (ii) Any state facility that releases a person who is required to register pursuant to
32 Section 290 from incarceration whose incarceration was for a felony committed
33 subsequently to the offense for which ~~he or she~~ the person is required to register
34 shall, within 30 days of release, advise the Department of Justice of that fact.

35 (iii) Any state facility that, prior to January 1, 2007, released from incarceration a
36 person who was incarcerated because of a crime for which ~~he or she~~ the person is
37 required to register as a sex offender pursuant to Section 290 shall provide the year
38 of release for ~~his or her~~ the person's most recent offense requiring registration to the
39 Department of Justice in a manner and format approved by the department. The
40 information provided by the Department of Corrections and Rehabilitation shall be
41 limited to information that is currently maintained in an electronic format.

42 (iv) Any state facility that, prior to January 1, 2007, released a person who is
43 required to register pursuant to Section 290 from incarceration whose incarceration

1 was for a felony committed subsequently to the offense for which ~~he or she~~ the
2 person is required to register shall advise the Department of Justice of that fact in a
3 manner and format approved by the department. The information provided by the
4 Department of Corrections and Rehabilitation shall be limited to information that is
5 currently maintained in an electronic format.

6 (3) The State Department of State Hospitals shall provide to the Department of
7 Justice the names of all persons committed to its custody pursuant to Article 4
8 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare
9 and Institutions Code, within 30 days of commitment, and shall provide the names
10 of all of those persons released from its custody within five working days of release.

11 (b)(1) With respect to a person who has been convicted of the commission or the
12 attempted commission of any of the offenses listed in, or who is otherwise described
13 in, paragraph (2), or who is a tier three offender as described in paragraph (3) of
14 subdivision (d) of Section 290, the Department of Justice shall make available to
15 the public via the Internet Web site ~~his or her~~ the person's name and known aliases,
16 a photograph, a physical description, including gender and race, date of birth,
17 criminal history, prior adjudication as a sexually violent predator, the address at
18 which the person resides, and any other information that the Department of Justice
19 deems relevant, but not the information excluded pursuant to subdivision (a), except
20 that information about persons required to register as a result of an adjudication as
21 a ward of the juvenile court pursuant to Section 290.008 shall not be made available
22 on the Internet Web site. The department shall also make available to the public via
23 the Internet Web site ~~his or her~~ the person's static SARATSO risk level, if any, and
24 information on an elevated risk level based on the SARATSO future violence tool.
25 Any registrant whose information is listed on the public Internet Web site on
26 January 1, 2022, by the Department of Justice pursuant to this subdivision, may
27 continue to be included on the public Internet Web site while the registrant is placed
28 in the tier-to-be-determined category described in paragraph (5) of subdivision (d)
29 of Section 290.

30 (2) This subdivision shall apply to the following offenses and offenders:

31 (A) Section 187 committed in the perpetration, or an attempt to perpetrate, rape
32 or any act punishable under Section 286, 287, 288, or 289, or former Section 288a.

33 (B) Section 207 committed with intent to violate Section 261, 286, 287, 288, or
34 289, or former Section 288a.

35 (C) Section 209 committed with intent to violate Section 261, 286, 287, 288, or
36 289, or former Section 288a.

37 (D) Paragraph (2) or (6) of subdivision (a) of Section 261.

38 (E) Section 264.1.

39 (F) Section 269.

40 (G) Subdivision (c) or (d) of Section 286.

41 (H) Subdivision (a), (b), or (c) of Section 288, provided that the offense is a
42 felony.

43 (I) Subdivision (c) or (d) of Section 287 or of former Section 288a.

- 1 (J) Section 288.3, provided that the offense is a felony.
2 (K) Section 288.4, provided that the offense is a felony.
3 (L) Section 288.5.
4 (M) Subdivision (a) or (j) of Section 289.
5 (N) Section 288.7.
6 (O) Any person who has ever been adjudicated a sexually violent predator, as
7 defined in Section 6600 of the Welfare and Institutions Code.
8 (P) A felony violation of Section 311.1.
9 (Q) A felony violation of subdivision (b), (c), or (d) of Section 311.2.
10 (R) A felony violation of Section 311.3.
11 (S) A felony violation of subdivision (a), (b), or (c) of Section 311.4.
12 (T) Section 311.10.
13 (U) A felony violation of Section 311.11.
14 (V) A tier three offender, as described in paragraph (3) of subdivision (d) of
15 Section 290.
16 (c)(1) With respect to a person who has been convicted of the commission or the
17 attempted commission of any of the offenses listed in, or who is otherwise described
18 in, paragraph (2) of subdivision (d) of Section 290 and who is a tier two offender,
19 and with respect to a person who has been convicted of the commission or the
20 attempted commission of Section 647.6, the Department of Justice shall make
21 available to the public via the Internet Web site ~~his or her~~ the person's name and
22 known aliases, a photograph, a physical description, including gender and race, date
23 of birth, criminal history, the community of residence and ZIP Code in which the
24 person resides or the county in which the person is registered as a transient, and any
25 other information that the Department of Justice deems relevant, but not the
26 information excluded pursuant to subdivision (a) or the address at which the person
27 resides, except that information about persons required to register as a result of an
28 adjudication as a ward of the juvenile court pursuant to Section 290.008 shall not be
29 made available on the Internet Web site. Any registrant whose information is listed
30 on the public Internet Web site on January 1, 2022, by the Department of Justice
31 pursuant to this subdivision may continue to be included on the public Internet Web
32 site while the registrant is placed in the tier-to-be-determined category described in
33 paragraph (5) of subdivision (d) of Section 290.
34 (2) Any registrant whose information was not included on the public Internet Web
35 site on January 1, 2022, and who is placed in the tier-to-be-determined category
36 described in paragraph (5) of subdivision (d) of Section 290 may have the
37 information described in this subdivision made available to the public via the public
38 Internet Web site.
39 (d)(1)(A) An offender who is required to register pursuant to the Sex Offender
40 Registration Act may apply for exclusion from the Internet Web site if ~~he or she~~ the
41 offender demonstrates that the person's only registerable offense is either of the
42 following:

1 (i) An offense for which the offender successfully completed probation, provided
2 that the offender submits to the department a certified copy of a probation report,
3 presentencing report, report prepared pursuant to Section 288.1, or other official
4 court document that clearly demonstrates that the offender was the victim's parent,
5 stepparent, sibling, or grandparent and that the crime did not involve either oral
6 copulation or penetration of the vagina or rectum of either the victim or the offender
7 by the penis of the other or by any foreign object.

8 (ii) An offense for which the offender is on probation at the time of ~~his or her~~ the
9 offender's application, provided that the offender submits to the department a
10 certified copy of a probation report, presentencing report, report prepared pursuant
11 to Section 288.1, or other official court document that clearly demonstrates that the
12 offender was the victim's parent, stepparent, sibling, or grandparent and that the
13 crime did not involve either oral copulation or penetration of the vagina or rectum
14 of either the victim or the offender by the penis of the other or by any foreign object.

15 (B) If, subsequent to ~~his or her~~ the offender's application, the offender commits a
16 violation of probation resulting in ~~his or her~~ the offender's incarceration in county
17 jail or state prison, ~~his or her~~ the offender's exclusion, or application for exclusion,
18 from the Internet Web site shall be terminated.

19 (C) For the purposes of this paragraph, "successfully completed probation" means
20 that during the period of probation the offender neither received additional county
21 jail or state prison time for a violation of probation nor was convicted of another
22 offense resulting in a sentence to county jail or state prison.

23 (2) If the department determines that a person who was granted an exclusion under
24 a former version of this subdivision would not qualify for an exclusion under the
25 current version of this subdivision, the department shall rescind the exclusion, make
26 a reasonable effort to provide notification to the person that the exclusion has been
27 rescinded, and, no sooner than 30 days after notification is attempted, make
28 information about the offender available to the public on the Internet Web site as
29 provided in this section.

30 (3) Effective January 1, 2012, no person shall be excluded pursuant to this
31 subdivision unless the offender has submitted to the department documentation
32 sufficient for the department to determine that ~~he or she~~ the person has a SARATSO
33 risk level of average, below average, or very low as determined by the Coding Rules
34 for the SARATSO static risk assessment instrument.

35 (e)(1) A designated law enforcement entity, as defined in subdivision (f) of
36 Section 290.45, may make available information concerning persons who are
37 required to register pursuant to Section 290 to the public via an Internet Web site as
38 specified in paragraph (2), provided that the information about that person is also
39 displayed on the Department of Justice's Megan's Law Internet Web site.

40 (2) The law enforcement entity may make available by way of an Internet Web
41 site the information described in subdivision (c) if it determines that the public
42 disclosure of the information about a specific offender by way of the entity's
43 Internet Web site is necessary to ensure the public safety based upon information

1 available to the entity concerning the current risk posed by a specific offender,
2 including ~~his or her~~ the offender's risk of sexual or violent reoffense, as indicated
3 by the person's SARATSO static, dynamic, and violence risk levels, as described in
4 Section 290.04, if available.

5 (3) The information that may be provided pursuant to this subdivision may
6 include the information specified in subdivision (b) of Section 290.45. However,
7 that offender's address may not be disclosed unless ~~he or she~~ the offender is a person
8 whose address is on the Department of Justice's Internet Web site pursuant to
9 subdivision (b).

10 (f) For purposes of this section, "offense" includes the statutory predecessors of
11 that offense, or any offense committed in another jurisdiction that, if committed or
12 attempted to be committed in this state, would have been punishable in this state as
13 an offense listed in subdivision (c) of Section 290.

14 (g) Notwithstanding Section ~~6254.5~~ 7921.505 of the Government Code,
15 disclosure of information pursuant to this section is not a waiver of exemptions
16 under ~~Chapter 3.5 (commencing with Section 6250)~~ of Title 1 of Division 7 Division
17 10 (commencing with Section 7920.000) of the Government Code and does not
18 affect other statutory restrictions on disclosure in other situations.

19 (h)(1) Any person who uses information disclosed pursuant to this section to
20 commit a misdemeanor shall be subject to, in addition to any other penalty or fine
21 imposed, a fine of not less than ten thousand dollars (\$10,000) and not more than
22 fifty thousand dollars (\$50,000).

23 (2) Any person who uses information disclosed pursuant to this section to commit
24 a felony shall be punished, in addition and consecutive to any other punishment, by
25 a five-year term of imprisonment pursuant to subdivision (h) of Section 1170.

26 (i) Any person who is required to register pursuant to Section 290 who enters an
27 Internet Web site established pursuant to this section shall be punished by a fine not
28 exceeding one thousand dollars (\$1,000), imprisonment in a county jail for a period
29 not to exceed six months, or by both that fine and imprisonment.

30 (j)(1) A person is authorized to use information disclosed pursuant to this section
31 only to protect a person at risk.

32 (2) Except as authorized under paragraph (1) or any other provision of law, use of
33 any information that is disclosed pursuant to this section for purposes relating to any
34 of the following is prohibited:

35 (A) Health insurance.

36 (B) Insurance.

37 (C) Loans.

38 (D) Credit.

39 (E) Employment.

40 (F) Education, scholarships, or fellowships.

41 (G) Housing or accommodations.

42 (H) Benefits, privileges, or services provided by any business establishment.

1 (3) This section shall not affect authorized access to, or use of, information
2 pursuant to, among other provisions, Sections 11105 and 11105.3 of this code,
3 Section 8808 of the Family Code, Sections 777.5 and 14409.2 of the Financial Code,
4 Sections 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7
5 of the Labor Code.

6 (4)(A) Any use of information disclosed pursuant to this section for purposes
7 other than those provided by paragraph (1) or in violation of paragraph (2) shall
8 make the user liable for the actual damages, and any amount that may be determined
9 by a jury or a court sitting without a jury, not exceeding three times the amount of
10 actual damage, and not less than two hundred fifty dollars (\$250), and attorney's
11 fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand
12 dollars (\$25,000).

13 (B) Whenever there is reasonable cause to believe that any person or group of
14 persons is engaged in a pattern or practice of misuse of the information available
15 via an Internet Web site established pursuant to this section in violation of paragraph
16 (2), the Attorney General, any district attorney, or city attorney, or any person
17 aggrieved by the misuse is authorized to bring a civil action in the appropriate court
18 requesting preventive relief, including an application for a permanent or temporary
19 injunction, restraining order, or other order against the person or group of persons
20 responsible for the pattern or practice of misuse. The foregoing remedies shall be
21 independent of any other remedies or procedures that may be available to an
22 aggrieved party under other provisions of law, including Part 2 (commencing with
23 Section 43) of Division 1 of the Civil Code.

24 (k) The public notification provisions of this section are applicable to every
25 person described in this section, without regard to when ~~his or her~~ the person's
26 crimes were committed or ~~his or her~~ the person's duty to register pursuant to Section
27 290 arose, and to every offense described in this section, regardless of when it was
28 committed.

29 (l) A designated law enforcement entity and its employees shall be immune from
30 liability for good faith conduct under this section.

31 (m) The Attorney General, in collaboration with local law enforcement and others
32 knowledgeable about sex offenders, shall develop strategies to assist members of
33 the public in understanding and using publicly available information about
34 registered sex offenders to further public safety. These strategies may include, but
35 are not limited to, a hotline for community inquiries, neighborhood and business
36 guidelines for how to respond to information posted on this Internet Web site, and
37 any other resource that promotes public education about these offenders.

38 (n) This section shall become operative on January 1, 2022.

39 **Comment.** Section 290.46 is amended to reflect nonsubstantive recodification of the California
40 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
41 Reports __ (2019).

42 The section is also amended to eliminate gendered pronouns.

1 § 293 (amended). Confidential information

2 SEC. ____ . Section 293 of the Penal Code is amended to read:

3 293. (a) An employee of a law enforcement agency who personally receives a
4 report from a person, alleging that the person making the report has been the victim
5 of a sex offense, shall inform that person that ~~his or her~~ the person's name will
6 become a matter of public record unless ~~he or she~~ the person requests that it not
7 become a matter of public record, pursuant to Section ~~6254~~ 7923.615 of the
8 Government Code.

9 (b) A written report of an alleged sex offense shall indicate that the alleged victim
10 has been properly informed pursuant to subdivision (a) and shall memorialize ~~his or~~
11 ~~her~~ the victim's response.

12 (c) A law enforcement agency shall not disclose to a person, except the
13 prosecutor, parole officers of the Department of Corrections and Rehabilitation,
14 hearing officers of the parole authority, probation officers of county probation
15 departments, or other persons or public agencies where authorized or required by
16 law, the address of a person who alleges to be the victim of a sex offense.

17 (d) A law enforcement agency shall not disclose to a person, except the
18 prosecutor, parole officers of the Department of Corrections and Rehabilitation,
19 hearing officers of the parole authority, probation officers of county probation
20 departments, or other persons or public agencies where authorized or required by
21 law, the name of a person who alleges to be the victim of a sex offense if that person
22 has elected to exercise ~~his or her~~ the person's right pursuant to this section and
23 Section ~~6254~~ 7923.615 of the Government Code.

24 (e) A law enforcement agency shall not disclose to a person, except the
25 prosecutor, parole officers of the Department of Corrections and Rehabilitation,
26 hearing officers of the parole authority, probation officers of county probation
27 departments, or other persons or public agencies if authorized or required by law,
28 names, addresses, or images of a person who alleges to be the victim of human
29 trafficking, as defined in Section 236.1, or of that alleged victim's immediate
30 family, other than a family member who is charged with a criminal offense arising
31 from the same incident, and that information and those images shall be withheld and
32 remain confidential. The law enforcement agency shall orally inform the person
33 who alleges to be the victim of human trafficking of ~~his or her~~ that person's right to
34 have ~~his or her~~ the person's name, addresses, and images, and the names, addresses,
35 and images of ~~his or her~~ the person's immediate family members withheld and kept
36 confidential pursuant to this section and Section ~~6254~~ 7923.615 of the Government
37 Code. For purposes of this subdivision, "immediate family" shall have the same
38 meaning as that provided in paragraph (3) of subdivision (b) of Section 422.4 of the
39 Penal Code.

40 (f) For purposes of this section, sex offense means any crime listed in
41 ~~subparagraph (A) of paragraph (2) of subdivision (f) of Section 6254~~ subdivision
42 (b) of Section 7923.615 of the Government Code.

1 (g) Parole officers of the Department of Corrections and Rehabilitation, hearing
2 officers of the parole authority, and probation officers of county probation
3 departments shall be entitled to receive information pursuant to subdivisions (c),
4 (d), and (e) only if the person to whom the information pertains alleges that ~~he or~~
5 ~~she~~ the person is the victim of a sex offense or is the victim of human trafficking, as
6 defined in Section 236.1, the alleged perpetrator of which is a parolee who is alleged
7 to have committed the offense while on parole, or in the case of a county probation
8 officer, the person who is alleged to have committed the offense is a probationer or
9 is under investigation by a county probation department.

10 **Comment.** Section 293 is amended to reflect nonsubstantive recodification of the California
11 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
12 Reports __ (2019).

13 The section is also amended to eliminate gendered pronouns.

14 **§ 293.5 (amended). References to alleged victim in court records and proceedings**

15 SEC. ____. Section 293.5 of the Penal Code is amended to read:

16 293.5. (a) Except as provided in Chapter 10 (commencing with Section 1054) of
17 Part 2 of Title 7, or for cases in which the alleged victim of a sex offense, as specified
18 in subdivision (f) of Section 293, has not elected to exercise ~~his or her~~ the alleged
19 victim's right pursuant to Section ~~6254~~ 7923.615 of the Government Code, the
20 court, at the request of the alleged victim, may order the identity of the alleged
21 victim in all records and during all proceedings to be either Jane Doe or John Doe,
22 if the court finds that ~~such an~~ that type of order is reasonably necessary to protect
23 the privacy of the person and will not unduly prejudice the prosecution or the
24 defense.

25 (b) If the court orders the alleged victim to be identified as Jane Doe or John Doe
26 pursuant to subdivision (a) and if there is a jury trial, the court shall instruct the jury,
27 at the beginning and at the end of the trial, that the alleged victim is being so
28 identified only for the purpose of protecting ~~his or her~~ the alleged victim's privacy
29 pursuant to this section.

30 **Comment.** Section 293.5 is amended to reflect nonsubstantive recodification of the California
31 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
32 Reports __ (2019).

33 The section is also amended to eliminate gendered pronouns and make another technical change.

34 **§ 637.5 (amended). Privacy of subscriber to satellite or cable television system**

35 SEC. ____. Section 637.5 of the Penal Code is amended to read:

36 637.5. (a) No person who owns, controls, operates, or manages a satellite or cable
37 television corporation, or who leases channels on a satellite or cable system shall:

38 (1) Use any electronic device to record, transmit, or observe any events or listen
39 to, record, or monitor any conversations that take place inside a subscriber's
40 residence, workplace, or place of business, without obtaining the express written
41 consent of the subscriber. A satellite or cable television corporation may conduct
42 electronic sweeps of subscriber households to monitor for signal quality.

1 (2) Provide any person with any individually identifiable information regarding
2 any of its subscribers, including, but not limited to, the subscriber's television
3 viewing habits, shopping choices, interests, opinions, energy uses, medical
4 information, banking data or information, or any other personal or private
5 information, without the subscriber's express written consent.

6 (b) Individual subscriber viewing responses or other individually identifiable
7 information derived from subscribers may be retained and used by a satellite or
8 cable television corporation only to the extent reasonably necessary for billing
9 purposes and internal business practices, and to monitor for unauthorized reception
10 of services. A satellite or cable television corporation may compile, maintain, and
11 distribute a list containing the names and addresses of its subscribers if the list
12 contains no other individually identifiable information and if subscribers are
13 afforded the right to elect not to be included on the list. However, a satellite or cable
14 television corporation shall maintain adequate safeguards to ensure the physical
15 security and confidentiality of the subscriber information.

16 (c)(1) A satellite or cable television corporation shall not make individual
17 subscriber information available to government agencies in the absence of legal
18 compulsion, including, but not limited to, a court order or subpoena. If requests for
19 information are made, a satellite or cable television corporation shall promptly
20 notify the subscriber of the nature of the request and what government agency has
21 requested the information prior to responding unless otherwise prohibited from
22 doing so by law.

23 (2) Nothing in this section shall be construed to prevent local franchising
24 authorities from obtaining information necessary to monitor franchise compliance
25 pursuant to franchise or license agreements. This information shall be provided so
26 as to omit individually identifiable subscriber information whenever possible.
27 Information obtained by local franchising authorities shall be used solely for
28 monitoring franchise compliance and shall not be subject to the California Public
29 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
30 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

31 (d) Any individually identifiable subscriber information gathered by a satellite or
32 cable television corporation shall be made available for subscriber examination
33 within 30 days of receiving a request by a subscriber to examine the information on
34 the premises of the corporation. Upon a reasonable showing by the subscriber that
35 the information is inaccurate, a satellite or cable television corporation shall correct
36 the information.

37 (e) Upon a subscriber's application for satellite or cable television service,
38 including, but not limited to, interactive service, a satellite or cable television
39 corporation shall provide the applicant with a separate notice in an appropriate form
40 explaining the subscriber's right to privacy protection afforded by this section.

41 (f) As used in this section:

42 (1) "Cable television corporation" shall have the same meaning as that term is
43 given by Section 216.4 of the Public Utilities Code.

1 (2) “Individually identifiable information” means any information identifying an
2 individual or ~~his or her~~ the individual’s use of any service provided by a satellite or
3 cable system other than the mere fact that the individual is a satellite or cable
4 television subscriber. “Individually identifiable information” shall not include
5 anonymous, aggregate, or any other information that does not identify an individual
6 subscriber of a video provider service.

7 (3) “Person” includes an individual, business association, partnership,
8 corporation, limited liability company, or other legal entity, and an individual acting
9 or purporting to act for or on behalf of any government, or subdivision thereof,
10 whether federal, state, or local.

11 (4) “Interactive service” means any service offered by a satellite or cable
12 television corporation involving the collection, reception, aggregation, storage, or
13 use of electronic information transmitted from a subscriber to any other receiving
14 point under the control of the satellite or cable television corporation, or vice versa.

15 (g) Nothing in this section shall be construed to limit the ability of a satellite or
16 cable television corporation to market satellite or cable television or ancillary
17 services to its subscribers.

18 (h) Any person receiving subscriber information from a satellite or cable
19 television corporation shall be subject to the provisions of this section.

20 (i) Any aggrieved person may commence a civil action for damages for invasion
21 of privacy against any satellite or cable television corporation, service provider, or
22 person that leases a channel or channels on a satellite or cable television system that
23 violates the provisions of this section.

24 (j) Any person who violates the provisions of this section is guilty of a
25 misdemeanor punishable by a fine not exceeding three thousand dollars (\$3,000),
26 or by imprisonment in the county jail not exceeding one year, or by both that fine
27 and imprisonment.

28 (k) The penalties and remedies provided by subdivisions (i) and (j) are
29 cumulative, and shall not be construed as restricting any penalty or remedy,
30 provisional or otherwise, provided by law for the benefit of any person, and no
31 judgment under this section shall preclude any person from obtaining additional
32 relief based upon the same facts.

33 (l) The provisions of this section are intended to set forth minimum state standards
34 for protecting the privacy of subscribers to cable television services and are not
35 intended to preempt more restrictive local standards.

36 **Comment.** Section 637.5 is amended to reflect nonsubstantive recodification of the California
37 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
38 Reports __ (2019).

39 The section is also amended to eliminate gendered pronouns.

40 **§ 679.03 (amended). Notification process**

41 SEC. ____. Section 679.03 of the Penal Code is amended to read:

1 679.03. (a) With respect to the conviction of a defendant involving a violent
2 offense, as defined in Section 29905, the county district attorney, probation
3 department, and victim-witness coordinator shall confer and establish an annual
4 policy within existing resources to decide which one of their agencies shall inform
5 each witness involved in the conviction who was threatened by the defendant
6 following the defendant's arrest and each victim or next of kin of the victim of that
7 offense of the right to request and receive a notice pursuant to Section 3058.8 or
8 3605. If no agreement is reached, the presiding judge shall designate the appropriate
9 county agency or department to provide this notification.

10 (b) The Department of Corrections and Rehabilitation shall supply a form to the
11 agency designated pursuant to subdivision (a) in order to enable persons specified
12 in subdivision (a) to request and receive notification from the department of the
13 release, escape, scheduled execution, or death of the violent offender. That agency
14 shall give the form to the victim, witness, or next of kin of the victim for completion,
15 explain to that person or persons the right to be so notified, and forward the
16 completed form to the department. The department or the Board of Parole Hearings
17 is responsible for notifying all victims, witnesses, or next of kin of victims who
18 request to be notified of a violent offender's release or scheduled execution, as
19 provided by Sections 3058.8 and 3605.

20 (c) All information relating to any person receiving notice pursuant to subdivision
21 (b) shall remain confidential and is not subject to disclosure pursuant to the
22 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of
23 Division 7 Division 10 (commencing with Section 7920.000) of Title 1 of the
24 Government Code).

25 (d) Nothing in this section precludes a victim, witness, or next of kin of the victim
26 from requesting notification using an automated electronic notification process, if
27 available.

28 **Comment.** Section 679.03 is amended to reflect nonsubstantive recodification of the California
29 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
30 Reports __ (2019).

31 **§ 832.5 (amended). Complaint by member of public against peace officer or custodial officer**

32 SEC. ____. Section 832.5 of the Penal Code is amended to read:

33 832.5. (a)(1) Each department or agency in this state that employs peace officers
34 shall establish a procedure to investigate complaints by members of the public
35 against the personnel of these departments or agencies, and shall make a written
36 description of the procedure available to the public.

37 (2) Each department or agency that employs custodial officers, as defined in
38 Section 831.5, may establish a procedure to investigate complaints by members of
39 the public against those custodial officers employed by these departments or
40 agencies, provided however, that any procedure so established shall comply with
41 the provisions of this section and with the provisions of Section 832.7.

1 (b) Complaints and any reports or findings relating to these complaints shall be
2 retained for a period of at least five years. All complaints retained pursuant to this
3 subdivision may be maintained either in the peace or custodial officer’s general
4 personnel file or in a separate file designated by the department or agency as
5 provided by department or agency policy, in accordance with all applicable
6 requirements of law. However, prior to any official determination regarding
7 promotion, transfer, or disciplinary action by an officer’s employing department or
8 agency, the complaints described by subdivision (c) shall be removed from the
9 officer’s general personnel file and placed in separate file designated by the
10 department or agency, in accordance with all applicable requirements of law.

11 (c) Complaints by members of the public that are determined by the peace or
12 custodial officer’s employing agency to be frivolous, as defined in Section 128.5 of
13 the Code of Civil Procedure, or unfounded or exonerated, or any portion of a
14 complaint that is determined to be frivolous, unfounded, or exonerated, shall not be
15 maintained in that officer’s general personnel file. However, these complaints shall
16 be retained in other, separate files that shall be deemed personnel records for
17 purposes of the California Public Records Act (~~Chapter 3.5 (commencing with~~
18 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
19 Title 1 of the Government Code) and Section 1043 of the Evidence Code.

20 (1) Management of the peace or custodial officer’s employing agency shall have
21 access to the files described in this subdivision.

22 (2) Management of the peace or custodial officer’s employing agency shall not
23 use the complaints contained in these separate files for punitive or promotional
24 purposes except as permitted by subdivision (f) of Section 3304 of the Government
25 Code.

26 (3) Management of the peace or custodial officer’s employing agency may
27 identify any officer who is subject to the complaints maintained in these files ~~which~~
28 that require counseling or additional training. However, if a complaint is removed
29 from the officer’s personnel file, any reference in the personnel file to the complaint
30 or to a separate file shall be deleted.

31 (d) As used in this section, the following definitions apply:

32 (1) “General personnel file” means the file maintained by the agency containing
33 the primary records specific to each peace or custodial officer’s employment,
34 including evaluations, assignments, status changes, and imposed discipline.

35 (2) “Unfounded” means that the investigation clearly established that the
36 allegation is not true.

37 (3) “Exonerated” means that the investigation clearly established that the actions
38 of the peace or custodial officer that formed the basis for the complaint are not
39 violations of law or department policy.

40 **Comment.** Section 832.5 is amended to reflect nonsubstantive recodification of the California
41 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
42 Reports __ (2019).

43 The section is also amended to make a grammatical correction.

1 **§ 832.7 (amended). Peace officer personnel records**

2 SEC. ____ . Section 832.7 of the Penal Code is amended to read:

3 832.7. (a) Except as provided in subdivision (b), the personnel records of peace
4 officers and custodial officers and records maintained by any state or local agency
5 pursuant to Section 832.5, or information obtained from these records, are
6 confidential and shall not be disclosed in any criminal or civil proceeding except by
7 discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section
8 shall not apply to investigations or proceedings concerning the conduct of peace
9 officers or custodial officers, or an agency or department that employs those
10 officers, conducted by a grand jury, a district attorney's office, or the Attorney
11 General's office.

12 (b)(1) Notwithstanding subdivision (a), ~~subdivision (f) of Section 6254 Article 1~~
13 ~~(commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title~~
14 ~~1 of the Government Code, or any other law, the following peace officer or custodial~~
15 ~~officer personnel records and records maintained by any state or local agency shall~~
16 ~~not be confidential and shall be made available for public inspection pursuant to the~~
17 ~~California Public Records Act (Chapter 3.5 (commencing with Section 6250) of~~
18 ~~Division 7 Division 10 (commencing with Section 7920.000) of Title 1 of the~~
19 ~~Government Code):~~

20 (A) A record relating to the report, investigation, or findings of any of the
21 following:

22 (i) An incident involving the discharge of a firearm at a person by a peace officer
23 or custodial officer.

24 (ii) An incident in which the use of force by a peace officer or custodial officer
25 against a person resulted in death, or in great bodily injury.

26 (B)(i) Any record relating to an incident in which a sustained finding was made
27 by any law enforcement agency or oversight agency that a peace officer or custodial
28 officer engaged in sexual assault involving a member of the public.

29 (ii) As used in this subparagraph, "sexual assault" means the commission or
30 attempted initiation of a sexual act with a member of the public by means of force,
31 threat, coercion, extortion, offer of leniency or other official favor, or under the color
32 of authority. For purposes of this definition, the propositioning for or commission
33 of any sexual act while on duty is considered a sexual assault.

34 (iii) As used in this subparagraph, "member of the public" means any person not
35 employed by the officer's employing agency and includes any participant in a cadet,
36 explorer, or other youth program affiliated with the agency.

37 (C) Any record relating to an incident in which a sustained finding was made by
38 any law enforcement agency or oversight agency of dishonesty by a peace officer
39 or custodial officer directly relating to the reporting, investigation, or prosecution
40 of a crime, or directly relating to the reporting of, or investigation of misconduct by,
41 another peace officer or custodial officer, including, but not limited to, any sustained
42 finding of perjury, false statements, filing false reports, destruction, falsifying, or
43 concealing of evidence.

1 (2) Records that shall be released pursuant to this subdivision include all
2 investigative reports; photographic, audio, and video evidence; transcripts or
3 recordings of interviews; autopsy reports; all materials compiled and presented for
4 review to the district attorney or to any person or body charged with determining
5 whether to file criminal charges against an officer in connection with an incident, or
6 whether the officer's action was consistent with law and agency policy for purposes
7 of discipline or administrative action, or what discipline to impose or corrective
8 action to take; documents setting forth findings or recommended findings; and
9 copies of disciplinary records relating to the incident, including any letters of intent
10 to impose discipline, any documents reflecting modifications of discipline due to
11 the Skelly or grievance process, and letters indicating final imposition of discipline
12 or other documentation reflecting implementation of corrective action.

13 (3) A record from a separate and prior investigation or assessment of a separate
14 incident shall not be released unless it is independently subject to disclosure
15 pursuant to this subdivision.

16 (4) If an investigation or incident involves multiple officers, information about
17 allegations of misconduct by, or the analysis or disposition of an investigation of,
18 an officer shall not be released pursuant to subparagraph (B) or (C) of paragraph
19 (1), unless it relates to a sustained finding against that officer. However, factual
20 information about that action of an officer during an incident, or the statements of
21 an officer about an incident, shall be released if they are relevant to a sustained
22 finding against another officer that is subject to release pursuant to subparagraph
23 (B) or (C) of paragraph (1).

24 (5) An agency shall redact a record disclosed pursuant to this section only for any
25 of the following purposes:

26 (A) To remove personal data or information, such as a home address, telephone
27 number, or identities of family members, other than the names and work-related
28 information of peace and custodial officers.

29 (B) To preserve the anonymity of complainants and witnesses.

30 (C) To protect confidential medical, financial, or other information of which
31 disclosure is specifically prohibited by federal law or would cause an unwarranted
32 invasion of personal privacy that clearly outweighs the strong public interest in
33 records about misconduct and serious use of force by peace officers and custodial
34 officers.

35 (D) Where there is a specific, articulable, and particularized reason to believe that
36 disclosure of the record would pose a significant danger to the physical safety of the
37 peace officer, custodial officer, or another person.

38 (6) Notwithstanding paragraph (5), an agency may redact a record disclosed
39 pursuant to this section, including personal identifying information, where, on the
40 facts of the particular case, the public interest served by not disclosing the
41 information clearly outweighs the public interest served by disclosure of the
42 information.

1 (7) An agency may withhold a record of an incident described in subparagraph
2 (A) of paragraph (1) that is the subject of an active criminal or administrative
3 investigation, in accordance with any of the following:

4 (A)(i) During an active criminal investigation, disclosure may be delayed for up
5 to 60 days from the date the use of force occurred or until the district attorney
6 determines whether to file criminal charges related to the use of force, whichever
7 occurs sooner. If an agency delays disclosure pursuant to this clause, the agency
8 shall provide, in writing, the specific basis for the agency's determination that the
9 interest in delaying disclosure clearly outweighs the public interest in disclosure.
10 This writing shall include the estimated date for disclosure of the withheld
11 information.

12 (ii) After 60 days from the use of force, the agency may continue to delay the
13 disclosure of records or information if the disclosure could reasonably be expected
14 to interfere with a criminal enforcement proceeding against an officer who used the
15 force. If an agency delays disclosure pursuant to this clause, the agency shall, at
16 180-day intervals as necessary, provide, in writing, the specific basis for the
17 agency's determination that disclosure could reasonably be expected to interfere
18 with a criminal enforcement proceeding. The writing shall include the estimated
19 date for the disclosure of the withheld information. Information withheld by the
20 agency shall be disclosed when the specific basis for withholding is resolved, when
21 the investigation or proceeding is no longer active, or by no later than 18 months
22 after the date of the incident, whichever occurs sooner.

23 (iii) After 60 days from the use of force, the agency may continue to delay the
24 disclosure of records or information if the disclosure could reasonably be expected
25 to interfere with a criminal enforcement proceeding against someone other than the
26 officer who used the force. If an agency delays disclosure under this clause, the
27 agency shall, at 180-day intervals, provide, in writing, the specific basis why
28 disclosure could reasonably be expected to interfere with a criminal enforcement
29 proceeding, and shall provide an estimated date for the disclosure of the withheld
30 information. Information withheld by the agency shall be disclosed when the
31 specific basis for withholding is resolved, when the investigation or proceeding is
32 no longer active, or by no later than 18 months after the date of the incident,
33 whichever occurs sooner, unless extraordinary circumstances warrant continued
34 delay due to the ongoing criminal investigation or proceeding. In that case, the
35 agency must show by clear and convincing evidence that the interest in preventing
36 prejudice to the active and ongoing criminal investigation or proceeding outweighs
37 the public interest in prompt disclosure of records about use of serious force by
38 peace officers and custodial officers. The agency shall release all information
39 subject to disclosure that does not cause substantial prejudice, including any
40 documents that have otherwise become available.

41 (iv) In an action to compel disclosure brought pursuant to ~~Section 6258~~ Sections
42 7923.000 and 7923.005 of the Government Code, an agency may justify delay by
43 filing an application to seal the basis for withholding, in accordance with Rule 2.550

1 of the California Rules of Court, or any successor rule thereto, if disclosure of the
2 written basis itself would impact a privilege or compromise a pending investigation.

3 (B) If criminal charges are filed related to the incident in which force was used,
4 the agency may delay the disclosure of records or information until a verdict on
5 those charges is returned at trial or, if a plea of guilty or no contest is entered, the
6 time to withdraw the plea pursuant to Section 1018.

7 (C) During an administrative investigation into an incident described in
8 subparagraph (A) of paragraph (1), the agency may delay the disclosure of records
9 or information until the investigating agency determines whether the use of force
10 violated a law or agency policy, but no longer than 180 days after the date of the
11 employing agency's discovery of the use of force, or allegation of use of force, by
12 a person authorized to initiate an investigation, or 30 days after the close of any
13 criminal investigation related to the peace officer or custodial officer's use of force,
14 whichever is later.

15 (8) A record of a civilian complaint, or the investigations, findings, or dispositions
16 of that complaint, shall not be released pursuant to this section if the complaint is
17 frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or if the
18 complaint is unfounded.

19 (c) Notwithstanding subdivisions (a) and (b), a department or agency shall release
20 to the complaining party a copy of ~~his or her~~ the party's own statements at the time
21 the complaint is filed.

22 (d) Notwithstanding subdivisions (a) and (b), a department or agency that
23 employs peace or custodial officers may disseminate data regarding the number,
24 type, or disposition of complaints (sustained, not sustained, exonerated, or
25 unfounded) made against its officers if that information is in a form ~~which~~ that does
26 not identify the individuals involved.

27 (e) Notwithstanding subdivisions (a) and (b), a department or agency that employs
28 peace or custodial officers may release factual information concerning a disciplinary
29 investigation if the officer who is the subject of the disciplinary investigation, or the
30 officer's agent or representative, publicly makes a statement ~~he or she~~ the officer,
31 agent, or representative knows to be false concerning the investigation or the
32 imposition of disciplinary action. Information may not be disclosed by the peace or
33 custodial officer's employer unless the false statement was published by an
34 established medium of communication, such as television, radio, or a newspaper.
35 Disclosure of factual information by the employing agency pursuant to this
36 subdivision is limited to facts contained in the officer's personnel file concerning
37 the disciplinary investigation or imposition of disciplinary action that specifically
38 refute the false statements made public by the peace or custodial officer or ~~his or~~
39 ~~her~~ the officer's agent or representative.

40 (f)(1) The department or agency shall provide written notification to the
41 complaining party of the disposition of the complaint within 30 days of the
42 disposition.

1 (2) The notification described in this subdivision shall not be conclusive or
2 binding or admissible as evidence in any separate or subsequent action or
3 proceeding brought before an arbitrator, court, or judge of this state or the United
4 States.

5 (g) This section does not affect the discovery or disclosure of information
6 contained in a peace or custodial officer's personnel file pursuant to Section 1043
7 of the Evidence Code.

8 (h) This section does not supersede or affect the criminal discovery process
9 outlined in Chapter 10 (commencing with Section 1054) of Title 6 of Part 2, or the
10 admissibility of personnel records pursuant to subdivision (a), which codifies the
11 court decision in *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

12 (i) Nothing in this chapter is intended to limit the public's right of access as
13 provided for in *Long Beach Police Officers Association v. City of Long Beach*
14 (2014) 59 Cal.4th 59.

15 **Comment.** Section 832.7 is amended to reflect nonsubstantive recodification of the California
16 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
17 Reports __ (2019).

18 The section is also amended to eliminate gendered pronouns and make a grammatical correction.

19 **§ 832.18 (amended). Policies and procedures relating to body-worn cameras**

20 SEC. ____. Section 832.18 of the Penal Code is amended to read:

21 832.18. (a) It is the intent of the Legislature to establish policies and procedures
22 to address issues related to the downloading and storage data recorded by a body-
23 worn camera worn by a peace officer. These policies and procedures shall be based
24 on best practices.

25 (b) When establishing policies and procedures for the implementation and
26 operation of a body-worn camera system, law enforcement agencies, departments,
27 or entities shall consider the following best practices regarding the downloading and
28 storage of body-worn camera data:

29 (1) Designate the person responsible for downloading the recorded data from the
30 body-worn camera. If the storage system does not have automatic downloading
31 capability, the officer's supervisor should take immediate physical custody of the
32 camera and should be responsible for downloading the data in the case of an incident
33 involving the use of force by an officer, an officer-involved shooting, or other
34 serious incident.

35 (2) Establish when data should be downloaded to ensure the data is entered into
36 the system in a timely manner, the cameras are properly maintained and ready for
37 the next use, and for purposes of tagging and categorizing the data.

38 (3) Establish specific measures to prevent data tampering, deleting, and copying,
39 including prohibiting the unauthorized use, duplication, or distribution of body-
40 worn camera data.

41 (4) Categorize and tag body-worn camera video at the time the data is downloaded
42 and classified according to the type of event or incident captured in the data.

1 (5) Specifically state the length of time that recorded data is to be stored.

2 (A) Unless subparagraph (B) or (C) applies, nonevidentiary data including video
3 and audio recorded by a body-worn camera should be retained for a minimum of 60
4 days, after which it may be erased, destroyed, or recycled. An agency may keep data
5 for more than 60 days to have it available in case of a civilian complaint and to
6 preserve transparency.

7 (B) Evidentiary data including video and audio recorded by a body-worn camera
8 under this section should be retained for a minimum of two years under any of the
9 following circumstances:

10 (i) The recording is of an incident involving the use of force by a peace officer or
11 an officer-involved shooting.

12 (ii) The recording is of an incident that leads to the detention or arrest of an
13 individual.

14 (iii) The recording is relevant to a formal or informal complaint against a law
15 enforcement officer or a law enforcement agency.

16 (C) If evidence that may be relevant to a criminal prosecution is obtained from a
17 recording made by a body-worn camera under this section, the law enforcement
18 agency should retain the recording for any time in addition to that specified in
19 subparagraphs (A) and (B), and in the same manner as is required by law for other
20 evidence that may be relevant to a criminal prosecution.

21 (D) In determining a retention schedule, the agency should work with its legal
22 counsel to determine a retention schedule to ensure that storage policies and
23 practices are in compliance with all relevant laws and adequately preserve
24 evidentiary chains of custody.

25 (E) Records or logs of access and deletion of data from body-worn cameras should
26 be retained permanently.

27 (6) State where the body-worn camera data will be stored, including, for example,
28 an in-house server ~~which~~ that is managed internally, or an online cloud database
29 ~~which~~ that is managed by a third-party vendor.

30 (7) If using a third-party vendor to manage the data storage system, the following
31 factors should be considered to protect the security and integrity of the data:

32 (A) Using an experienced and reputable third-party vendor.

33 (B) Entering into contracts that govern the vendor relationship and protect the
34 agency's data.

35 (C) Using a system that has a built-in audit trail to prevent data tampering and
36 unauthorized access.

37 (D) Using a system that has a reliable method for automatically backing up data
38 for storage.

39 (E) Consulting with internal legal counsel to ensure the method of data storage
40 meets legal requirements for chain-of-custody concerns.

41 (F) Using a system that includes technical assistance capabilities.

42 (8) Require that all recorded data from body-worn cameras are property of their
43 respective law enforcement agency and shall not be accessed or released for any

1 unauthorized purpose, explicitly prohibit agency personnel from accessing recorded
2 data for personal use and from uploading recorded data onto public and social media
3 Internet Web sites, and include sanctions for violations of this prohibition.

4 (c)(1) For purposes of this section, “evidentiary data” refers to data of an incident
5 or encounter that could prove useful for investigative purposes, including, but not
6 limited to, a crime, an arrest or citation, a search, a use of force incident, or a
7 confrontational encounter with a member of the public. The retention period for
8 evidentiary data are subject to state evidentiary laws.

9 (2) For purposes of this section, “nonevidentiary data” refers to data that does not
10 necessarily have value to aid in an investigation or prosecution, such as data of an
11 incident or encounter that does not lead to an arrest or citation, or data of general
12 activities the officer might perform while on duty.

13 (d) This section shall not be interpreted to limit the public’s right to access
14 recorded data under the California Public Records Act (~~Chapter 3.5 (commencing~~
15 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
16 of Title 1 of the Government Code).

17 **Comment.** Section 832.18 is amended to reflect nonsubstantive recodification of the California
18 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
19 Reports __ (2019).

20 The section is also amended to make grammatical corrections.

21 **§ 936.7 (amended). Special counsel to grand jury**

22 SEC. ____ . Section 936.7 of the Penal Code is amended to read:

23 936.7. (a) In a county of the eighth class, as defined by Sections 28020 and 28029
24 of the Government Code, upon a request by the grand jury, the presiding judge of
25 the superior court may retain, in the name of the county, a special counsel to the
26 grand jury. The request shall be presented to the presiding judge in camera, by an
27 affidavit, executed by the foreperson of the grand jury, which specifies the reason
28 for the request and the nature of the services sought, and which certifies that the
29 appointment of the special counsel is reasonably necessary to aid the work of the
30 grand jury. The affidavit shall be confidential and its contents may not be made
31 public except by order of the presiding judge upon a showing of good cause. The
32 special counsel shall be selected by the presiding judge following submission of the
33 name of the nominee to the board of supervisors for comment.

34 The special counsel shall be retained under a contract executed by the presiding
35 judge in the name of the county. The contract shall contain the following terms:

36 (1) The types of legal services to be rendered to the grand jury; provided, (i) that
37 the special counsel’s duties shall not include any legal advisory, investigative, or
38 prosecutorial service ~~which~~ that by statute is vested within the powers of the district
39 attorney, and (ii) that the special counsel may not perform any investigative or
40 prosecutorial service whatsoever except upon advance written approval by the
41 presiding judge, which specifies the number of hours of these services, the hourly
42 rate therefor, and the subject matter of the inquiry.

1 (2) The hourly rate of compensation of the special counsel for legal advisory
2 services delivered, together with a maximum contract amount payable for all
3 services rendered under the contract during the term thereof, and all service
4 authorizations issued pursuant thereto.

5 (3) That the contract may be canceled in advance of the expiration of its term by
6 the presiding judge pursuant to service upon the special counsel of 10 days' advance
7 written notice.

8 (b) The maximum contract amount shall be determined by the board of
9 supervisors and included in the grand jury's annual operational budget. The
10 maximum amount shall be subject to increase by the presiding judge through
11 contract amendment during the term thereof, subject to and in compliance with the
12 procedure prescribed by Section 914.5.

13 (c) The contract shall constitute a public record and shall be subject to public
14 inspection and copying pursuant to the provisions of the California Public Records
15 Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
16 (commencing with Section 7920.000) of Title 1 of the Government Code).
17 However, at the sole discretion of the board of supervisors, any or all of the
18 following steps may be taken:

19 (1) The nomination by the presiding judge, and any or all actions by the board of
20 supervisors in commenting upon the nominee and the comments, may be made
21 confidential.

22 (2) The deliberations and actions may be undertaken in meetings from which the
23 public is excluded, and the communication containing comments may constitute a
24 confidential record ~~which that~~ that is not subject to public inspection or copying except
25 at the sole discretion of the board of supervisors. Moreover, any written
26 authorization by the presiding judge pursuant to paragraph (1) of subdivision (a)
27 shall constitute a confidential record ~~which that~~ that is not subject to public inspection
28 or copying except in connection with a dispute concerning compensation for
29 services rendered.

30 **Comment.** Section 936.7 is amended to reflect nonsubstantive recodification of the California
31 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
32 Reports __ (2019).

33 The section is also amended to make grammatical corrections.

34 **§ 1524.4 (amended). Law enforcement contact process**

35 SEC. ____. Section 1524.4 of the Penal Code is amended to read:

36 1524.4. (a) This section applies to a service provider that is subject to the
37 Electronic Communications Privacy Act (Chapter 3.6 (commencing with Section
38 1546)) and that operates in California. This section does not apply to a service
39 provider that does not offer services to the general public.

40 (b)(1) Every service provider described in subdivision (a) shall maintain a law
41 enforcement contact process that meets the criteria set forth in paragraph (2).

1 (2) Every service provider described in subdivision (a) shall ensure, at a
2 minimum, that its law enforcement contact process meets all of the following
3 criteria:

4 (A) Provides a specific contact mechanism for law enforcement personnel.

5 (B) Provides continual availability of the law enforcement contact process.

6 (C) Provides a method to provide status updates to a requesting law enforcement
7 agency on a request for assistance.

8 (3) Every service provider described in subdivision (a) shall, by July 1, 2017, file
9 a statement with the Attorney General describing the law enforcement contact
10 process maintained pursuant to paragraph (1). If a service provider makes a material
11 change to its law enforcement contact process, the service provider shall, as soon as
12 practicable, file a statement with the Attorney General describing its new law
13 enforcement contact process.

14 (c) The Attorney General shall consolidate the statements received pursuant to
15 this section into one discrete record and regularly make that record available to local
16 law enforcement agencies.

17 (d) The exclusive remedy for a violation of this section shall be an action brought
18 by the Attorney General for injunctive relief. Nothing in this section shall limit
19 remedies available for a violation of any other state or federal law.

20 (e) A statement filed or distributed pursuant to this section is confidential and shall
21 not be disclosed pursuant to any state law, including, but not limited to, the
22 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of
23 Division 7 Division 10 (commencing with Section 7920.000) of Title 1 of the
24 Government Code).

25 **Comment.** Section 1524.4 is amended to reflect nonsubstantive recodification of the California
26 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
27 Reports __ (2019).

28 **§ 5058 (amended). Rules and regulations for administration of prisons and parole**

29 SEC. _____. Section 5058 of the Penal Code is amended to read:

30 5058. (a)(1) The director may prescribe and amend rules and regulations for the
31 administration of the prisons and for the administration of the parole of persons
32 sentenced under Section 1170 except those persons who meet the criteria set forth
33 in Section 2962. The rules and regulations shall be promulgated and filed pursuant
34 to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2
35 of the Government Code, except as otherwise provided in this section and Sections
36 5058.1 to 5058.3, inclusive. All rules and regulations shall, to the extent practical,
37 be stated in language that is easily understood by the general public.

38 (2) For any rule or regulation filed as regular rulemaking as defined in paragraph
39 (5) of subdivision (a) of Section 1 of Title 1 of the California Code of Regulations,
40 copies of the rule or regulation shall be posted in conspicuous places throughout
41 each institution and shall be mailed to all persons or organizations who request them
42 no less than 20 days prior to its effective date.

1 (b) The director shall maintain, publish and make available to the general public,
2 a compendium of the rules and regulations promulgated by the director pursuant to
3 this section and Sections 5058.1 to 5058.3, inclusive.

4 (c) The following are deemed not to be “regulations” as defined in Section
5 11342.600 of the Government Code:

6 (1) Rules issued by the director applying solely to a particular prison or other
7 correctional facility, provided that the following conditions are met:

8 (A) All rules that apply to prisons or other correctional facilities throughout the
9 state are adopted by the director pursuant to Chapter 3.5 (commencing with Section
10 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

11 (B) All rules except those that are excluded from disclosure to the public pursuant
12 to ~~subdivision (f) of Section 6254~~ Article 1 (commencing with Section 7923.600)
13 of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code are made
14 available to all inmates confined in the particular prison or other correctional facility
15 to which the rules apply and to all members of the general public.

16 (2) Short-term criteria for the placement of inmates in a new prison or other
17 correctional facility, or subunit thereof, during its first six months of operation, or
18 in a prison or other correctional facility, or subunit thereof, planned for closing
19 during its last six months of operation, provided that the criteria are made available
20 to the public and that an estimate of fiscal impact is completed pursuant to Sections
21 6650 to 6670, inclusive, of the State Administrative Manual.

22 (3) Rules issued by the director that are excluded from disclosure to the public
23 pursuant to ~~subdivision (f) of Section 6254~~ Article 1 (commencing with Section
24 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.

25 **Comment.** Section 5058 is amended to reflect nonsubstantive recodification of the California
26 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
27 Reports __ (2019).

28 The section is also amended to insert paragraph labels.

29 **§ 6126.3 (amended). Records of Office of Inspector General**

30 SEC. ____ . Section 6126.3 of the Penal Code is amended to read:

31 6126.3. (a) The Inspector General shall not destroy any papers or memoranda
32 used to support a completed review within three years after a report is released.

33 (b) Except as provided in subdivision (c), all books, papers, records, and
34 correspondence of the office pertaining to its work are public records subject to
35 ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
36 (commencing with Section 7920.000) of Title 1 of the Government Code and shall
37 be filed at any of the regularly maintained offices of the Inspector General.

38 (c) The following books, papers, records, and correspondence of the Office of the
39 Inspector General pertaining to its work are not public records subject to ~~Chapter~~
40 ~~3.5 (commencing with Section 6250) of Division 7~~ Division 10 (commencing with
41 Section 7920.000) of Title 1 of the Government Code, nor shall they be subject to
42 discovery pursuant to any provision of Title 3 (commencing with Section 1985) of

1 Part 4 of the Code of Civil Procedure or Chapter 7 (commencing with Section
2 19570) of Part 2 of Division 5 of Title 2 of the Government Code in any manner:

3 (1) All reports, papers, correspondence, memoranda, electronic communications,
4 or other documents that are otherwise exempt from disclosure pursuant to the
5 provisions of subdivision (d) of Section 6126.5, Section 6126.6, subdivision (c) of
6 Section 6128, subdivision (c) of Section 6126, or all other applicable laws regarding
7 confidentiality, including, but not limited to, the California Public Records Act, the
8 Public Safety Officers' Procedural Bill of Rights, the Information Practices Act of
9 1977, the Confidentiality of Medical Information Act of 1977, and the provisions of
10 Section 832.7, relating to the disposition notification for complaints against peace
11 officers.

12 (2) Any papers, correspondence, memoranda, electronic communications, or
13 other documents pertaining to any review that has not been completed.

14 (3) Any papers, correspondence, memoranda, electronic communications, or
15 other documents pertaining to internal discussions between the Inspector General
16 and ~~his or her~~ the Inspector General's staff, or between staff members of the
17 Inspector General, or any personal notes of the Inspector General or ~~his or her~~ the
18 Inspector General's staff.

19 (4) All identifying information, and any personal papers or correspondence from
20 any person requesting assistance from the Inspector General, except in those cases
21 where the Inspector General determines that disclosure of the information is
22 necessary in the interests of justice.

23 (5) Any papers, correspondence, memoranda, electronic communications, or
24 other documents pertaining to contemporaneous public oversight pursuant to
25 Section 6133.

26 **Comment.** Section 6126.3 is amended to reflect nonsubstantive recodification of the California
27 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
28 Reports __ (2019).

29 The section is also amended to eliminate gendered pronouns.

30 **§ 7443 (amended). Confidentiality and protection of privacy of survey participants and**
31 **their children**

32 SEC. __. Section 7443 of the Penal Code is amended to read:

33 7443. The California Research Bureau shall follow appropriate procedures to
34 ensure confidentiality of the records and to protect the privacy of the survey
35 participants and their children, and participating agencies. Data compiled from case
36 files shall be coded under an assigned number and not identified by name. Survey
37 questionnaires and coding forms shall be exempt from the public disclosure
38 requirements prescribed by ~~Chapter 3.4 (commencing with Section 6250) of~~
39 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
40 Government Code.

41 **Comment.** Section 7443 is amended to reflect nonsubstantive recodification of the California
42 Public Records Act ("CPRA"). See *California Public Records Act Clean-Up*, __ Cal. L. Revision

1 Comm'n Reports __ (2019). By updating the reference to the CPRA, the amendment also
2 eliminates an erroneous reference to "Chapter 3.4" (as opposed to "Chapter 3.5").

3 **§ 11167.5 (amended). Reports of child abuse or neglect**

4 SEC. ____. Section 11167.5 of the Penal Code is amended to read:

5 11167.5. (a) The reports required by Sections 11166 and 11166.2, or authorized
6 by Section 11166.05, and child abuse or neglect investigative reports that result in
7 a summary report being filed with the Department of Justice pursuant to subdivision
8 (a) of Section 11169 shall be confidential and may be disclosed only as provided in
9 subdivision (b). Any violation of the confidentiality provided by this article is a
10 misdemeanor punishable by imprisonment in a county jail not to exceed six months,
11 by a fine of five hundred dollars (\$500), or by both that imprisonment and fine.

12 (b) Reports of suspected child abuse or neglect and information contained therein
13 may be disclosed only to the following:

14 (1) Persons or agencies to whom disclosure of the identity of the reporting party
15 is permitted under Section 11167.

16 (2) Persons or agencies to whom disclosure of information is permitted under
17 subdivision (b) of Section 11170 or subdivision (a) of Section 11170.5.

18 (3) Persons or agencies with whom investigations of child abuse or neglect are
19 coordinated under the regulations promulgated under Section 11174.

20 (4) Multidisciplinary personnel teams as defined in subdivision (d) of Section
21 18951 of the Welfare and Institutions Code.

22 (5) Persons or agencies responsible for the licensing of facilities ~~which~~ that care
23 for children, as specified in Section 11165.7.

24 (6) The State Department of Social Services or any county, as specified in
25 paragraph (4) of subdivision (b) of Section 11170, when an individual has applied
26 for a license to operate a community care facility or child day care facility, or for a
27 certificate of approval to operate a certified family home or resource family home,
28 or for employment or presence in a licensed facility, certified family home, or
29 resource family home, or when a complaint alleges child abuse or neglect by a
30 licensee or employee of, or individual approved to be present in, a licensed facility,
31 certified family home, or resource family home.

32 (7) Hospital scan teams. As used in this paragraph, "hospital scan team" means a
33 team of three or more persons established by a hospital, or two or more hospitals in
34 the same county, consisting of health care professionals and representatives of law
35 enforcement and child protective services, the members of which are engaged in the
36 identification of child abuse or neglect. The disclosure authorized by this section
37 includes disclosure among all hospital scan teams.

38 (8) Coroners and medical examiners when conducting a post mortem examination
39 of a child.

40 (9) The Board of Parole Hearings, which may subpoena an employee of a county
41 welfare department who can provide relevant evidence and reports that both (A) are
42 not unfounded, pursuant to Section 11165.12, and (B) concern only the current

1 incidents upon which parole revocation proceedings are pending against a parolee
2 charged with child abuse or neglect. The reports and information shall be
3 confidential pursuant to subdivision (d) of Section 11167.

4 (10) Personnel from an agency responsible for making a placement of a child
5 pursuant to Section 361.3 of, and Article 7 (commencing with Section 305) of
6 Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code.

7 (11) Persons who have been identified by the Department of Justice as listed in
8 the Child Abuse Central Index pursuant to paragraph (7) of subdivision (b) of
9 Section 11170 or subdivision (c) of Section 11170, or persons who have verified
10 with the Department of Justice that they are listed in the Child Abuse Central Index
11 as provided in subdivision (f) of Section 11170. Disclosure under this paragraph is
12 required notwithstanding the California Public Records Act, ~~Chapter 3.5~~
13 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
14 Section 7920.000) of Title 1 of the Government Code. Nothing in this paragraph
15 shall preclude a submitting agency prior to disclosure from redacting any
16 information necessary to maintain confidentiality as required by law.

17 (12) Out-of-state law enforcement agencies conducting an investigation of child
18 abuse or neglect only when an agency makes the request for reports of suspected
19 child abuse or neglect in writing and on official letterhead, or as designated by the
20 Department of Justice, identifying the suspected abuser or victim by name and date
21 of birth or approximate age. The request shall be signed by the department
22 supervisor of the requesting law enforcement agency. The written request shall cite
23 the out-of-state statute or interstate compact provision that requires that the
24 information contained within these reports is to be disclosed only to law
25 enforcement, prosecutorial entities, or multidisciplinary investigative teams, and
26 shall cite the safeguards in place to prevent unlawful disclosure provided by the
27 requesting state or the applicable interstate compact provision.

28 (13) Out-of-state agencies responsible for approving prospective foster or
29 adoptive parents for placement of a child only when the agency makes the request
30 in compliance with the Adam Walsh Child Protection and Safety Act of 2006
31 (Public Law 109-248). The request shall also cite the safeguards in place to prevent
32 unlawful disclosure provided by the requesting state or the applicable interstate
33 compact provision and indicate that the requesting state shall maintain continual
34 compliance with the requirement in paragraph (20) of subdivision (a) of Section 671
35 of Title 42 of the United States Code that requires the state have in place safeguards
36 to prevent the unauthorized disclosure of information in any child abuse and neglect
37 registry maintained by the state and prevent the information from being used for a
38 purpose other than the conducting of background checks in foster or adoptive
39 placement cases.

40 (14) Each chairperson of a county child death review team, or ~~his or her~~ the
41 chairperson's designee, to whom disclosure of information is permitted under this
42 article, relating to the death of one or more children and any prior child abuse or
43 neglect investigation reports maintained involving the same victim, siblings, or

1 suspects. Local child death review teams may share any relevant information
2 regarding case reviews involving child death with other child death review teams.

3 (c) Authorized persons within county health departments shall be permitted to
4 receive copies of any reports made by health practitioners, as defined in paragraphs
5 (21) to (28), inclusive, of subdivision (a) of Section 11165.7, and pursuant to Section
6 11165.13, and copies of assessments completed pursuant to Sections 123600 and
7 123605 of the Health and Safety Code, to the extent permitted by federal law. Any
8 information received pursuant to this subdivision is protected by subdivision (e).

9 (d) Nothing in this section requires the Department of Justice to disclose
10 information contained in records maintained under Section 11170 or under the
11 regulations promulgated pursuant to Section 11174, except as otherwise provided
12 in this article.

13 (e) This section shall not be interpreted to allow disclosure of any reports or
14 records relevant to the reports of child abuse or neglect if the disclosure would be
15 prohibited by any other provisions of state or federal law applicable to the reports
16 or records relevant to the reports of child abuse or neglect.

17 **Comment.** Section 11167.5 is amended to reflect nonsubstantive recodification of the California
18 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
19 Reports __ (2019).

20 The section is also amended to eliminate gendered pronouns and make a grammatical correction.

21 **§ 13300 (amended). Local summary criminal history information**

22 SEC. _____. Section 13300 of the Penal Code is amended to read:

23 13300. (a) As used in this section:

24 (1) “Local summary criminal history information” means the master record of
25 information compiled by any local criminal justice agency pursuant to Chapter 2
26 (commencing with Section 13100) of Title 3 of Part 4 pertaining to the identification
27 and criminal history of any person, such as name, date of birth, physical description,
28 dates of arrests, arresting agencies and booking numbers, charges, dispositions, and
29 similar data about the person.

30 (2) “Local summary criminal history information” does not refer to records and
31 data compiled by criminal justice agencies other than that local agency, nor does it
32 refer to records of complaints to or investigations conducted by, or records of
33 intelligence information or security procedures of, the local agency.

34 (3) “Local agency” means a local criminal justice agency.

35 (b) A local agency shall furnish local summary criminal history information to
36 any of the following, when needed in the course of their duties, provided that when
37 information is furnished to assist an agency, officer, or official of state or local
38 government, a public utility, or any entity, in fulfilling employment, certification,
39 or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the
40 Labor Code shall apply:

41 (1) The courts of the state.

1 (2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and
2 (d) of Section 830.2, subdivisions (a), (b), and (j) of Section 830.3, and subdivisions
3 (a), (b), and (c) of Section 830.5.

4 (3) District attorneys of the state.

5 (4) Prosecuting city attorneys of any city within the state.

6 (5) City attorneys pursuing civil gang injunctions pursuant to Section 186.22a, or
7 drug abatement actions pursuant to Section 3479 or 3480 of the Civil Code, or
8 Section 11571 of the Health and Safety Code.

9 (6) Probation officers of the state.

10 (7) Parole officers of the state.

11 (8) A public defender or attorney of record when representing a person in
12 proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to
13 Section 4852.08.

14 (9) A public defender or attorney of record when representing a person in a
15 criminal case, or a parole, mandatory supervision, or postrelease community
16 supervision revocation or revocation extension hearing, and when authorized access
17 by statutory or decisional law.

18 (10) Any agency, officer, or official of the state when the local summary criminal
19 history information is required to implement a statute, regulation, or ordinance that
20 expressly refers to specific criminal conduct applicable to the subject person of the
21 local summary criminal history information, and contains requirements or
22 exclusions, or both, expressly based upon the specified criminal conduct.

23 (11) Any city, county, city and county, or district, or any officer or official thereof,
24 when access is needed in order to assist the agency, officer, or official in fulfilling
25 employment, certification, or licensing duties, and when the access is specifically
26 authorized by the city council, board of supervisors, or governing board of the city,
27 county, or district when the local summary criminal history information is required
28 to implement a statute, regulation, or ordinance that expressly refers to specific
29 criminal conduct applicable to the subject person of the local summary criminal
30 history information, and contains requirements or exclusions, or both, expressly
31 based upon the specified criminal conduct.

32 (12) The subject of the local summary criminal history information.

33 (13) Any person or entity when access is expressly authorized by statute when the
34 local summary criminal history information is required to implement a statute,
35 regulation, or ordinance that expressly refers to specific criminal conduct applicable
36 to the subject person of the local summary criminal history information, and
37 contains requirements or exclusions, or both, expressly based upon the specified
38 criminal conduct.

39 (14) Any managing or supervising correctional officer of a county jail or other
40 county correctional facility.

41 (15) Local child support agencies established by Section 17304 of the Family
42 Code. When a local child support agency closes a support enforcement case
43 containing summary criminal history information, the agency shall delete or purge

1 from the file and destroy any documents or information concerning or arising from
2 offenses for or of which the parent has been arrested, charged, or convicted, other
3 than for offenses related to the parents having failed to provide support for the minor
4 children, consistent with Section 17531 of the Family Code.

5 (16) County child welfare agency personnel who have been delegated the
6 authority of county probation officers to access state summary criminal information
7 pursuant to Section 272 of the Welfare and Institutions Code for the purposes
8 specified in Section 16504.5 of the Welfare and Institutions Code.

9 (17) A humane officer appointed pursuant to Section 14502 of the Corporations
10 Code, for the purposes of performing ~~his or her~~ the officer's duties. A local agency
11 may charge a reasonable fee sufficient to cover the costs of providing information
12 pursuant to this paragraph.

13 (c) The local agency may furnish local summary criminal history information,
14 upon a showing of a compelling need, to any of the following, provided that when
15 information is furnished to assist an agency, officer, or official of state or local
16 government, a public utility, or any entity, in fulfilling employment, certification,
17 or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the
18 Labor Code shall apply:

19 (1) Any public utility, as defined in Section 216 of the Public Utilities Code,
20 ~~which~~ that operates a nuclear energy facility when access is needed to assist in
21 employing persons to work at the facility, provided that, if the local agency supplies
22 the information, it shall furnish a copy of this information to the person to whom
23 the information relates.

24 (2) To a peace officer of the state other than those included in subdivision (b).

25 (3) An animal control officer, authorized to exercise powers specified in Section
26 830.9, for the purposes of performing ~~his or her~~ the officer's official duties. A local
27 agency may charge a reasonable fee sufficient to cover the costs of providing
28 information pursuant to this paragraph.

29 (4) To a peace officer of another country.

30 (5) To public officers, other than peace officers, of the United States, other states,
31 or possessions or territories of the United States, provided that access to records
32 similar to local summary criminal history information is expressly authorized by a
33 statute of the United States, other states, or possessions or territories of the United
34 States when this information is needed for the performance of their official duties.

35 (6) To any person when disclosure is requested by a probation, parole, or peace
36 officer with the consent of the subject of the local summary criminal history
37 information and for purposes of furthering the rehabilitation of the subject.

38 (7) The courts of the United States, other states, or territories or possessions of the
39 United States.

40 (8) Peace officers of the United States, other states, or territories or possessions
41 of the United States.

42 (9) To any individual who is the subject of the record requested when needed in
43 conjunction with an application to enter the United States or any foreign nation.

1 (10) Any public utility, as defined in Section 216 of the Public Utilities Code,
2 when access is needed to assist in employing persons who will be seeking entrance
3 to private residences in the course of their employment. The information provided
4 shall be limited to the record of convictions and any arrest for which the person is
5 released on bail or on ~~his or her~~ the person's own recognizance pending trial.

6 If the local agency supplies the information pursuant to this paragraph, it shall
7 furnish a copy of the information to the person to whom the information relates.

8 Any information obtained from the local summary criminal history is confidential
9 and the receiving public utility shall not disclose its contents, other than for the
10 purpose for which it was acquired. The local summary criminal history information
11 in the possession of the public utility and all copies made from it shall be destroyed
12 30 days after employment is denied or granted, including any appeal periods, except
13 for those cases where an employee or applicant is out on bail or on ~~his or her~~ the
14 person's own recognizance pending trial, in which case the state summary criminal
15 history information and all copies shall be destroyed 30 days after the case is
16 resolved, including any appeal periods.

17 A violation of any of the provisions of this paragraph is a misdemeanor, and shall
18 give the employee or applicant who is injured by the violation a cause of action
19 against the public utility to recover damages proximately caused by the violation.

20 Nothing in this section shall be construed as imposing any duty upon public
21 utilities to request local summary criminal history information on any current or
22 prospective employee.

23 Seeking entrance to private residences in the course of employment shall be
24 deemed a "compelling need" as required to be shown in this subdivision.

25 (11) Any city, county, city and county, or district, or any officer or official thereof,
26 if a written request is made to a local law enforcement agency and the information
27 is needed to assist in the screening of a prospective concessionaire, and any affiliate
28 or associate thereof, as these terms are defined in subdivision (k) of Section 432.7
29 of the Labor Code, for the purposes of consenting to, or approving of, the
30 prospective concessionaire's application for, or acquisition of, any beneficial
31 interest in a concession, lease, or other property interest.

32 Any local government's request for local summary criminal history information
33 for purposes of screening a prospective concessionaire and their affiliates or
34 associates before approving or denying an application for, or acquisition of, any
35 beneficial interest in a concession, lease, or other property interest is deemed a
36 "compelling need" as required by this subdivision. However, only local summary
37 criminal history information pertaining to criminal convictions may be obtained
38 pursuant to this paragraph.

39 Any information obtained from the local summary criminal history is confidential
40 and the receiving local government shall not disclose its contents, other than for the
41 purpose for which it was acquired. The local summary criminal history information
42 in the possession of the local government and all copies made from it shall be
43 destroyed not more than 30 days after the local government's final decision to grant

1 or deny consent to, or approval of, the prospective concessionaire’s application for,
2 or acquisition of, a beneficial interest in a concession, lease, or other property
3 interest. Nothing in this section shall be construed as imposing any duty upon a local
4 government, or any officer or official thereof, to request local summary criminal
5 history information on any current or prospective concessionaire or their affiliates
6 or associates.

7 (12) A public agency described in subdivision (b) of Section 15975 of the
8 Government Code, for the purpose of oversight and enforcement policies with
9 respect to its contracted providers.

10 (d) Whenever an authorized request for local summary criminal history
11 information pertains to a person whose fingerprints are on file with the local agency
12 and the local agency has no criminal history of that person, and the information is
13 to be used for employment, licensing, or certification purposes, the fingerprint card
14 accompanying the request for information, if any, may be stamped “no criminal
15 record” and returned to the person or entity making the request.

16 (e) A local agency taking fingerprints of a person who is an applicant for
17 licensing, employment, or certification may charge a fee to cover the cost of taking
18 the fingerprints and processing the required documents.

19 (f) Whenever local summary criminal history information furnished pursuant to
20 this section is to be used for employment, licensing, or certification purposes, the
21 local agency shall charge the person or entity making the request a fee ~~which~~ that it
22 determines to be sufficient to reimburse the local agency for the cost of furnishing
23 the information, provided that no fee shall be charged to any public law enforcement
24 agency for local summary criminal history information furnished to assist it in
25 employing, licensing, or certifying a person who is applying for employment with
26 the agency as a peace officer or criminal investigator. Any state agency required to
27 pay a fee to the local agency for information received under this section may charge
28 the applicant a fee sufficient to reimburse the agency for the expense.

29 (g) Whenever there is a conflict, the processing of criminal fingerprints shall take
30 priority over the processing of applicant fingerprints.

31 (h) It is not a violation of this article to disseminate statistical or research
32 information obtained from a record, provided that the identity of the subject of the
33 record is not disclosed.

34 (i) It is not a violation of this article to include information obtained from a record
35 in (1) a transcript or record of a judicial or administrative proceeding or (2) any
36 other public record when the inclusion of the information in the public record is
37 authorized by a court, statute, or decisional law.

38 (j) Notwithstanding any other law, a public prosecutor may, in response to a
39 written request made pursuant to ~~Section 6253~~ Article 1 (commencing with Section
40 7922.500) and Article 2 (commencing with Section 7922.525) of Chapter 1 of Part
41 3 of Division 10 of Title 1 of the Government Code, provide information from a
42 local summary criminal history, if release of the information would enhance public
43 safety, the interest of justice, or the public’s understanding of the justice system and

1 the person making the request declares that the request is made for a scholarly or
2 journalistic purpose. If a person in a declaration required by this subdivision
3 willfully states as true any material fact that ~~he or she~~ that person knows to be false,
4 ~~he or she~~ the person shall be subject to a civil penalty not exceeding ten thousand
5 dollars (\$10,000). The requestor shall be informed in writing of this penalty. An
6 action to impose a civil penalty under this subdivision may be brought by any public
7 prosecutor and shall be enforced as a civil judgment.

8 (k) Notwithstanding any other law, the Department of Justice or any state or local
9 law enforcement agency may require the submission of fingerprints for the purpose
10 of conducting summary criminal history information record checks ~~which~~ that are
11 authorized by law.

12 (l) Any local criminal justice agency may release, within five years of the arrest,
13 information concerning an arrest or detention of a peace officer or applicant for a
14 position as a peace officer, as defined in Section 830, ~~which~~ that did not result in
15 conviction, and for which the person did not complete a postarrest diversion
16 program or a deferred entry of judgment program, to a government agency employer
17 of that peace officer or applicant.

18 (m) Any local criminal justice agency may release information concerning an
19 arrest of a peace officer or applicant for a position as a peace officer, as defined in
20 Section 830, ~~which~~ that did not result in conviction but for which the person
21 completed a postarrest diversion program or a deferred entry of judgment program,
22 or information concerning a referral to and participation in any postarrest diversion
23 program or a deferred entry of judgment program to a government agency employer
24 of that peace officer or applicant.

25 (n) Notwithstanding subdivision (l) or (m), a local criminal justice agency shall
26 not release information under the following circumstances:

27 (1) Information concerning an arrest for which diversion or a deferred entry of
28 judgment program has been ordered without attempting to determine whether
29 diversion or a deferred entry of judgment program has been successfully completed.

30 (2) Information concerning an arrest or detention followed by a dismissal or
31 release without attempting to determine whether the individual was exonerated.

32 (3) Information concerning an arrest without a disposition without attempting to
33 determine whether diversion has been successfully completed or the individual was
34 exonerated.

35 **Comment.** Section 13300 is amended to reflect nonsubstantive recodification of the California
36 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
37 Reports __ (2019).

38 The section is also amended to eliminate gendered pronouns and make grammatical corrections.

39 **§ 13302 (amended). Knowingly furnishing record or information from record to person not**
40 **authorized to receive it**

41 SEC. _____. Section 13302 of the Penal Code is amended to read:

1 13302. An employee of the local criminal justice agency who knowingly furnishes
2 a record or information obtained from a record to a person who is not authorized by
3 law to receive the record or information is guilty of a misdemeanor. Nothing in this
4 section shall prohibit a public prosecutor from accessing and obtaining information
5 from the public prosecutor’s case management database to respond to a request for
6 publicly disclosable information pursuant to the California Public Records Act
7 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
8 (commencing with Section 7920.000) of Title 1 of the Government Code).

9 **Comment.** Section 13302 is amended to reflect nonsubstantive recodification of the California
10 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
11 Reports __ (2019).

12 **§ 13519.4 (amended). Guidelines and training on racial and cultural differences among state**
13 **residents**

14 SEC. ____. Section 13519.4 of the Penal Code is amended to read:

15 13519.4. (a) The commission shall develop and disseminate guidelines and
16 training for all peace officers in California as described in subdivision (a) of Section
17 13510 and who adhere to the standards approved by the commission, on the racial
18 and cultural differences among the residents of this state. The course or courses of
19 instruction and the guidelines shall stress understanding and respect for racial,
20 identity, and cultural differences, and development of effective, noncombative
21 methods of carrying out law enforcement duties in a diverse racial, identity, and
22 cultural environment.

23 (b) The course of basic training for peace officers shall include adequate
24 instruction on racial, identity, and cultural diversity in order to foster mutual respect
25 and cooperation between law enforcement and members of all racial, identity, and
26 cultural groups. In developing the training, the commission shall consult with
27 appropriate groups and individuals having an interest and expertise in the field of
28 racial, identity, and cultural awareness and diversity.

29 (c) For the purposes of this section the following shall apply:

30 (1) “Disability,” “gender,” “nationality,” “religion,” and “sexual orientation”
31 have the same meaning as in Section 422.55.

32 (2) “Culturally diverse” and “cultural diversity” include, but are not limited to,
33 disability, gender, nationality, religion, and sexual orientation issues.

34 (3) “Racial” has the same meaning as “race or ethnicity” in Section 422.55.

35 (4) “Stop” has the same meaning as in paragraph (2) of subdivision (g) of Section
36 12525.5 of the Government Code.

37 (d) The Legislature finds and declares as follows:

38 (1) The working men and women in California law enforcement risk their lives
39 every day. The people of California greatly appreciate the hard work and dedication
40 of peace officers in protecting public safety. The good name of these officers should
41 not be tarnished by the actions of those few who commit discriminatory practices.

1 (2) Racial or identity profiling is a practice that presents a great danger to the
2 fundamental principles of our Constitution and a democratic society. It is abhorrent
3 and cannot be tolerated.

4 (3) Racial or identity profiling alienates people from law enforcement, hinders
5 community policing efforts, and causes law enforcement to lose credibility and trust
6 among the people whom law enforcement is sworn to protect and serve.

7 (4) Pedestrians, users of public transportation, and vehicular occupants who have
8 been stopped, searched, interrogated, and subjected to a property seizure by a peace
9 officer for no reason other than the color of their skin, national origin, religion,
10 gender identity or expression, housing status, sexual orientation, or mental or
11 physical disability are the victims of discriminatory practices.

12 (5) It is the intent of the Legislature in enacting the changes to this section made
13 by the act that added this paragraph that additional training is required to address
14 the pernicious practice of racial or identity profiling and that enactment of this
15 section is in no way dispositive of the issue of how the state should deal with racial
16 or identity profiling.

17 (e) “Racial or identity profiling,” for purposes of this section, is the consideration
18 of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national
19 origin, age, religion, gender identity or expression, sexual orientation, or mental or
20 physical disability in deciding which persons to subject to a stop or in deciding upon
21 the scope or substance of law enforcement activities following a stop, except that
22 an officer may consider or rely on characteristics listed in a specific suspect
23 description. The activities include, but are not limited to, traffic or pedestrian stops,
24 or actions during a stop, such as asking questions, frisks, consensual and
25 nonconsensual searches of a person or any property, seizing any property, removing
26 vehicle occupants during a traffic stop, issuing a citation, and making an arrest.

27 (f) A peace officer shall not engage in racial or identity profiling.

28 (g) Every peace officer in this state shall participate in expanded training as
29 prescribed and certified by the Commission on Peace Officers Standards and
30 Training.

31 (h) The curriculum shall be evidence-based and shall include and examine
32 evidence-based patterns, practices, and protocols that make up racial or identity
33 profiling, including implicit bias. This training shall prescribe evidence-based
34 patterns, practices, and protocols that prevent racial or identity profiling. In
35 developing the training, the commission shall consult with the Racial and Identity
36 Profiling Advisory Board established pursuant to subdivision (j). The course of
37 instruction shall include, but not be limited to, significant consideration of each of
38 the following subjects:

39 (1) Identification of key indices and perspectives that make up racial, identity, and
40 cultural differences among residents in a local community.

41 (2) Negative impact of intentional and implicit biases, prejudices, and
42 stereotyping on effective law enforcement, including examination of how historical
43 perceptions of discriminatory enforcement practices have harmed police-

1 community relations and contributed to injury, death, disparities in arrest detention
2 and incarceration rights, and wrongful convictions.

3 (3) The history and role of the civil and human rights movement and struggles and
4 their impact on law enforcement.

5 (4) Specific obligations of peace officers in preventing, reporting, and responding
6 to discriminatory or biased practices by fellow peace officers.

7 (5) Perspectives of diverse, local constituency groups and experts on particular
8 racial, identity, and cultural and police-community relations issues in a local area.

9 (6) The prohibition against racial or identity profiling in subdivision (f).

10 (i) Once the initial basic training is completed, each peace officer in California as
11 described in subdivision (a) of Section 13510 who adheres to the standards approved
12 by the commission shall be required to complete a refresher course every five years
13 thereafter, or on a more frequent basis if deemed necessary, in order to keep current
14 with changing racial, identity, and cultural trends.

15 (j)(1) Beginning July 1, 2016, the Attorney General shall establish the Racial and
16 Identity Profiling Advisory Board (RIPA) for the purpose of eliminating racial and
17 identity profiling, and improving diversity and racial and identity sensitivity in law
18 enforcement.

19 (2) RIPA shall include the following members:

20 (A) The Attorney General, or ~~his or her~~ designee.

21 (B) The President of the California Public Defenders Association, or ~~his or her~~
22 designee.

23 (C) The President of the California Police Chiefs Association, or ~~his or her~~
24 designee.

25 (D) The President of the California State Sheriffs' Association, or ~~his or her~~
26 designee.

27 (E) The President of the Peace Officers Research Association of California, or ~~his~~
28 ~~or her~~ designee.

29 (F) The Commissioner of the California Highway Patrol, or ~~his or her~~ designee.

30 (G) A university professor who specializes in policing, and racial and identity
31 equity.

32 (H) Two representatives of human or civil rights tax-exempt organizations who
33 specialize in civil or human rights.

34 (I) Two representatives of community organizations who specialize in civil or
35 human rights and criminal justice, and work with victims of racial and identity
36 profiling. At least one representative shall be between 16 and 24 years of age.

37 (J) Two religious clergy members who specialize in addressing and reducing
38 racial and identity bias toward individuals and groups.

39 (K) Up to two other members that the Governor may prescribe.

40 (L) Up to two other members that the President pro Tempore of the Senate may
41 prescribe.

42 (M) Up to two other members that the Speaker of the Assembly may prescribe.

43 (3) Each year, on an annual basis, RIPA shall do the following:

1 (A) Analyze the data reported pursuant to Section 12525.5 of the Government
2 Code and Section 13012 of this code.

3 (B) Analyze law enforcement training under this section.

4 (C) Work in partnership with state and local law enforcement agencies to review
5 and analyze racial and identity profiling policies and practices across geographic
6 areas in California.

7 (D) Conduct, and consult available, evidence-based research on intentional and
8 implicit biases, and law enforcement stop, search, and seizure tactics.

9 (E) Issue a report that provides RIPA’s analysis under subparagraphs (A) to (D),
10 inclusive, and detailed findings on the past and current status of racial and identity
11 profiling, and makes policy recommendations for eliminating racial and identity
12 profiling. RIPA shall post the report on its Internet Web site. Each report shall
13 include disaggregated statistical data for each reporting law enforcement agency.
14 The report shall include, at minimum, each reporting law enforcement agency’s total
15 results for each data collection criterion under subdivision (b) of Section 12525.5 of
16 the Government Code for each calendar year. The reports shall be retained and made
17 available to the public by posting those reports on the Department of Justice’s
18 OpenJustice Web portal. The first annual report shall be issued no later than January
19 1, 2018. The reports are public records within the meaning of ~~subdivision (d) of~~
20 Section 6252 Section 7920.530 of the Government Code and are open to public
21 inspection pursuant to Sections ~~6253, 6256, 6257, and 6258~~ 7922.500 to 7922.545,
22 inclusive, 7923.000, and 7923.005 of the Government Code.

23 (F) Hold at least three public meetings annually to discuss racial and identity
24 profiling, and potential reforms to prevent racial and identity profiling. Each year,
25 one meeting shall be held in northern California, one in central California, and one
26 in southern California. RIPA shall provide the public with notice of at least 60 days
27 before each meeting.

28 (4) Pursuant to subdivision (e) of Section 12525.5 of the Government Code, RIPA
29 shall advise the Attorney General in developing regulations for the collection and
30 reporting of stop data, and ensuring uniform reporting practices across all reporting
31 agencies.

32 (5) Members of RIPA shall not receive compensation, nor per diem expenses, for
33 their services as members of RIPA.

34 (6) No action of RIPA shall be valid unless agreed to by a majority of its members.

35 (7) The initial terms of RIPA members shall be four years.

36 (8) Each year, RIPA shall elect two of its members as cochairpersons.

37 **Comment.** Section 13519.4 is amended to reflect nonsubstantive recodification of the California
38 Public Records Act (“CPRA”). See *California Public Records Act Clean-Up*, __ Cal. L. Revision
39 Comm’n Reports __ (2019). By updating the references to the CPRA, the amendment also corrects
40 an erroneous reference to “public records within the meaning of subdivision (d) of Section 6252 of
41 the Government Code” (as opposed to “*subdivision (e) of Section 6252 of the Government Code,*”
42 which defined “public records”).

43 The amendment also corrects cross-references to former Government Code Sections 6256 and
44 6257. Those sections were repealed in 1998 (see 1998 Cal. Stat. ch. 620, §§ 7, 10). Most of their

1 substance was continued in newly added Government Code Section 6253, which also continued
2 the pertinent part of the previous version of Government Code Section 6253. See 1998 Cal. Stat.
3 ch. 620, § 5; Gov. Reorg. Plan No. 1 of 1991, § 7. Pursuant to the CPRA Recodification Act of
4 2020, Government Code Section 6253 has in turn been repealed and recodified in Government
5 Code Sections 7922.500-7922.545.

6 The section is also amended to eliminate gendered pronouns.

7 **§ 13650 (amended). Posting of current standards, policies, practices, operating procedures,**
8 **and education and training materials**

9 SEC. _____. Section 13650 of the Penal Code is amended to read:

10 13650. Commencing January 1, 2020, the Commission on Peace Officer
11 Standards and Training and each local law enforcement agency shall conspicuously
12 post on their Internet Web sites all current standards, policies, practices, operating
13 procedures, and education and training materials that would otherwise be available
14 to the public if a request was made pursuant to the California Public Records Act
15 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
16 (commencing with Section 7920.000) of Title 1 of the Government Code).

17 **Comment.** Section 13650 is amended to reflect nonsubstantive recodification of the California
18 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
19 Reports __ (2019).

20 **§ 14029 (amended). Confidentiality of witness information**

21 SEC. _____. Section 14029 of the Penal Code is amended to read:

22 14029. All information relating to any witness participating in the program
23 established pursuant to this title shall remain confidential and is not subject to
24 disclosure pursuant to the California Public Records Act (~~Chapter 3.5 (commencing~~
25 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
26 of Title 1 of the Government Code) and, if a change of name has been approved by
27 the program, the order to show cause is not subject to the publication requirement
28 of Section 1277 of the Code of Civil Procedure.

29 **Comment.** Section 14029 is amended to reflect nonsubstantive recodification of the California
30 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
31 Reports __ (2019).

32 **§ 14167 (amended). Confidentiality of report, record, information, analysis, or request**

33 SEC. _____. Section 14167 of the Penal Code is amended to read:

34 14167. Any report, record, information, analysis, or request obtained by the
35 department or any agency pursuant to this title is not a public record as defined in
36 Section ~~6252~~ 7920.530 of the Government Code and is not subject to disclosure
37 under ~~Section 6253~~ Article 1 (commencing with Section 7922.500) and Article 2
38 (commencing with Section 7922.525) of Chapter 1 of Part 3 of Division 10 of Title
39 1 of the Government Code.

40 **Comment.** Section 14167 is amended to reflect nonsubstantive recodification of the California
41 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
42 Reports __ (2019).

PUBLIC CONTRACT CODE

§ 2602 (amended). Commitment to use skilled and trained workforce

SEC. ____ . Section 2602 of the Public Contract Code is amended to read:

2602. (a) When a contractor, bidder, or other entity is required to provide an enforceable commitment that a skilled and trained workforce will be used to complete a contract or project, the commitment shall be made in an enforceable agreement with the public entity or other awarding body that provides both of the following:

(1) The contractor, bidder, or other entity, and its contractors and subcontractors at every tier, will comply with this chapter.

(2) The contractor, bidder, or other entity will provide to the public entity or other awarding body, on a monthly basis while the project or contract is being performed, a report demonstrating compliance with this chapter.

(b) If the contractor, bidder, or other entity fails to provide the monthly report required by this section, or provides a report that is incomplete, the public agency or other awarding body shall withhold further payments until a complete report is provided. If a monthly report is incomplete due to the failure of a subcontractor to timely submit the required information to the contractor, bidder, or other entity, the public agency or awarding body shall only withhold an amount equal to 150 percent of the value of the monthly billing for the relevant subcontractor. If a public agency or other awarding body withholds amounts pursuant to this subdivision, the contractor, bidder, or other entity shall be entitled to withhold the same amount from the subcontractor until the subcontractor provides the contractor, bidder, or other entity a complete report, and the public agency or awarding body subsequently pays the contractor, bidder, or other entity the withheld payments. If the contractor, bidder, or other entity substitutes a subcontractor pursuant to Chapter 4 (commencing with Section 4100) for failure to provide a complete report, and the contractor, bidder, or other entity replaces the subcontractor with one that provides an enforceable commitment that a skilled and trained workforce will be used to complete the contract or project, the public agency or awarding body shall immediately resume making payments to the contractor, bidder, or other entity, including all previously withheld payments.

(c) If a monthly report does not demonstrate compliance with this chapter, the public agency or other awarding body shall do all of the following:

(1) Withhold further payments until the contractor, bidder, or other entity provides a plan to achieve substantial compliance with this chapter, with respect to the relevant apprenticeable occupation, prior to completion of the contract or project. All of the following shall apply to the withholding of payments under this paragraph:

(A) The public agency or awarding body shall withhold an amount equal to 150 percent of the value of the monthly billing for the entity that failed to comply with this chapter, or 150 percent of the value of the monthly billing for the subcontractor

1 that failed to comply with this chapter. If a public agency or other awarding body
2 withholds amounts pursuant to this paragraph, the contractor, bidder, or other entity
3 shall be entitled to withhold the same amount from the subcontractor that did not
4 demonstrate compliance with this chapter.

5 (B) If the contractor, bidder, or other entity substitutes a subcontractor pursuant
6 to Chapter 4 (commencing with Section 4100) for failure to demonstrate
7 compliance, and the contractor, bidder, or other entity replaces the subcontractor
8 with one that provides an enforceable commitment that a skilled and trained
9 workforce will be used to complete the contract or project, the public agency or
10 awarding body shall immediately resume making payments to the contractor,
11 bidder, or other entity, including all previously withheld payments.

12 (C) If a contractor, bidder, or other entity submits to the public agency or awarding
13 body a plan to achieve substantial compliance with this chapter, the public agency
14 or awarding body shall immediately resume making payments to the contractor,
15 bidder, or other entity, including all previously withheld payments unless, within a
16 reasonable time, the public agency or awarding body rejects the plan as insufficient
17 and explains the reasons for the rejection.

18 (2) Forward a copy of the monthly report to the Labor Commissioner for issuance
19 of a civil wage and penalty assessment in accordance with Section 2603.

20 (3) Forward to the Labor Commissioner a copy of the plan, if any, submitted by
21 the contractor, bidder, or other entity to achieve substantial compliance with this
22 chapter and the response to that plan, if any, by the public agency or awarding body.

23 (d) A monthly report provided to the public agency or other awarding body shall
24 be a public record under the California Public Records Act (~~Chapter 3.5~~
25 ~~(commencing with Section 6250)~~ of ~~Division 7~~ Division 10 (commencing with
26 Section 7920.000) of Title 1 of the Government Code) and shall be open to public
27 inspection.

28 **Comment.** Section 2602 is amended to reflect nonsubstantive recodification of the California
29 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
30 Reports __ (2019).

31 **§ 6703 (amended). Procedure for Construction Manager/General Contractor method**
32 **project**

33 SEC. ____. Section 6703 of the Public Contract Code is amended to read:

34 6703. Construction Manager/General Contractor method projects shall progress
35 as follows:

36 (a)(1) The department shall establish a procedure for the evaluation and selection
37 of a construction manager through a request for qualifications (RFQ). The RFQ shall
38 include, but not be limited to, the following:

39 (A) If the entity is a partnership, limited partnership, or other association, a list of
40 all of the partners, general partners, or association members known at the time of
41 the bid submission who will participate in the Construction Manager/General
42 Contractor method contract, including, but not limited to, subcontractors.

1 (B) Evidence that the members of the entity have completed, or demonstrated the
2 experience, competency, capability, and capacity to complete projects of similar
3 size, scope, or complexity, and that proposed key personnel have sufficient
4 experience and training to competently manage and complete the construction of
5 the project, as well as a financial statement that assures the department that the entity
6 has the capacity to complete the project, construction expertise, and an acceptable
7 safety record.

8 (C) The licenses, registration, and credentials required to construct the project,
9 including information on the revocation or suspension of any license, registration,
10 or credential.

11 (D) Evidence that establishes that the entity has the capacity to obtain all required
12 payment and performance bonding, liability insurance, and errors and omissions
13 insurance.

14 (E) Any prior serious or willful violation of the California Occupational Safety
15 and Health Act of 1973, contained in Part 1 (commencing with Section 6300) of
16 Division 5 of the Labor Code, or the federal Occupational Safety and Health Act of
17 1970 (Public Law 91-596), settled against any member of the entity, and
18 information concerning workers' compensation experience history and worker
19 safety program.

20 (F) Information concerning any debarment, disqualification, or removal from a
21 federal, state, or local government public works project. Any instance in which an
22 entity, its owners, officers, or managing employees submitted a bid on a public
23 works project and were found to be nonresponsive, or were found by an awarding
24 body not to be a responsible bidder.

25 (G) Any instance in which the entity, or its owners, officers, or managing
26 employees, defaulted on a construction contract.

27 (H) Any violations of the Contractors' State License Law (Chapter 9
28 (commencing with Section 7000) of Division 3 of the Business and Professions
29 Code), excluding alleged violations of federal or state law including the payment of
30 wages, benefits, apprenticeship requirements, or personal income tax withholding,
31 or of the Federal Insurance Contributions Act (26 U.S.C. Sec. 3101, et seq.)
32 withholding requirements settled against any member of the entity.

33 (I) Information concerning the bankruptcy or receivership of any member of the
34 entity, including information concerning any work completed by a surety.

35 (J) Information concerning all settled adverse claims, disputes, or lawsuits
36 between the owner of a public works project and any member of the entity during
37 the five years preceding submission of a bid pursuant to this section, in which the
38 claim, settlement, or judgment exceeds fifty thousand dollars (\$50,000).
39 Information shall also be provided concerning any work completed by a surety
40 during this period.

41 (K) In the case of a partnership or other association that is not a legal entity, a
42 copy of the agreement creating the partnership or association and specifying that all

1 partners or association members agree to be fully liable for the performance under
2 the contract.

3 (L) For the purposes of this paragraph, a construction manager's safety record
4 shall be deemed acceptable if ~~his or her~~ the manager's experience modification rate
5 for the most recent three-year period is an average of 1.00 or less, and ~~his or her~~ the
6 manager's average total recordable injury/illness rate and average lost work rate for
7 the most recent three-year period does not exceed the applicable statistical standards
8 for its business category or if ~~he or she~~ the manager is a party to an alternative
9 dispute resolution system as provided for in Section 3201.5 of the Labor Code.

10 (2) The information required pursuant to this subdivision shall be verified under
11 oath by the entity and its members in the manner in which civil pleadings in civil
12 actions are verified. Information that is not a public record pursuant to the California
13 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
14 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
15 Code) shall not be open to public inspection.

16 (b) For each RFQ, the department shall generate a final list of qualified persons
17 or firms that participated in the RFQ prior to entering into negotiations on the
18 contract or contracts to which the RFQ applies.

19 (c)(1) For each contract included in the RFQ, the department shall enter into
20 separate negotiations for the contract with the highest qualified person or firm on
21 the final list for that contract. However, if the RFQ is for multiple contracts and
22 specifies that all of the multiple contracts will be awarded to a single construction
23 manager, there may be a single negotiation for all of the multiple contracts. The
24 negotiations shall include consideration of compensation and other contract terms
25 that the department determines to be fair and reasonable to the department. In
26 making this decision, the department shall take into account the estimated value, the
27 scope, the complexity, and the nature of the professional services or construction
28 services to be rendered. If the department is not able to negotiate a satisfactory
29 contract with the highest qualified person or firm on the final list, regarding
30 compensation and on other contract terms the department determines to be fair and
31 reasonable, the department shall formally terminate negotiations with that person or
32 firm. The department may undertake negotiations with the next most qualified
33 person or firm on the final list in sequence until an agreement is reached or a
34 determination is made to reject all persons or firms on the final list.

35 (2) If a contract for construction services is entered into pursuant to this chapter
36 and includes preconstruction services by the construction manager, the department
37 shall enter into a written contract with the construction manager for preconstruction
38 services under which contract the department shall pay the construction manager a
39 fee for preconstruction services in an amount agreed upon by the department and
40 the construction manager. The preconstruction services contract may include fees
41 for services to be performed during the contract period provided, however, the
42 department shall not request or obtain a fixed price or a guaranteed maximum price
43 for the construction contract from the construction manager or enter into a

1 construction contract with the construction manager until after the department has
2 entered into a services contract. A preconstruction services contract shall provide
3 for the subsequent negotiation for construction of all or any discreet phase or phases
4 of the project.

5 (3) A contract for construction services shall be awarded after the plans have been
6 sufficiently developed and either a fixed price or a guaranteed maximum price has
7 been successfully negotiated. In the event that a fixed price or a guaranteed
8 maximum price is not negotiated, the department shall not award the contract for
9 construction services.

10 (4) The department is not required to award the construction services contract.

11 (5) Construction shall not commence on any phase, package, or element until the
12 department and construction manager agree in writing on either a fixed price that
13 the department will pay for the construction to be commenced or a guaranteed
14 maximum price for the construction to be commenced and construction schedule
15 for the project. The construction manager shall perform not less than 30 percent of
16 the work covered by the fixed price or guaranteed maximum price agreement
17 reached. Work that is not performed directly by the construction manager shall be
18 bid to subcontractors pursuant to Section 6705.

19 **Comment.** Section 6703 is amended to reflect nonsubstantive recodification of the California
20 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
21 Reports __ (2019).

22 The section is also amended to eliminate gendered pronouns.

23 **§ 6824 (amended). Procurement process for design-build project for transportation entity**

24 SEC. _____. Section 6824 of the Public Contract Code is amended to read:

25 6824. The procurement process for the design-build project shall progress as
26 follows:

27 (a) A transportation entity shall prepare a set of documents setting forth the scope
28 and estimated price of a project. The documents may include, but need not be limited
29 to, the size, type, and desired design character of the project, performance
30 specifications covering the quality of materials, equipment, workmanship,
31 preliminary plans, and any other information deemed necessary to describe
32 adequately the transportation entity's needs. The performance specifications and
33 any plans shall be prepared by a design professional who is duly licensed and
34 registered in California.

35 (b) Based on the documents prepared as described in subdivision (a), the
36 transportation entity shall prepare a request for proposals that invites interested
37 parties to submit competitive sealed proposals in the manner prescribed by the
38 transportation entity. The request for proposals shall include, but need not be limited
39 to, the following elements:

40 (1) Identification of the basic scope and needs of the project or contract, the
41 estimated cost of the project, the methodology that will be used by the transportation
42 entity to evaluate proposals, whether the contract will be awarded on the basis of

1 the lowest responsible bid or on best value, and any other information deemed
2 necessary by the transportation entity to inform interested parties of the contracting
3 opportunity.

4 (2) Significant factors that the transportation entity reasonably expects to consider
5 in evaluating proposals, including, but not limited to, cost or price and all nonprice-
6 related factors.

7 (3) The relative importance or the weight assigned to each of the factors identified
8 in the request for proposals.

9 (4) For transportation entities authorized to utilize best value as a selection
10 method, the transportation entity reserves the right to request proposal revisions and
11 hold discussions and negotiations with responsive bidders and shall so specify in
12 the request for proposals and shall publish separately or incorporate into the request
13 for proposals applicable rules and procedures to be observed by the transportation
14 entity to ensure that any discussions or negotiations are conducted in good faith.

15 (c) Based on the documents prepared under subdivision (a), the transportation
16 entity shall prepare and issue a request for qualifications in order to prequalify or
17 short-list the design-build entities whose proposals shall be evaluated for final
18 selection. The request for qualifications shall include, but need not be limited to, the
19 following elements:

20 (1) Identification of the basic scope and needs of the project or contract, the
21 expected cost range, the methodology that will be used by the transportation entity
22 to evaluate proposals, the procedure for final selection of the design-build entity,
23 and any other information deemed necessary by the transportation entity to inform
24 interested parties of the contracting opportunity.

25 (2)(A) Significant factors that the transportation entity reasonably expects to
26 consider in evaluating qualifications, including technical design and construction
27 expertise, skilled labor force availability, and all other nonprice-related factors.

28 (B) For purposes of subparagraph (A), skilled labor force availability shall be
29 determined by the existence of an agreement with a registered apprenticeship
30 program, approved by the California Apprenticeship Council, that has graduated at
31 least one apprentice in each of the preceding five years. This graduation requirement
32 shall not apply to programs providing apprenticeship training for any craft that was
33 first deemed by the Department of Labor and the Department of Industrial Relations
34 to be an apprenticeable craft within the five years prior to the effective date of this
35 article.

36 (3) A standard form request for statements of qualifications prepared by the
37 transportation entity. In preparing the standard form, the transportation entity may
38 consult with the construction industry, the building trades and surety industry, and
39 other public agencies interested in using the authorization provided by this chapter.
40 The standard form shall require information including, but not limited to, all of the
41 following:

42 (A) If the design-build entity is a partnership, limited partnership, joint venture,
43 or other association, a listing of all of the partners, general partners, or association

1 members known at the time of statement of qualification submission who will
2 participate in the design-build contract.

3 (B) Evidence that the members of the design-build entity have completed, or
4 demonstrated the experience, competency, capability, and capacity to complete
5 projects of similar size, scope, or complexity, and that proposed key personnel have
6 sufficient experience and training to competently manage and complete the design
7 and construction of the project, and a financial statement that assures the
8 transportation entity that the design-build entity has the capacity to complete the
9 project.

10 (C) The licenses, registration, and credentials required to design and construct the
11 project, including, but not limited to, information on the revocation or suspension
12 of any license, credential, or registration.

13 (D) Evidence that establishes that the design-build entity has the capacity to
14 obtain all required payment and performance bonding, liability insurance, and errors
15 and omissions insurance.

16 (E) Information concerning workers' compensation experience history and a
17 worker safety program.

18 (F) A full disclosure regarding all of the following that are applicable:

19 (i) Any serious or willful violation of Part 1 (commencing with Section 6300) of
20 Division 5 of the Labor Code or the federal Occupational Safety and Health Act of
21 1970 (Public Law 91-596), settled against any member of the design-build entity.

22 (ii) Any debarment, disqualification, or removal from a federal, state, or local
23 government public works project.

24 (iii) Any instance where the design-build entity, or its owners, officers, or
25 managing employees submitted a bid on a public works project and were found to
26 be nonresponsive or were found by an awarding body not to be a responsible bidder.

27 (iv) Any instance where the design-build entity, or its owners, officers, or
28 managing employees defaulted on a construction contract.

29 (v) Any violations of the Contractors' State License Law, as described in Chapter
30 9 (commencing with Section 7000) of Division 3 of the Business and Professions
31 Code, including alleged violations of federal or state law regarding the payment of
32 wages, benefits, apprenticeship requirements, or personal income tax withholding,
33 or Federal Insurance Contribution Act (FICA) withholding requirements settled
34 against any member of the design-build entity.

35 (vi) Any bankruptcy or receivership of any member of the design-build entity,
36 including, but not limited to, information concerning any work completed by a
37 surety.

38 (vii) Any settled adverse claims, disputes, or lawsuits between the owner of a
39 public works project and any member of the design-build entity during the five years
40 preceding submission of a bid under this article, in which the claim, settlement, or
41 judgment exceeds fifty thousand dollars (\$50,000). Information shall also be
42 provided concerning any work completed by a surety during this five-year period.

1 (G) If the proposed design-build entity is a partnership, limited partnership, joint-
2 venture, or other association, a copy of the organizational documents or agreement
3 committing to form the organization, and a statement that all general partners, joint
4 venture members, or other association members agree to be fully liable for the
5 performance under the design-build contract.

6 (H) An acceptable safety record. A bidder's safety record shall be deemed
7 acceptable if its experience modification rate for the most recent three-year period
8 is an average of 1.00 or less, and its average total recordable injury/illness rate and
9 average lost work rate for the most recent three-year period does not exceed the
10 applicable statistical standards for its business category or if the bidder is a party to
11 an alternative dispute resolution system as provided for in Section 3201.5 of the
12 Labor Code.

13 (4) The information required under this subdivision shall be verified under oath
14 by the design-build entity and its members in the manner in which civil pleadings
15 in civil actions are verified. Information required under this subdivision that is not
16 a public record under the California Public Records Act, as described in ~~Chapter 3.5~~
17 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
18 Section 7920.000) of Title 1 of the Government Code, shall not be open to public
19 inspection.

20 (d) For those projects utilizing low bid as the final selection method, the
21 competitive bidding process shall result in lump-sum bids by the prequalified or
22 short-listed design-build entities. Awards shall be made to the lowest responsible
23 bidder.

24 (e) For those projects utilizing best value as a selection method, the design-build
25 competition shall progress as follows:

26 (1) Competitive proposals shall be evaluated by using only the criteria and
27 selection procedures specifically identified in the request for proposals. However,
28 the following minimum factors shall be weighted as deemed appropriate by the
29 contracting transportation entity:

30 (A) Price.

31 (B) Technical design and construction expertise.

32 (C) Life-cycle costs over 15 years or more.

33 (2) Pursuant to subdivision (b), the transportation entity may hold discussions or
34 negotiations with responsive bidders using the process articulated in the
35 transportation entity's request for proposals.

36 (3) When the evaluation is complete, the top three responsive bidders shall be
37 ranked sequentially based on a determination of value provided.

38 (4) The award of the contract shall be made to the responsible bidder whose
39 proposal is determined by the transportation entity to have offered the best value to
40 the public.

41 (5) Notwithstanding any other provision of this code, upon issuance of a contract
42 award, the transportation entity shall publicly announce its award, identifying the
43 contractor to whom the award is made, along with a written decision supporting its

1 contract award and stating the basis of the award. The notice of award shall also
2 include the transportation entity's second- and third-ranked design-build entities.

3 (6) The written decision supporting the transportation entity's contract award,
4 described in paragraph (5), and the contract file shall provide sufficient information
5 to satisfy an external audit.

6 **Comment.** Section 6824 is amended to reflect nonsubstantive recodification of the California
7 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
8 Reports __ (2019).

9 **§ 10191 (amended). Procurement process for design-build projects**

10 SEC. ____. Section 10191 of the Public Contract Code is amended to read:

11 10191. The procurement process for the design-build projects shall progress as
12 follows:

13 (a)(1) The director shall prepare a set of documents setting forth the scope and
14 estimated price of the project. The documents may include, but need not be limited
15 to, the size, type, and desired design character of the project, performance
16 specifications covering the quality of materials, equipment, workmanship,
17 preliminary plans or building layouts, or any other information deemed necessary
18 to describe adequately the department's needs. The performance specifications and
19 any plans shall be prepared by a design professional who is duly licensed and
20 registered in California.

21 (2) The documents shall not include a design-build-operate contract for any
22 project. The documents, however, may include operations during a training or
23 transition period but shall not include long-term operations for any project.

24 (b) The director shall prepare and issue a request for qualifications in order to
25 prequalify or short-list the design-build entities whose proposals shall be evaluated
26 for final selection. The request for qualifications shall include, but need not be
27 limited to, the following elements:

28 (1) Identification of the basic scope and needs of the project or contract, the
29 expected cost range, the methodology that will be used by the department to
30 evaluate proposals, the procedure for final selection of the design-build entity, and
31 any other information deemed necessary by the director to inform interested parties
32 of the contracting opportunity.

33 (2) Significant factors that the department reasonably expects to consider in
34 evaluating qualifications, including technical design and construction expertise, and
35 all other nonprice-related factors.

36 (3) A standard template request for statements of qualifications prepared by the
37 department. In preparing the standard template, the department may consult with
38 the construction industry, the building trades and surety industry, and other agencies
39 interested in using the authorization provided by this article. The template shall
40 require the following information:

41 (A) If the design-build entity is a privately held corporation, limited liability
42 company, partnership, or joint venture, a listing of all of the shareholders, partners,

1 or members known at the time of statement of qualification submission who will
2 perform work on the project.

3 (B) Evidence that the members of the design-build team have completed, or
4 demonstrated the experience, competency, capability, and capacity to complete
5 projects of similar size, scope, or complexity, and that proposed key personnel have
6 sufficient experience and training to competently manage and complete the design
7 and construction of the project, and a financial statement that ensures that the
8 design-build entity has the capacity to complete the project.

9 (C) The licenses, registration, and credentials required to design and construct the
10 project, including, but not limited to, information on the revocation or suspension
11 of any license, credential, or registration.

12 (D) Evidence that establishes that the design-build entity has the capacity to
13 obtain all required payment and performance bonding, liability insurance, and errors
14 and omissions insurance.

15 (E) Information concerning workers' compensation experience history and a
16 worker safety program.

17 (F) If the proposed design-build entity is a corporation, limited liability company,
18 partnership, joint venture, or other legal entity, a copy of the organizational
19 documents or agreement committing to form the organization.

20 (G) An acceptable safety record. A proposer's safety record shall be deemed
21 acceptable if its experience modification rate for the most recent three-year period
22 is an average of 1.00 or less, and its average total recordable injury or illness rate
23 and average lost work rate for the most recent three-year period does not exceed the
24 applicable statistical standards for its business category or if the proposer is a party
25 to an alternative dispute resolution system as provided for in Section 3201.5 of the
26 Labor Code.

27 (4)(A) The information required under this subdivision shall be certified under
28 penalty of perjury by the design-build entity and its general partners or joint venture
29 members.

30 (B) Information required under this subdivision that is not otherwise a public
31 record under the California Public Records Act (~~Chapter 3.5 (commencing with~~
32 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
33 Title 1 of the Government Code) shall not be open to public inspection.

34 (c)(1) A design-build entity shall not be prequalified or shortlisted unless the
35 entity provides an enforceable commitment to the director that the entity and its
36 subcontractors at every tier will use a skilled and trained workforce to perform all
37 work on the project or contract that falls within an apprenticeable occupation in the
38 building and construction trades, in accordance with Chapter 2.9 (commencing with
39 Section 2600) of Part 1.

40 (2) This subdivision shall not apply if any of the following requirements are met:

41 (A) The department has entered into a project labor agreement that will bind all
42 contractors and subcontractors performing work on the project or contract to use a

1 skilled and trained workforce, and the entity agrees to be bound by that project labor
2 agreement.

3 (B) The project or contract is being performed under the extension or renewal of
4 a project labor agreement that was entered into by the department prior to January
5 1, 2017.

6 (C) The entity has entered into a project labor agreement that will bind the entity
7 and all its subcontractors at every tier performing the project or contract to use a
8 skilled and trained workforce.

9 (3) For purposes of this subdivision, “project labor agreement” has the same
10 meaning as in paragraph (1) of subdivision (b) of Section 2500.

11 (d) Based on the documents prepared as described in subdivision (a), the director
12 shall prepare a request for proposals that invites prequalified or short-listed entities
13 to submit competitive sealed proposals in the manner prescribed by the department.
14 The request for proposals shall include, but need not be limited to, the following
15 elements:

16 (1) Identification of the basic scope and needs of the project or contract, the
17 estimated cost of the project, the methodology that will be used by the department
18 to evaluate proposals, whether the contract will be awarded on the basis of low bid
19 or best value, and any other information deemed necessary by the department to
20 inform interested parties of the contracting opportunity.

21 (2) Significant factors that the department reasonably expects to consider in
22 evaluating proposals, including, but not limited to, cost or price and all nonprice-
23 related factors.

24 (3) The relative importance or the weight assigned to each of the factors identified
25 in the request for proposals.

26 (4) Where a best value selection method is used, the department may reserve the
27 right to request proposal revisions and hold discussions and negotiations with
28 responsive proposers, in which case the department shall so specify in the request
29 for proposals and shall publish separately or incorporate into the request for
30 proposals applicable procedures to be observed by the department to ensure that any
31 discussions or negotiations are conducted in good faith.

32 (e) For those projects utilizing low bid as the final selection method, the
33 competitive bidding process shall result in lump-sum bids by the prequalified or
34 short-listed design-build entities, and awards shall be made to the design-build
35 entity that is the lowest responsible bidder.

36 (f) For those projects utilizing best value as a selection method, the design-build
37 competition shall progress as follows:

38 (1) Competitive proposals shall be evaluated by using only the criteria and
39 selection procedures specifically identified in the request for proposals. The
40 following minimum factors, however, shall be weighted as deemed appropriate by
41 the department:

42 (A) Price, unless a stipulated sum is specified.

43 (B) Technical design and construction expertise.

1 (C) Life-cycle costs over 15 or more years.

2 (2) Pursuant to subdivision (d), the department may hold discussions or
3 negotiations with responsive proposers using the process articulated in the
4 department's request for proposals.

5 (3) When the evaluation is complete, the responsive proposers shall be ranked
6 based on a determination of value provided, provided that no more than three
7 proposers are required to be ranked.

8 (4) The award of the contract shall be made to the responsible design-build entity
9 whose proposal is determined by the director to have offered the best value to the
10 public.

11 (5) Notwithstanding any other provision of this code, upon issuance of a contract
12 award, the director shall publicly announce its award, identifying the design-build
13 entity to which the award is made, along with a statement regarding the basis of the
14 award.

15 (6) The statement regarding the director's contract award, described in paragraph
16 (5), and the contract file shall provide sufficient information to satisfy an external
17 audit.

18 **Comment.** Section 10191 is amended to reflect nonsubstantive recodification of the California
19 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
20 Reports __ (2019).

21 **§ 10335 (amended). Approval of contracts**

22 SEC. ____. Section 10335 of the Public Contract Code is amended to read:

23 10335. (a) This article shall apply to all contracts, including amendments, entered
24 into by any state agency for services to be rendered to the state, whether or not the
25 services involve the furnishing or use of equipment, materials, or supplies or are
26 performed by an independent contractor. Except as provided in Sections 10295.6
27 and 10351, and paragraphs (8) and (9) of subdivision (b) of Section 10340, all
28 contracts subject to this article are of no effect unless and until approved by the
29 department. Each contract shall be transmitted with all papers, estimates, and
30 recommendations concerning it to the department and, if approved by the
31 department, shall be effective from the date of approval. This article shall apply to
32 any state agency that by general or specific statute is expressly or impliedly
33 authorized to enter into the transactions referred to in this section. This article shall
34 not apply to contracts for the construction, alteration, improvement, repair, or
35 maintenance of real or personal property, contracts for services subject to Chapter
36 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government
37 Code, to contracts that are listed as exceptions in Section 10295, contracts of less
38 than five thousand dollars (\$5,000) in amount, contracts of less than five thousand
39 dollars (\$5,000) where only per diem or travel expenses, or a combination thereof,
40 are to be paid, contracts between state agencies, or contracts between a state agency
41 and local agency or federal agency.

1 (b) In exercising its authority under this article with respect to contracts for the
2 services of legal counsel, other than the Attorney General, entered into by any state
3 agency that is subject to Section 11042 or Section 11043 of the Government Code,
4 the department, as a condition of approval of the contract, shall require the state
5 agency to demonstrate that the consent of the Attorney General to the employment
6 of the other counsel has been granted pursuant to Section 11040 of the Government
7 Code. This consent shall not be construed in a manner that would authorize the
8 Attorney General to establish a separate program for reviewing and approving
9 contracts in the place of, or in addition to, the program administered by the
10 department pursuant to this article.

11 (c) Until January 1, 2001, the department shall maintain a list of contracts
12 approved pursuant to subdivision (b). This list shall be filed quarterly with the
13 Senate Committee on Budget and Fiscal Review and the Assembly Committee on
14 Budget. The list shall be limited to contracts with a consideration in excess of twenty
15 thousand dollars (\$20,000) during the life of the contract and shall include sufficient
16 information to identify the provider of legal services, the length of each contract,
17 applicable hourly rates, and the need for the services. The department shall add a
18 contract that meets these conditions to the list within 10 days after approval. A copy
19 of the list shall be made available to any requester. The department may charge a
20 fee to cover the cost of supplying the list as provided in Section ~~6253~~ 7922.530 of
21 the Government Code.

22 (d) Contracts subject to the approval of the department shall also have the
23 department's approval for a modification or amendment thereto, with the following
24 exceptions:

25 (1) An amendment to a contract that only extends the original time for completion
26 of performance for a period of one year or less is exempt. If the original contract
27 was subject to approval by the department, one fully executed copy including
28 transmittal document, explaining the reason for the extension, shall be sent to the
29 legal office of the department. A contract may only be amended once under this
30 exemption.

31 (2) Contracts let or awarded on the basis of a law requiring competitive bidding
32 may be modified or amended only if the contract so provides or if authorized by the
33 law requiring competitive bidding.

34 (3) If an amendment to a contract has the effect of giving the contract as amended
35 an increase in monetary amount, or an agreement by the state to indemnify or save
36 harmless any person, the amendment shall be approved by the department.

37 **Comment.** Section 10335 is amended to reflect nonsubstantive recodification of the California
38 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
39 Reports __ (2019).

40 **§ 10506.6 (amended). Procedure for university to use in awarding best value contracts**

41 SEC. _____. Section 10506.6 of the Public Contract Code is amended to read:

1 10506.6. The university shall proceed in accordance with the following when
2 awarding best value contracts under this article.

3 (a) The university shall prepare a solicitation for bids and give notice pursuant to
4 Section 10502.

5 (b) The university shall establish a procedure to prequalify bidders. The
6 information required pursuant to this section shall be verified under oath by the
7 bidder in the manner in which civil pleadings in civil actions are verified.
8 Information submitted by the bidder as part of the evaluation process shall not be
9 open to public inspection to the extent that information is exempt from disclosure
10 under the California Public Records Act (~~Chapter 3.5 (commencing with Section~~
11 ~~6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of
12 the Government Code).

13 (c)(1) A best value contractor shall not be prequalified or shortlisted unless the
14 entity provides an enforceable commitment to the Regents of the University of
15 California that the best value contractor and its subcontractors at every tier will use
16 a skilled and trained workforce to perform all work on the project or contract that
17 falls within an apprenticeable occupation in the building and construction trades, in
18 accordance with Sections 10506.8 and 10506.9.

19 (2) This subdivision shall not apply if any of the following requirements are met:

20 (A) The Regents of the University of California have entered into a project labor
21 agreement that will bind all contractors and subcontractors performing work on the
22 project or contract to use a skilled and trained workforce, and the entity agrees to be
23 bound by that project labor agreement.

24 (B) The project or contract is being performed under the extension or renewal of
25 a project labor agreement that was entered into by the Regents of the University of
26 California prior to January 1, 2018.

27 (C) The best value contractor has entered into a project labor agreement that will
28 bind the entity and all its subcontractors at every tier performing the project or
29 contract to use a skilled and trained workforce.

30 (3) For purposes of this subdivision, “project labor agreement” has the same
31 meaning as in subdivision (g) of Section 10506.5.

32 (d) Each solicitation for bids shall do all of the following:

33 (1) Invite prequalified bidders to submit sealed bids in the manner prescribed by
34 this article.

35 (2) Include a section identifying and describing the following:

36 (A) Criteria that the university will consider in evaluating the qualifications of the
37 bidders.

38 (B) The methodology and rating or weighting system that will be used by the
39 university in evaluating bids.

40 (C) The relative importance or weight assigned to the criteria for evaluating the
41 qualifications of bidders identified in the request for bids.

42 (e) Final evaluation of the best value contractor shall be done in a manner that
43 prevents cost or price information from being revealed to the committee evaluating

1 the qualifications of the bidders prior to completion and announcement of that
2 committee’s decision.

3 **Comment.** Section 10506.6 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
5 Reports __ (2019).

6 **§ 10506.9 (amended). Records relating to requirement that skilled and trained workforce**
7 **will be used for contract or project**

8 SEC. ____. Section 10506.9 of the Public Contract Code is amended to read:

9 10506.9. (a) If a contractor, bidder, or other entity is required to provide an
10 enforceable commitment that a skilled and trained workforce will be used to
11 complete a contract or project, the commitment shall be made in an enforceable
12 agreement with the university that provides both of the following:

13 (1) The contractor, bidder, or other entity, and its contractors and subcontractors
14 at every tier, will comply with this article.

15 (2) The contractor, bidder, or other entity shall provide to the university, on a
16 monthly basis while the project contract is being performed, a report demonstrating
17 compliance with this article.

18 (b) If the contractor, bidder, or other entity fails to provide the monthly report
19 required by this section, or provides a report that is incomplete, the university shall
20 withhold further payments until a complete record is provided.

21 (c) If a monthly report does not demonstrate compliance with this article, the
22 university shall withhold further payments until the contractor, bidder, or other
23 entity provides a plan to achieve substantial compliance with this article, with
24 respect to the relevant apprenticeable occupation, prior to completion of the contract
25 or project.

26 (d) A monthly report provided to the university shall be a public record under the
27 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of~~
28 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
29 Government Code) and shall be open to public inspection.

30 **Comment.** Section 10506.9 is amended to reflect nonsubstantive recodification of the California
31 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
32 Reports __ (2019).

33 **§ 20101 (amended). Assessment of qualifications of prospective bidder**

34 SEC. ____. Section 20101 of the Public Contract Code is amended to read:

35 20101. (a) Except as provided in Section 20111.5, a public entity subject to this
36 part may require that each prospective bidder for a contract complete and submit to
37 the entity a standardized questionnaire and financial statement in a form specified
38 by the entity, including a complete statement of the prospective bidder’s experience
39 in performing public works. The standardized questionnaire may not require
40 prospective bidders to disclose any violations of Chapter 1 (commencing with
41 Section 1720) of Part 7 of Division 2 of the Labor Code committed prior to January
42 1, 1998, if a violation was based on a subcontractor’s failure to comply with these

1 provisions and the bidder had no knowledge of the subcontractor's violations. The
2 Department of Industrial Relations, in collaboration with affected agencies and
3 interested parties, shall develop model guidelines for rating bidders, and draft the
4 standardized questionnaire, that may be used by public entities for the purposes of
5 this part. The Department of Industrial Relations, in developing the standardized
6 questionnaire, shall consult with affected public agencies, cities and counties, the
7 construction industry, the surety industry, and other interested parties. The
8 questionnaire and financial statement shall be verified under oath by the bidder in
9 the manner in which civil pleadings in civil actions are verified. The questionnaires
10 and financial statements shall not be public records and shall not be open to public
11 inspection; however, records of the names of contractors applying for
12 prequalification status shall be public records subject to disclosure under ~~Chapter~~
13 ~~3.5 (commencing with Section 6250) of Division 7~~ Division 10 (commencing with
14 Section 7920.000) of Title 1 of the Government Code.

15 (b) Any public entity requiring prospective bidders to complete and submit
16 questionnaires and financial statements, as described in subdivision (a), shall adopt
17 and apply a uniform system of rating bidders on the basis of the completed
18 questionnaires and financial statements, in order to determine both the minimum
19 requirements permitted for qualification to bid, and the type and size of the contracts
20 upon which each bidder shall be deemed qualified to bid. The uniform system of
21 rating prospective bidders shall be based on objective criteria.

22 (c) A public entity may establish a process for prequalifying prospective bidders
23 pursuant to this section on a quarterly basis and a prequalification pursuant to this
24 process shall be valid for one calendar year following the date of initial
25 prequalification.

26 (d) Any public entity requiring prospective bidders on a public works project to
27 prequalify pursuant to this section shall establish a process that will allow
28 prospective bidders to dispute their proposed prequalification rating prior to the
29 closing time for receipt of bids. The appeal process shall include the following:

30 (1) Upon request of the prospective bidder, the public entity shall provide
31 notification to the prospective bidder in writing of the basis for the prospective
32 bidder's disqualification and any supporting evidence that has been received from
33 others or adduced as a result of an investigation by the public entity.

34 (2) The prospective bidder shall be given the opportunity to rebut any evidence
35 used as a basis for disqualification and to present evidence to the public entity as to
36 why the prospective bidder should be found qualified.

37 (3) If the prospective bidder chooses not to avail itself of this process, the
38 proposed prequalification rating may be adopted without further proceedings.

39 (e) For the purposes of subdivision (a), a financial statement shall not be required
40 from a contractor who has qualified as a Small Business Administration entity
41 pursuant to paragraph (1) of subdivision (d) of Section 14837 of the Government
42 Code, when the bid is no more than 25 percent of the qualifying amount provided
43 in paragraph (1) of subdivision (d) of Section 14837 of the Government Code.

1 (f) Nothing in this section shall preclude an awarding agency from prequalifying
2 or disqualifying a subcontractor. The disqualification of a subcontractor by an
3 awarding agency does not disqualify an otherwise prequalified contractor.

4 **Comment.** Section 20101 is amended to reflect nonsubstantive recodification of the California
5 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
6 Reports __ (2019).

7 **§ 20119.3 (amended). Procedure for school board to use in awarding best value contracts**

8 SEC. ____. Section 20119.3 of the Public Contract Code is amended to read:

9 20119.3. The governing board of the school district shall proceed in accordance
10 with the following when awarding best value contracts under this article:

11 (a) The school district shall prepare a solicitation for bids and give notice pursuant
12 to Section 20112.

13 (b)(1) The school district shall establish a procedure to prequalify bidders as
14 required by this code. Information submitted by the bidder as part of the evaluation
15 process shall not be open to public inspection to the extent that information is
16 exempt from disclosure under the California Public Records Act (~~Chapter 3.5~~
17 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
18 Section 7920.000) of Title 1 of the Government Code).

19 (2) A best value entity shall not be prequalified or shortlisted unless the entity
20 provides an enforceable commitment to the governing board that the entity and its
21 subcontractors at every tier will use a skilled and trained workforce to perform all
22 work on the project or contract that falls within an apprenticeable occupation in the
23 building and construction trades, in accordance with Chapter 2.9 (commencing with
24 Section 2600) of Part 1.

25 (3) Paragraph (2) shall not apply if any of the following requirements are met:

26 (A) The school district has entered into a project labor agreement that will bind
27 all contractors and subcontractors performing work on the project or contract to use
28 a skilled and trained workforce, and the entity agrees to be bound by that project
29 labor agreement.

30 (B) The project or contract is being performed under the extension or renewal of
31 a project labor agreement that was entered into by the school district prior to January
32 1, 2017.

33 (C) The entity has entered into a project labor agreement that will bind the entity
34 and all its subcontractors at every tier performing the project or contract to use a
35 skilled and trained workforce.

36 (4) For purposes of this subdivision, “project labor agreement” has the same
37 meaning as in paragraph (1) of subdivision (b) of Section 2500.

38 (c) Each solicitation for bids shall do all of the following:

39 (1) Invite prequalified bidders to submit sealed bids in the manner prescribed by
40 this article.

41 (2) Include a section identifying and describing the following:

1 (A) Criteria that the school district will consider in evaluating the qualifications
2 of the bidders.

3 (B) The methodology and rating or weighting system that will be used by the
4 school district in evaluating bids.

5 (C) The relative importance or weight assigned to the criteria for evaluating the
6 qualifications of bidders identified in the request for bids.

7 (d) Final evaluation of the bidders shall be done in a manner that prevents the
8 identity of the bidders and the cost or price information from being revealed in
9 evaluating the qualifications of the bidders prior to completion of qualification
10 scoring.

11 **Comment.** Section 20119.3 is amended to reflect nonsubstantive recodification of the California
12 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
13 Reports __ (2019).

14 **§ 20155.3 (amended). Procedure for county to use in awarding best value contracts**

15 SEC. _____. Section 20155.3 of the Public Contract Code is amended to read:

16 20155.3. A county shall proceed in accordance with the following when awarding
17 best value contracts under this article:

18 (a) The county shall not select a bidder on the basis of the best value to a county
19 unless, after evaluating at a public meeting the alternative of awarding the contract
20 on the basis of the lowest bid price, the county makes a written finding that awarding
21 the contract on the basis of best value, for the specific project under consideration,
22 will accomplish one or more of the following objectives: reducing project costs,
23 expediting the completion of the project, or providing features not achievable
24 through awarding the contract on the basis of the lowest bid price.

25 (b) The county shall prepare a solicitation for bids and give notice pursuant to
26 Section 20125. A county may identify specific types of subcontractors that are
27 required to be included in the bids. A county shall comply with Chapter 4
28 (commencing with Section 4100) of Part 1 with regard to construction
29 subcontractors identified in the bid.

30 (c) The county shall establish a procedure to prequalify bidders pursuant to
31 Section 20101. The information required pursuant to this section shall be verified
32 under oath by the bidder in the manner in which civil pleadings in civil actions are
33 verified. Information submitted by the bidder as part of the evaluation process shall
34 not be open to public inspection to the extent that information is exempt from
35 disclosure under the California Public Records Act (~~Chapter 3.5 (commencing with~~
36 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
37 Title 1 of the Government Code).

38 (d) Each solicitation for bids shall do all of the following:

39 (1) Invite prequalified bidders to submit sealed bids in the manner prescribed by
40 this article.

41 (2) Include a section identifying and describing the following:

42 (A) Criteria that the county will consider in evaluating bids.

1 (B) The methodology and rating or weighting system that will be used by the
2 county in evaluating bids.

3 (C) The relative importance or weight assigned to the criteria identified in the
4 request for bids.

5 (e) Final evaluation of the best value contractor shall be done in a manner that
6 prevents cost or price information from being revealed to the committee evaluating
7 the qualifications of the bidders prior to completion and announcement of that
8 committee's decision.

9 **Comment.** Section 20155.3 is amended to reflect nonsubstantive recodification of the California
10 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
11 Reports __ (2019).

12 **§ 20665.24 (amended). Bidding for job order contract with community college district**

13 SEC. _____. Section 20665.24 of the Public Contract Code is amended to read:

14 20665.24. Bidding for job order contracts shall progress as follows:

15 (a)(1) A community college district shall prepare a set of documents for job order
16 contracts. The documents shall include a unit price catalog and preestablished unit
17 prices, job order contract technical specifications, and any other information
18 deemed necessary to describe adequately the community college district's needs.

19 (2) Any architect, engineer, consultant, or contractor retained by the community
20 college district to assist in the development of the job order contract documents shall
21 not be eligible to bid or to participate in the preparation of a bid with any job order
22 contractor.

23 (b) Based on the documents prepared under subdivision (a), a community college
24 district shall prepare a request for bid that invites prequalified job order contractors
25 to submit competitive sealed bids in the manner prescribed by the community
26 college district.

27 (1)(A) The prequalified job order contractors, as determined by a community
28 college district, shall bid one or more adjustment factors to the unit prices listed in
29 the unit price catalog based on the job order contract technical specifications.
30 Awards shall be made to the prequalified bidders that the community college district
31 determines to be the most qualified based upon preestablished criteria made by a
32 community college district. The prequalified bidders shall be in compliance with a
33 community college district's project labor agreement.

34 (B) Compliance shall constitute no more than three major violations on any
35 community college district projects within the last three years. If a contractor has
36 more than three violations within a three-year period of time, the community college
37 district shall seek administrative review of the violations. Violations will include,
38 but are not limited to, the following:

39 (i) Failure to register core workers with the appropriate building trade union.

40 (ii) Failure to assign apprentices in accordance with Section 1777.5 of the Labor
41 Code.

42 (iii) Failure to comply with subdivision (c) of Section 20665.25.

1 (iv) Incorrect assignment of work in accordance with the community college
2 district's project labor agreement.

3 (2) The community college district may award multiple job order contracts
4 through a request for bid. Job order contracts shall be awarded to the most qualified
5 prequalified bidders described in this subdivision.

6 (3) The request for bids may encourage the participation of local construction
7 firms and the use of local subcontractors.

8 (c)(1) A community college district shall establish a procedure to prequalify job
9 order contractors using a standard questionnaire that includes, at a minimum, the
10 issues covered by the standardized questionnaire and model guidelines for rating
11 bidders developed by the Department of Industrial Relations pursuant to subdivision
12 (a) of Section 20101. This questionnaire shall require information including, but not
13 limited to, all of the following:

14 (A) If the job order contractor is a partnership, limited partnership, or other
15 association, a listing of all of the partners or association members known at the time
16 of bid submission who will participate in the job order contract.

17 (B) Evidence that the members of the job order contractor have the capacity to
18 complete projects of similar size, scope, or complexity, and that proposed key
19 personnel have sufficient experience and training to competently manage the
20 construction of the project, as well as a financial statement that assures the
21 community college district that the job order contractor has the capacity to complete
22 the project.

23 (C) The licenses, registration, and credentials required to perform construction,
24 including, but not limited to, information on the revocation or suspension of any
25 license, credential, or registration.

26 (D) Evidence that establishes that the job order contractor has the capacity to
27 obtain all required payment and performance bonding and liability insurance.

28 (E) Information concerning workers' compensation experience history, worker
29 safety programs, and apprenticeship programs.

30 (F) A full disclosure regarding all of the following that are applicable:

31 (i) Any serious or willful violation of Part 1 (commencing with Section 6300) of
32 Division 5 of the Labor Code or the federal Occupational Safety and Health Act of
33 1970 (Public Law 91-596), settled against any member of the job order contractor.

34 (ii) Any debarment, disqualification, or removal from a federal, state, or local
35 government public works project.

36 (iii) Any instance where the job order contractor, or its owners, officers, or
37 managing employees submitted a bid on a public works project and were found to
38 be nonresponsive, or were found by an awarding body not to be a responsible bidder.

39 (iv) Any instance where the job order contractor, or its owners, officers, or
40 managing employees defaulted on a construction contract.

41 (v) Any violations of the Contractors' State License Law (Chapter 9 (commencing
42 with Section 7000) of Division 3 of the Business and Professions Code), excluding
43 alleged violations of federal or state law regarding the payment of wages, benefits,

1 apprenticeship requirements, or personal income tax withholding, or of Federal
2 Insurance Contribution Act (FICA) withholding requirements settled against any
3 member of the job order contractor.

4 (vi) Any bankruptcy or receivership of any member of the job order contractor,
5 including, but not limited to, information concerning any work completed by a
6 surety.

7 (vii) Any settled adverse claims, disputes, or lawsuits between the owner of a
8 public works project and any member of the job order contractor during the five
9 years preceding submission of a bid under this article, in which the claim,
10 settlement, or judgment exceeds fifty thousand dollars (\$50,000). Information shall
11 also be provided concerning any work completed by a surety during this period.

12 (G) In the case of a partnership or any association that is not a legal entity, a copy
13 of the agreement creating the partnership or association and specifying that all
14 partners or association members agree to be fully liable for the performance under
15 the job order contract.

16 (2) The information required under this subdivision shall be verified under oath
17 by the entity and its members in the manner in which civil pleadings in civil actions
18 are verified. Information that is not a public record under the California Public
19 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
20 10 (commencing with Section 7920.000) of Title 1 of the Government Code) shall
21 not be open to public inspection.

22 **Comment.** Section 20665.24 is amended to reflect nonsubstantive recodification of the
23 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
24 Comm'n Reports __ (2019).

25 **§ 20919.24 (amended). Bidding for job order contract with school district**

26 SEC. ____. Section 20919.24 of the Public Contract Code is amended to read:

27 20919.24. Bidding for job order contracts shall progress as follows:

28 (a)(1) The school district shall prepare a set of documents for job order contracts.
29 The documents shall include a unit price catalog and preestablished unit prices, job
30 order contract technical specifications, and any other information deemed necessary
31 to describe adequately the school district's needs.

32 (2) Any architect, engineer, consultant, or contractor retained by the school
33 district to assist in the development of the job order contract documents shall not be
34 eligible to bid or to participate in the preparation of a bid with any job order
35 contractor.

36 (b) Based on the documents prepared under subdivision (a), the school district
37 shall prepare a request for bid that invites prequalified job order contractors to
38 submit competitive sealed bids in the manner prescribed by the school district.

39 (1)(A) The prequalified job order contractors, as determined by the school district,
40 shall bid one or more adjustment factors to the unit prices listed in the unit price
41 catalog based on the job order contract technical specifications. Awards shall be
42 made to the prequalified bidders that the school district determines to be the most

1 qualified based upon preestablished criteria made by the school district. The
2 prequalified bidders shall be in compliance with the school district's project labor
3 agreement.

4 (B) Compliance shall constitute no more than three major violations on any school
5 district projects within the last three years. If a contractor has more than three
6 violations within a three-year period of time, the school district shall seek
7 administrative review of the violations. Violations will include, but are not limited
8 to, the following:

9 (i) Failure to register core workers with the appropriate building trade union.

10 (ii) Failure to assign apprentices in accordance with Section 1777.5 of the Labor
11 Code.

12 (iii) Failure to comply with subdivision (c) of Section 20919.25.

13 (iv) Incorrect assignment of work in accordance with the school district's project
14 labor agreement.

15 (2) The school district may award multiple job order contracts through a request
16 for bid. Job order contracts shall be awarded to the most qualified prequalified
17 bidders described in this subdivision.

18 (3) The request for bids may encourage the participation of local construction
19 firms and the use of local subcontractors.

20 (c)(1) The school district shall establish a procedure to prequalify job order
21 contractors using a standard questionnaire that includes, at a minimum, the issues
22 covered by the standardized questionnaire and model guidelines for rating bidders
23 developed by the Department of Industrial Relations pursuant to subdivision (a) of
24 Section 20101. This questionnaire shall require information including, but not
25 limited to, all of the following:

26 (A) If the job order contractor is a partnership, limited partnership, or other
27 association, a listing of all of the partners or association members known at the time
28 of bid submission who will participate in the job order contract.

29 (B) Evidence that the members of the job order contractor have the capacity to
30 complete projects of similar size, scope, or complexity, and that proposed key
31 personnel have sufficient experience and training to competently manage the
32 construction of the project, as well as a financial statement that assures the school
33 district that the job order contractor has the capacity to complete the project.

34 (C) The licenses, registration, and credentials required to perform construction,
35 including, but not limited to, information on the revocation or suspension of any
36 license, credential, or registration.

37 (D) Evidence that establishes that the job order contractor has the capacity to
38 obtain all required payment and performance bonding and liability insurance.

39 (E) Information concerning workers' compensation experience history, worker
40 safety programs, and apprenticeship programs.

41 (F) A full disclosure regarding all of the following that are applicable:

1 (i) Any serious or willful violation of Part 1 (commencing with Section 6300) of
2 Division 5 of the Labor Code or the federal Occupational Safety and Health Act of
3 1970 (Public Law 91-596), settled against any member of the job order contractor.

4 (ii) Any debarment, disqualification, or removal from a federal, state, or local
5 government public works project.

6 (iii) Any instance where the job order contractor, or its owners, officers, or
7 managing employees submitted a bid on a public works project and were found to
8 be nonresponsive, or were found by an awarding body not to be a responsible bidder.

9 (iv) Any instance where the job order contractor, or its owners, officers, or
10 managing employees defaulted on a construction contract.

11 (v) Any violations of the Contractors' State License Law (Chapter 9 (commencing
12 with Section 7000) of Division 3 of the Business and Professions Code), excluding
13 alleged violations of federal or state law regarding the payment of wages, benefits,
14 apprenticeship requirements, or personal income tax withholding, or of Federal
15 Insurance Contribution Act (FICA) withholding requirements settled against any
16 member of the job order contractor.

17 (vi) Any bankruptcy or receivership of any member of the job order contractor,
18 including, but not limited to, information concerning any work completed by a
19 surety.

20 (vii) Any settled adverse claims, disputes, or lawsuits between the owner of a
21 public works project and any member of the job order contractor during the five
22 years preceding submission of a bid under this article, in which the claim,
23 settlement, or judgment exceeds fifty thousand dollars (\$50,000). Information shall
24 also be provided concerning any work completed by a surety during this period.

25 (G) In the case of a partnership or any association that is not a legal entity, a copy
26 of the agreement creating the partnership or association and specifying that all
27 partners or association members agree to be fully liable for the performance under
28 the job order contract.

29 (2) The information required under this subdivision shall be verified under oath
30 by the entity and its members in the manner in which civil pleadings in civil actions
31 are verified. Information that is not a public record under the California Public
32 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
33 10 (commencing with Section 7920.000) of Title 1 of the Government Code) shall
34 not be open to public inspection.

35 **Comment.** Section 20919.24 is amended to reflect nonsubstantive recodification of the
36 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
37 Comm'n Reports __ (2019).

38 **§ 20928.2 (amended). Procurement process for surface storage project**

39 SEC. _____. Section 20928.2 of the Public Contract Code is amended to read:

40 20928.2. The procurement process for the project shall progress as follows:

41 (a) The local agency shall prepare a set of documents setting forth the scope and
42 estimated price of the project. The documents may include, but need not be limited

1 to, the size, type, and desired design character of the project, performance
2 specifications covering the quality of materials, equipment, workmanship,
3 preliminary plans or building layouts, or any other information deemed necessary
4 to describe adequately the local agency's needs. The performance specifications and
5 any plans shall be prepared by a design professional who is duly licensed and
6 registered in California.

7 (b) The local agency shall prepare and issue a request for qualifications in order
8 to prequalify or short-list the entities, including subcontractors and suppliers, whose
9 bids shall be evaluated for final selection. The request for qualifications shall
10 include, but need not be limited to, the following elements:

11 (1) Identification of the basic scope and needs of the project or contract, the
12 expected cost range, the methodology that will be used by the local agency to
13 evaluate bids, the procedure for final selection of the bidder, and any other
14 information deemed necessary by the local agency to inform interested parties of
15 the contracting opportunity.

16 (2) Significant factors that the local agency reasonably expects to consider in
17 evaluating qualifications, including technical design-related expertise, construction
18 expertise, acceptable safety records, and all other non-price-related factors.

19 (3) A standard template request for statements of qualifications prepared by the
20 local agency. In preparing the standard template, the local agency may consult with
21 the construction industry, the building trades and surety industry, and other local
22 agencies interested in using the authorization provided by this article. The template
23 shall require all of the following information:

24 (A) If the bidder is a privately held corporation, limited liability company,
25 partnership, or joint venture, comprised of privately held entities, a listing of all of
26 the shareholders, partners, or members known at the time of statement of
27 qualification submission who will perform work on the project.

28 (B) Evidence that the members of the contracting team have completed, or
29 demonstrated the experience, competency, capability, and capacity to complete,
30 projects of similar size, scope, or complexity and that proposed key personnel have
31 sufficient experience and training to competently manage and complete the project,
32 and a financial statement that ensures that the bidder has the capacity to complete
33 the project.

34 (C) The licenses, registration, and credentials required for the project, including,
35 but not limited to, information on the revocation or suspension of any license,
36 credential, or registration.

37 (D) Evidence that establishes that the bidder has the capacity to obtain all required
38 payment and performance bonding, liability insurance, and errors and omissions
39 insurance.

40 (E) Information concerning workers' compensation experience history and a
41 worker safety program.

42 (F) An acceptable safety record. "Safety record" means the prior history
43 concerning the safe performance of construction contracts. The criteria used to

1 evaluate a bidder’s safety record shall include, at a minimum, its experience
2 modification rate for the most recent three-year period, and its average total
3 recordable injury or illness rate and average lost work rate for the most recent three-
4 year period.

5 (4) The information required under this subdivision shall be certified under
6 penalty of perjury by the bidder and its general partners or joint venture members.

7 (c) A contracting entity shall not be prequalified or short-listed unless the entity
8 provides an enforceable commitment to the local agency that the entity and its
9 subcontractors will use a skilled and trained workforce to perform all work on the
10 project or contract that falls within an apprenticeable occupation in the building and
11 construction trades.

12 (1) For purposes of this subdivision:

13 (A) “Apprenticeable occupation” means an occupation for which the chief had
14 approved an apprenticeship program pursuant to Section 3075 of the Labor Code
15 prior to January 1, 2014.

16 (B) “Skilled and trained workforce” means a workforce that meets all of the
17 following conditions:

18 (i) All the workers are either skilled journeypersons or apprentices registered in
19 an apprenticeship program approved by the Chief of the Division of Apprenticeship
20 Standards.

21 (ii)(I) For work performed on or after January 1, 2017, at least 30 percent of the
22 skilled journeypersons employed to perform work on the contract or project by the
23 bidder and each of its subcontractors at every tier are graduates of an apprenticeship
24 program for the applicable occupation that was either approved by the Chief of the
25 Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code
26 or located outside California and approved for federal purposes pursuant to the
27 apprenticeship regulations adopted by the federal Secretary of Labor.

28 (II) For work performed on or after January 1, 2018, at least 40 percent of the
29 skilled journeypersons employed to perform work on the contract or project by the
30 bidder and each of its subcontractors at every tier are graduates of an apprenticeship
31 program for the applicable occupation that was either approved by the Chief of the
32 Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code
33 or located outside California and approved for federal purposes pursuant to the
34 apprenticeship regulations adopted by the federal Secretary of Labor.

35 (III) For work performed on or after January 1, 2019, at least 50 percent of the
36 skilled journeypersons employed to perform work on the contract or project by the
37 bidder and each of its subcontractors at every tier are graduates of an apprenticeship
38 program for the applicable occupation that was either approved by the Chief of the
39 Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code
40 or located outside California and approved for federal purposes pursuant to the
41 apprenticeship regulations adopted by the federal Secretary of Labor.

42 (IV) For work performed on or after January 1, 2020, at least 60 percent of the
43 skilled journeypersons employed to perform work on the contract or project by the

1 bidder and each of its subcontractors at every tier are graduates of an apprenticeship
2 program for the applicable occupation that was either approved by the Chief of the
3 Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code
4 or located outside California and approved for federal purposes pursuant to the
5 apprenticeship regulations adopted by the federal Secretary of Labor.

6 (iii) For an apprenticeable occupation in which no apprenticeship program had
7 been approved by the chief prior to January 1, 1995, up to one-half of the graduation
8 percentage requirements of clause (ii) may be satisfied by skilled journeypersons
9 who commenced working in the apprenticeable occupation prior to the chief's
10 approval of an apprenticeship program for that occupation in the county in which
11 the project is located.

12 (C) "Skilled journeyman" means a worker who either:

13 (i) Graduated from an apprenticeship program for the applicable occupation that
14 was approved by the chief or located outside California and approved for federal
15 purposes pursuant to the apprenticeship regulations adopted by the federal Secretary
16 of Labor.

17 (ii) Has at least as many hours of on-the-job experience in the applicable
18 occupation as would be required to graduate from an apprenticeship program for the
19 applicable occupation that is approved by the chief.

20 (2) The apprenticeship graduation percentage requirements of subparagraph (B)
21 of paragraph (1) are satisfied if, in a particular calendar month, either of the
22 following is true:

23 (A) The required percentage of the skilled journeypersons employed by the
24 contractor or subcontractor to perform work on the contract or project meet the
25 graduation percentage requirement.

26 (B) For the hours of work performed by skilled journeypersons employed by the
27 contractor or subcontractor on the contract or project, the percentage of hours
28 performed by skilled journeypersons who met the graduation requirement meets or
29 exceeds the required graduation percentage.

30 (3) A contractor or subcontractor need not meet the apprenticeship graduation
31 requirements of subparagraph (B) of paragraph (1) if, during the calendar month,
32 the contractor or subcontractor employs skilled journeypersons to perform fewer
33 than 10 hours of work on the contract or project.

34 (4) A subcontractor need not meet the apprenticeship graduation requirements of
35 subparagraph (B) of paragraph (1) if both of the following requirements are met:

36 (A) The subcontractor was not a listed subcontractor under Section 4104 or a
37 substitute for a listed subcontractor.

38 (B) The subcontract does not exceed one-half of 1 percent of the price of the prime
39 contract.

40 (5)(A) A contractor, bidder, or other entity's commitment that a skilled and
41 trained workforce will be used to perform the project or contract shall be established
42 by the contractor, bidder, or other entity's agreement with the local agency that the
43 contractor, bidder, or other entity and its subcontractors at every tier will comply

1 with this subdivision and that the contractor, bidder, or other entity will provide the
2 local agency with a report on a monthly basis while the project or contract is being
3 performed, as to whether the contractor, bidder, or other entity and its subcontractors
4 are complying with the requirements of this subdivision.

5 (B) If the contractor, bidder, or other entity fails to provide the monthly report
6 required by this section, or provides a report that is incomplete, the local agency
7 shall withhold further payments until a complete report is provided.

8 (C) If a monthly report does not demonstrate compliance with this chapter, the
9 local agency shall withhold further payments until the contractor, bidder, or other
10 entity provides a plan to achieve substantial compliance with this article, with
11 respect to the relevant apprenticeable occupation, prior to completion of the contract
12 or project.

13 (D) A monthly report provided to the public agency or other awarding body shall
14 be a public record under the California Public Records Act (~~Chapter 3.5~~
15 ~~(commencing with Section 6250)~~ of Division 7 Division 10 (commencing with
16 Section 7920.000) of Title 1 of the Government Code) and shall be open to public
17 inspection.

18 (6) This subdivision shall not apply if the contractor, bidder, or other entity has
19 entered into a project labor agreement that will bind itself and all its subcontractors
20 who perform construction work on the project, and the contractor, bidder, or other
21 entity agrees to be bound by the project agreement.

22 (d) The local agency shall make the list of prequalified entities available to the
23 public.

24 (e) Based on the documents prepared as described in subdivision (a), the local
25 agency shall prepare a request for bids that invites prequalified or short-listed
26 entities to submit competitive sealed bids in the manner prescribed by the local
27 agency. The request for bids shall include, but need not be limited to, all of the
28 following elements:

29 (1) Identification of the basic scope and needs of the project or contract, the
30 estimated cost to perform the work being requested, the methodology that will be
31 used by the local agency to evaluate bids, whether the contract will be awarded on
32 the basis of best value or to the lowest responsible bidder, and any other information
33 deemed necessary by the local agency to inform interested parties of the contracting
34 opportunity.

35 (2) Significant factors that the local agency reasonably expects to consider in
36 evaluating bids, including, but not limited to, cost or price and all non-price-related
37 factors.

38 (3) The relative importance or the weight assigned to each of the factors identified
39 in the request for bids.

40 (4) If a best value selection method is used, the local agency may reserve the right
41 to request bid revisions and hold discussions and negotiations with responsive
42 bidders, in which case the local agency shall so specify in the request for bids and
43 shall publish separately or incorporate into the request for bids applicable

1 procedures to be observed by the local agency to ensure that any discussions or
2 negotiations are conducted in good faith.

3 (f) For those projects utilizing low bid as the final selection method, the
4 competitive bidding process shall, if appropriate for the delivery method, result in
5 lump-sum bids by the prequalified or short-listed entities, and awards shall be made
6 to the bidder that is the lowest responsible bidder.

7 (g) For those projects utilizing best value as a selection method, the competition
8 shall progress as follows:

9 (1) Competitive bids shall be evaluated by using only the criteria and selection
10 procedures specifically identified in the request for bids. The following minimum
11 factors, however, shall be included, if applicable to the delivery method and
12 weighted as deemed appropriate by the local agency:

13 (A) Price, unless a stipulated sum is specified and including financial and bonding
14 capacity requirements.

15 (B) Technical design, procurement, and construction expertise.

16 (C) Proposed construction approach, sequencing, and methods.

17 (D) Compliance with the requirements of the owner-provided performance
18 specification.

19 (E) Ability to meet the milestone schedule dates and, if applicable, any liquidated
20 damages.

21 (F) Ability to meet the quality requirements.

22 (G) Proposed risk allocation and sharing.

23 (H) Safety record.

24 (I) Warranty.

25 (J) Life-cycle costs over 15 or more years as specified by the local agency.

26 (2) Pursuant to subdivision (e), the local agency may hold discussions or
27 negotiations with responsive bidders using the process articulated in the local
28 agency's request for bids.

29 (3) When the evaluation is complete, the responsive bidders shall be ranked based
30 on a determination of value provided by the local agency if no more than three
31 bidders are required to be ranked.

32 (4) The award of the contract shall be made to the responsible bidder whose bid
33 is determined by the local agency to have offered the best value to the public.

34 (5) Notwithstanding any provision of the Water Code, upon issuance of a contract
35 award the local agency shall publicly announce its award, identifying the bidder to
36 which the award is made, along with a statement regarding the basis of the award.

37 (6) The statement regarding the local agency's contract award, described in
38 paragraph (5), and the contract file shall provide sufficient information to satisfy an
39 external audit.

40 **Comment.** Section 20928.2 is amended to reflect nonsubstantive recodification of the California
41 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
42 Reports __ (2019).

1 **§ 22164 (amended). Procurement process for design-build project for local agency**

2 SEC. _____. Section 22164 of the Public Contract Code is amended to read:

3 22164. The procurement process for the design-build projects shall progress as
4 follows:

5 (a)(1) The local agency shall prepare a set of documents setting forth the scope
6 and estimated price of the project. The documents may include, but need not be
7 limited to, the size, type, and desired design character of the project, performance
8 specifications covering the quality of materials, equipment, workmanship,
9 preliminary plans or building layouts, or any other information deemed necessary
10 to describe adequately the local agency's needs. The performance specifications and
11 any plans shall be prepared by a design professional who is duly licensed and
12 registered in California.

13 (2) The documents shall not include a design-build-operate contract for any
14 project. The documents, however, may include operations during a training or
15 transition period but shall not include long-term operations for any project.

16 (b) The local agency shall prepare and issue a request for qualifications in order
17 to prequalify or short-list the design-build entities whose proposals shall be
18 evaluated for final selection. The request for qualifications shall include, but need
19 not be limited to, the following elements:

20 (1) Identification of the basic scope and needs of the project or contract, the
21 expected cost range, the methodology that will be used by the local agency to
22 evaluate proposals, the procedure for final selection of the design-build entity, and
23 any other information deemed necessary by the local agency to inform interested
24 parties of the contracting opportunity.

25 (2) Significant factors that the local agency reasonably expects to consider in
26 evaluating qualifications, including technical design and construction expertise,
27 acceptable safety record, and all other nonprice-related factors.

28 (3) A standard template request for statements of qualifications prepared by the
29 local agency. In preparing the standard template, the local agency may consult with
30 the construction industry, the building trades and surety industry, and other local
31 agencies interested in using the authorization provided by this article. The template
32 shall require the following information:

33 (A) If the design-build entity is a privately held corporation, limited liability
34 company, partnership, or joint venture, a listing of all of the shareholders, partners,
35 or members known at the time of statement of qualification submission who will
36 perform work on the project.

37 (B) Evidence that the members of the design-build team have completed, or
38 demonstrated the experience, competency, capability, and capacity to complete
39 projects of similar size, scope, or complexity, and that proposed key personnel have
40 sufficient experience and training to competently manage and complete the design
41 and construction of the project, and a financial statement that ensures that the
42 design-build entity has the capacity to complete the project.

1 (C) The licenses, registration, and credentials required to design and construct the
2 project, including, but not limited to, information on the revocation or suspension
3 of any license, credential, or registration.

4 (D) Evidence that establishes that the design-build entity has the capacity to
5 obtain all required payment and performance bonding, liability insurance, and errors
6 and omissions insurance.

7 (E) Information concerning workers' compensation experience history and a
8 worker safety program.

9 (F) If the proposed design-build entity is a corporation, limited liability company,
10 partnership, joint venture, or other legal entity, a copy of the organizational
11 documents or agreement committing to form the organization.

12 (G) An acceptable safety record. A proposer's safety record shall be deemed
13 acceptable if its experience modification rate for the most recent three-year period
14 is an average of 1.00 or less, and its average total recordable injury or illness rate
15 and average lost work rate for the most recent three-year period does not exceed the
16 applicable statistical standards for its business category or if the proposer is a party
17 to an alternative dispute resolution system as provided for in Section 3201.5 of the
18 Labor Code.

19 (4)(A) The information required under this subdivision shall be certified under
20 penalty of perjury by the design-build entity and its general partners or joint venture
21 members.

22 (B) Information required under this subdivision that is not otherwise a public
23 record under the California Public Records Act (~~Chapter 3.5 (commencing with~~
24 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
25 Title 1 of the Government Code) shall not be open to public inspection.

26 (c)(1) A design-build entity shall not be prequalified or shortlisted unless the
27 entity provides an enforceable commitment to the local agency that the entity and
28 its subcontractors at every tier will use a skilled and trained workforce to perform
29 all work on the project or contract that falls within an apprenticeable occupation in
30 the building and construction trades, in accordance with Chapter 2.9 (commencing
31 with Section 2600) of Part 1.

32 (2) This subdivision shall not apply if any of the following requirements are met:

33 (A) The local agency has entered into a project labor agreement that will bind all
34 contractors and subcontractors performing work on the project or contract to use a
35 skilled and trained workforce, and the entity agrees to be bound by that project labor
36 agreement.

37 (B) The project or contract is being performed under the extension or renewal of
38 a project labor agreement that was entered into by the local agency prior to January
39 1, 2017.

40 (C) The entity has entered into a project labor agreement that will bind the entity
41 and all its subcontractors at every tier performing the project or contract to use a
42 skilled and trained workforce.

1 (3) For purposes of this subdivision, “project labor agreement” has the same
2 meaning as in paragraph (1) of subdivision (b) of Section 2500.

3 (d) Based on the documents prepared as described in subdivision (a), the local
4 agency shall prepare a request for proposals that invites prequalified or short-listed
5 entities to submit competitive sealed proposals in the manner prescribed by the local
6 agency. The request for proposals shall include, but need not be limited to, the
7 following elements:

8 (1) Identification of the basic scope and needs of the project or contract, the
9 estimated cost of the project, the methodology that will be used by the local agency
10 to evaluate proposals, whether the contract will be awarded on the basis of low bid
11 or best value, and any other information deemed necessary by the local agency to
12 inform interested parties of the contracting opportunity.

13 (2) Significant factors that the local agency reasonably expects to consider in
14 evaluating proposals, including, but not limited to, cost or price and all nonprice-
15 related factors.

16 (3) The relative importance or the weight assigned to each of the factors identified
17 in the request for proposals.

18 (4) Where a best value selection method is used, the local agency may reserve the
19 right to request proposal revisions and hold discussions and negotiations with
20 responsive proposers, in which case the local agency shall so specify in the request
21 for proposals and shall publish separately or incorporate into the request for
22 proposals applicable procedures to be observed by the local agency to ensure that
23 any discussions or negotiations are conducted in good faith.

24 (e) For those projects utilizing low bid as the final selection method, the
25 competitive bidding process shall result in lump-sum bids by the prequalified or
26 short-listed design-build entities, and awards shall be made to the design-build
27 entity that is the lowest responsible bidder.

28 (f) For those projects utilizing best value as a selection method, the design-build
29 competition shall progress as follows:

30 (1) Competitive proposals shall be evaluated by using only the criteria and
31 selection procedures specifically identified in the request for proposals. The
32 following minimum factors, however, shall be weighted as deemed appropriate by
33 the local agency:

34 (A) Price, unless a stipulated sum is specified.

35 (B) Technical design and construction expertise.

36 (C) Life-cycle costs over 15 or more years.

37 (2) Pursuant to subdivision (d), the local agency may hold discussions or
38 negotiations with responsive proposers using the process articulated in the local
39 agency’s request for proposals.

40 (3) When the evaluation is complete, the responsive proposers shall be ranked
41 based on a determination of value provided, provided that no more than three
42 proposers are required to be ranked.

1 (4) The award of the contract shall be made to the responsible design-build entity
2 whose proposal is determined by the local agency to have offered the best value to
3 the public.

4 (5) Notwithstanding any other provision of this code, upon issuance of a contract
5 award, the local agency shall publicly announce its award, identifying the design-
6 build entity to which the award is made, along with a statement regarding the basis
7 of the award.

8 (6) The statement regarding the local agency's contract award, described in
9 paragraph (5), and the contract file shall provide sufficient information to satisfy an
10 external audit.

11 **Comment.** Section 22164 is amended to reflect nonsubstantive recodification of the California
12 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
13 Reports __ (2019).

14 PUBLIC RESOURCES CODE

15 **§ 2207 (amended). Annual report to be submitted by owner or operator of mining operation**

16 SEC. _____. Section 2207 of the Public Resources Code is amended to read:

17 2207. (a) The owner or the operator of a mining operation within the state shall
18 forward to the supervisor annually, not later than a date established by the
19 supervisor, upon forms approved by the board from time to time, a report that
20 identifies all of the following:

21 (1) The name, address, and telephone number of the person, company, or other
22 owner of the mining operation.

23 (2) The name, address, and telephone number of a designated agent who resides
24 in this state, and who will receive and accept service of all orders, notices, and
25 processes of the lead agency, board, supervisor, or court.

26 (3) The location of the mining operation, its name, its mine number as issued by
27 the Division of Mine Reclamation, its section, township, range, latitude, longitude,
28 and approximate boundaries of the mining operation marked on a United States
29 Geological Survey 7^{1/2}-minute or 15-minute quadrangle map.

30 (4) The lead agency.

31 (5) The approval date of the mining operation's reclamation plan.

32 (6) The mining operation's status as active, idle, reclaimed, or in the process of
33 being reclaimed.

34 (7) The commodities produced by the mine and the type of mining operation.

35 (8) A copy of the previously completed annual inspection form and a requested
36 date, within 12 months of the prior inspection date, for the next annual inspection
37 by the lead agency.

38 (9) Proof of financial assurances.

39 (10) Ownership of the property, including government agencies, if applicable, by
40 the assessor's parcel number, and total assessed value of the mining operation.

1 (11) The approximate permitted size of the mining operation subject to Chapter 9
2 (commencing with Section 2710), in acres.

3 (12) The approximate total acreage of land newly disturbed by the mining
4 operation during the previous calendar year.

5 (13) The approximate total of disturbed acreage reclaimed during the previous
6 calendar year.

7 (14) The approximate total unreclaimed disturbed acreage remaining as of the end
8 of the calendar year.

9 (15) The total production for each mineral commodity produced during the
10 previous year.

11 (16) A copy of any approved reclamation plan and any amendments or conditions
12 of approval to any existing reclamation plan approved by the lead agency.

13 (b)(1) Every year, not later than the date established by the supervisor, the person
14 submitting the report pursuant to subdivision (a) shall forward to the lead agency,
15 upon forms furnished by the board, a report that provides all of the information
16 specified in subdivision (a).

17 (2) The owner or operator of a mining operation shall allow access to the property
18 to any governmental agency or the agent of any company providing financial
19 assurance mechanisms in connection with the reclamation plan in order that the
20 reclamation can be carried out by the entity or company, in accordance with the
21 provisions of the reclamation plan.

22 (c) Subsequent reports shall include only changes in the information submitted
23 for the items described in subdivision (a), except that, instead of the approved
24 reclamation plan, the reports shall include any reclamation plan amendments
25 approved during the previous year. The reports shall state whether review of a
26 reclamation plan, financial assurances, or an interim management plan is pending
27 under subdivision (h) of Section 2770, or whether an appeal before the board or lead
28 agency governing body is pending under subdivision (e) or (h) of Section 2770. The
29 supervisor shall notify the person submitting the report and the owner's designated
30 agent in writing that the report and the fee required pursuant to subdivision (d) have
31 been received, specify the mining operation's mine number if one has not been
32 issued by the Division of Mine Reclamation, and notify the person and agent of any
33 deficiencies in the report within 90 days of receipt. That person or agent shall have
34 30 days from receipt of the notification to correct the noted deficiencies and forward
35 the revised report to the supervisor and the lead agency. A person who fails to
36 comply with this section, or knowingly provides incorrect or false information in
37 reports required by this section, may be subject to an administrative penalty as
38 provided in subdivision (c) of Section 2774.1.

39 (d)(1) The board shall impose, by regulation, pursuant to paragraph (2), an annual
40 reporting fee on, and method for collecting annual fees from, each active or idle
41 mining operation. The maximum fee for any single mining operation may not
42 exceed ten thousand dollars (\$10,000) annually and may not be less than one
43 hundred dollars (\$100) annually, as adjusted for the cost of living as measured by

1 the California Consumer Price Index for all urban consumers, calendar year
2 averages, using the percentage change in the previous year, except that the
3 maximum fee for any single mining operation shall not exceed six thousand dollars
4 (\$6,000) in the 2017–18 fiscal year and eight thousand dollars (\$8,000) in the 2018–
5 19 fiscal year.

6 (2)(A) The board shall adopt, by regulation, a schedule of fees authorized under
7 paragraph (1) to cover the department’s cost in carrying out this section and Chapter
8 9 (commencing with Section 2710), as reflected in the Governor’s proposed Budget,
9 and may adopt those regulations as emergency regulations. In establishing the
10 schedule of fees to be paid by each active and idle mining operation, the fees shall
11 be calculated on an equitable basis reflecting the size and type of operation. The
12 board shall also consider the total assessed value of the mining operation, the
13 acreage disturbed by mining activities, and the acreage subject to the reclamation
14 plan.

15 (B) Regulations adopted pursuant to this subdivision shall be adopted by the board
16 in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing
17 with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The
18 adoption of any emergency regulations pursuant to this subdivision shall be
19 considered necessary to address an emergency and shall be considered by the Office
20 of Administrative Law to be necessary for the immediate preservation of the public
21 peace, health, safety, and general welfare.

22 (3) The total revenue generated by the reporting fees may not exceed, and may be
23 less than, the amount of eight million dollars (\$8,000,000), as adjusted for the cost
24 of living as measured by the California Consumer Price Index for all urban
25 consumers, calendar year averages, using the percentage change in the previous
26 year, beginning with the 2017–18 fiscal year and annually thereafter. If the director
27 determines that the revenue collected during the preceding fiscal year was greater
28 or less than the cost to operate the program, the board shall adjust the fees to
29 compensate for the overcollection or undercollection of revenues.

30 (4)(A) The reporting fees established pursuant to this subdivision shall be
31 deposited in the Mine Reclamation Account, which is hereby created. Any fees,
32 penalties, interest, fines, or charges collected by the supervisor or board pursuant to
33 this chapter or Chapter 9 (commencing with Section 2710) shall be deposited in the
34 Mine Reclamation Account. The money in the account shall be available to the
35 department and board, upon appropriation by the Legislature, for the purpose of
36 carrying out this section and complying with Chapter 9 (commencing with Section
37 2710), which includes, but is not limited to, the classification and designation of
38 areas with mineral resources of statewide or regional significance, reclamation plan
39 and financial assurance review, mine inspection, and enforcement.

40 (B)(i) In addition to reporting fees, the board shall collect five dollars (\$5) per
41 ounce of gold and ten cents (\$0.10) per ounce of silver mined within the state and
42 shall deposit the fees collected in the Abandoned Mine Reclamation and Minerals
43 Fund Subaccount, which is hereby created in the Mine Reclamation Account. The

1 department may expend the moneys in the subaccount, upon appropriation by the
2 Legislature, for only the purposes of Section 2796.5 and as authorized herein for the
3 remediation of abandoned mines.

4 (ii) Notwithstanding subdivision (j) of Section 2796.5, fees collected pursuant to
5 clause (i) may also be used to remediate features of historic abandoned mines and
6 lands that they impact. For the purposes of this section, historic abandoned mines
7 are mines for which operations have been conducted before January 1, 1976, and
8 include, but are not limited to, historic gold and silver mines.

9 (5) In case of late payment of the reporting fee, a penalty of not less than one
10 hundred dollars (\$100) or 10 percent of the amount due, whichever is greater, plus
11 interest at the rate of 1¹/₂ percent per month, computed from the delinquent date of
12 the assessment until and including the date of payment, shall be assessed. New
13 mining operations that have not submitted a report shall submit a report prior to
14 commencement of operations. The new operation shall submit its fee according to
15 the reasonable fee schedule adopted by the board, and the month that the report is
16 received shall become that operation's anniversary month.

17 (e) The lead agency, or the board when acting as the lead agency, may impose a
18 fee upon each mining operation to cover the reasonable costs incurred in
19 implementing this chapter and Chapter 9 (commencing with Section 2710).

20 (f) For purposes of this section, "mining operation" means a mining operation of
21 any kind or character whatever in this state, including, but not limited to, a mining
22 operation that is classified as a "surface mining operation" as defined in Section
23 2735, unless excepted by Section 2714. For the purposes of fee collections only,
24 "mining operation" may include one or more mines operated by a single operator or
25 mining company on one or more sites, if the total annual combined mineral
26 production for all sites is less than 100 troy ounces for precious metals, if precious
27 metals are the primary mineral commodity produced, or less than 100,000 short tons
28 if the primary mineral commodity produced is not precious metals.

29 (g) Any information in reports submitted pursuant to subdivision (a) that includes
30 or otherwise indicates the total mineral production, reserves, or rate of depletion of
31 any mining operation may not be disclosed to any member of the public, as defined
32 in ~~subdivision (b) of Section 6252~~ Section 7920.515 of the Government Code. Other
33 portions of the reports are public records unless excepted by statute. Statistical
34 bulletins based on these reports and published under Section 2205 shall be compiled
35 to show, for the state as a whole and separately for each lead agency, the total of
36 each mineral produced therein. In order not to disclose the production, reserves, or
37 rate of depletion from any identifiable mining operation, no production figure shall
38 be published or otherwise disclosed unless that figure is the aggregated production
39 of not less than three mining operations. If the production figure for any lead agency
40 would disclose the production, reserves, or rate of depletion of less than three
41 mining operations or otherwise permit the reasonable inference of the production,
42 reserves, or rate of depletion of any identifiable mining operation, that figure shall
43 be combined with the same figure of not less than two other lead agencies without

1 regard to the location of the lead agencies. The bulletin shall be published annually
2 by June 30 or as soon thereafter as practicable.

3 (h) The approval of a form by the board pursuant to this section is not the adoption
4 of a regulation for purposes of the Administrative Procedure Act (Chapter 3.5
5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the
6 Government Code) and is not subject to that act.

7 **Comment.** Section 2207 is amended to reflect nonsubstantive recodification of the California
8 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
9 Reports __ (2019).

10 **§ 3160 (amended). Well stimulation treatments**

11 SEC. ____. Section 3160 of the Public Resources Code is amended to read:

12 3160. (a) On or before January 1, 2015, the Secretary of the Natural Resources
13 Agency shall cause to be conducted, and completed, an independent scientific study
14 on well stimulation treatments, including, but not limited to, hydraulic fracturing
15 and acid well stimulation treatments. The scientific study shall evaluate the hazards
16 and risks and potential hazards and risks that well stimulation treatments pose to
17 natural resources and public, occupational, and environmental health and safety.
18 The scientific study shall do all of the following:

19 (1) Follow the well-established standard protocols of the scientific profession,
20 including, but not limited to, the use of recognized experts, peer review, and
21 publication.

22 (2) Identify areas with existing and potential conventional and unconventional oil
23 and gas reserves where well stimulation treatments are likely to spur or enable oil
24 and gas exploration and production.

25 (3)(A) Evaluate all aspects and effects of well stimulation treatments, including,
26 but not limited to, the well stimulation treatment, additive and water transportation
27 to and from the well site, mixing and handling of the well stimulation treatment
28 fluids and additives onsite, the use and potential for use of nontoxic additives and
29 the use or reuse of treated or produced water in well stimulation treatment fluids,
30 and flowback fluids and the handling, treatment, and disposal of flowback fluids
31 and other materials, if any, generated by the treatment. Specifically, the potential
32 for the use of recycled water in well stimulation treatments, including appropriate
33 water quality requirements and available treatment technologies, shall be evaluated.
34 Well stimulation treatments include, but are not limited to, hydraulic fracturing and
35 acid well stimulation treatments.

36 (B) Review and evaluate acid matrix stimulation treatments, including the range
37 of acid volumes applied per treated foot and total acid volumes used in treatments,
38 types of acids, acid concentration, and other chemicals used in the treatments.

39 (4) Consider, at a minimum, atmospheric emissions, including potential
40 greenhouse gas emissions, the potential degradation of air quality, potential impacts
41 on wildlife, native plants, and habitat, including habitat fragmentation, potential
42 water and surface contamination, potential noise pollution, induced seismicity, and

1 the ultimate disposition, transport, transformation, and toxicology of well
2 stimulation treatments, including acid well stimulation fluids, hydraulic fracturing
3 fluids, and waste hydraulic fracturing fluids and acid well stimulation in the
4 environment.

5 (5) Identify and evaluate the geologic features present in the vicinity of a well,
6 including the well bore, that should be taken into consideration in the design of a
7 proposed well stimulation treatment.

8 (6) Include a hazard assessment and risk analysis addressing occupational and
9 environmental exposures to well stimulation treatments, including hydraulic
10 fracturing treatments, hydraulic fracturing treatment-related processes, acid well
11 stimulation treatments, acid well stimulation treatment-related processes, and the
12 corresponding impacts on public health and safety with the participation of the
13 Office of Environmental Health Hazard Assessment.

14 (7) Clearly identify where additional information is necessary to inform and
15 improve the analyses.

16 (b)(1)(A) On or before January 1, 2015, the division, in consultation with the
17 Department of Toxic Substances Control, the State Air Resources Board, the State
18 Water Resources Control Board, the Department of Resources Recycling and
19 Recovery, and any local air districts and regional water quality control boards in
20 areas where well stimulation treatments, including acid well stimulation treatments
21 and hydraulic fracturing treatments, may occur, shall adopt rules and regulations
22 specific to well stimulation treatments. The rules and regulations shall include, but
23 are not limited to, revisions, as needed, to the rules and regulations governing
24 construction of wells and well casings to ensure integrity of wells, well casings, and
25 the geologic and hydrologic isolation of the oil and gas formation during and
26 following well stimulation treatments, and full disclosure of the composition and
27 disposition of well stimulation fluids, including, but not limited to, hydraulic
28 fracturing fluids, acid well stimulation fluids, and flowback fluids.

29 (B) The rules and regulations shall additionally include provisions for an
30 independent entity or person to perform the notification requirements pursuant to
31 paragraph (6) of subdivision (d), for the operator to provide for baseline and
32 followup water testing upon request as specified in paragraph (7) of subdivision (d).

33 (C)(i) In order to identify the acid matrix stimulation treatments that are subject
34 to this section, the rules and regulations shall establish threshold values for acid
35 volume applied per treated foot of any individual stage of the well or for total acid
36 volume of the treatment, or both, based upon a quantitative assessment of the risks
37 posed by acid matrix stimulation treatments that exceed the specified threshold
38 value or values in order to prevent, as far as possible, damage to life, health,
39 property, and natural resources pursuant to Section 3106.

40 (ii) On or before January 1, 2020, the division shall review and evaluate the
41 threshold values for acid volume applied per treated foot and total acid volume of
42 the treatment, based upon data collected in the state, for acid matrix stimulation
43 treatments. The division shall revise the values through the regulatory process, if

1 necessary, based upon the best available scientific information, including the results
2 of the independent scientific study pursuant to subparagraph (B) of paragraph (3) of
3 subdivision (a).

4 (2) Full disclosure of the composition and disposition of well stimulation fluids,
5 including, but not limited to, hydraulic fracturing fluids and acid stimulation
6 treatment fluids, shall, at a minimum, include:

7 (A) The date of the well stimulation treatment.

8 (B) A complete list of the names, Chemical Abstract Service (CAS) numbers, and
9 maximum concentration, in percent by mass, of each and every chemical constituent
10 of the well stimulation treatment fluids used. If a CAS number does not exist for a
11 chemical constituent, the well owner or operator may provide another unique
12 identifier, if available.

13 (C) The trade name, the supplier, concentration, and a brief description of the
14 intended purpose of each additive contained in the well stimulation treatment fluid.

15 (D) The total volume of base fluid used during the well stimulation treatment, and
16 the identification of whether the base fluid is water suitable for irrigation or
17 domestic purposes, water not suitable for irrigation or domestic purposes, or a fluid
18 other than water.

19 (E) The source, volume, and specific composition and disposition of all water,
20 including, but not limited to, all water used as base fluid during the well stimulation
21 treatment and recovered from the well following the well stimulation treatment that
22 is not otherwise reported as produced water pursuant to Section 3227. Any repeated
23 reuse of treated or untreated water for well stimulation treatments and well
24 stimulation treatment-related activities shall be identified.

25 (F) The specific composition and disposition of all well stimulation treatment
26 fluids, including waste fluids, other than water.

27 (G) Any radiological components or tracers injected into the well as part of, or in
28 order to evaluate, the well stimulation treatment, a description of the recovery
29 method, if any, for those components or tracers, the recovery rate, and specific
30 disposal information for recovered components or tracers.

31 (H) The radioactivity of the recovered well stimulation fluids.

32 (I) The location of the portion of the well subject to the well stimulation treatment
33 and the extent of the fracturing or other modification, if any, surrounding the well
34 induced by the treatment.

35 (c)(1) Through the consultation process described in paragraph (1) of subdivision
36 (b), the division shall collaboratively identify and delineate the existing statutory
37 authority and regulatory responsibility relating to well stimulation treatments and
38 well stimulation treatment-related activities of the Department of Toxic Substances
39 Control, the State Air Resources Board, any local air districts, the State Water
40 Resources Control Board, the Department of Resources Recycling and Recovery,
41 any regional water quality control board, and other public entities, as applicable.
42 This shall specify how the respective authority, responsibility, and notification and

1 reporting requirements associated with well stimulation treatments and well
2 stimulation treatment-related activities are divided among each public entity.

3 (2) On or before January 1, 2015, the division shall enter into formal agreements
4 with the Department of Toxic Substances Control, the State Air Resources Board,
5 any local air districts where well stimulation treatments may occur, the State Water
6 Resources Control Board, the Department of Resources Recycling and Recovery,
7 and any regional water quality control board where well stimulation treatments may
8 occur, clearly delineating respective authority, responsibility, and notification and
9 reporting requirements associated with well stimulation treatments and well
10 stimulation treatment-related activities, including air and water quality monitoring,
11 in order to promote regulatory transparency and accountability.

12 (3) The agreements under paragraph (2) shall specify the appropriate public entity
13 responsible for air and water quality monitoring and the safe and lawful disposal of
14 materials in landfills, include trade secret handling protocols, if necessary, and
15 provide for ready public access to information related to well stimulation treatments
16 and related activities.

17 (4) Regulations, if necessary, shall be revised appropriately to incorporate the
18 agreements under paragraph (2).

19 (d)(1) Notwithstanding any other law or regulation, prior to performing a well
20 stimulation treatment on a well, the operator shall apply for a permit to perform a
21 well stimulation treatment with the supervisor or district deputy. The well
22 stimulation treatment permit application shall contain the pertinent data the
23 supervisor requires on printed forms supplied by the division or on other forms
24 acceptable to the supervisor. The information provided in the well stimulation
25 treatment permit application shall include, but is not limited to, the following:

26 (A) The well identification number and location.

27 (B) The time period during which the well stimulation treatment is planned to
28 occur.

29 (C) A water management plan that shall include all of the following:

30 (i) An estimate of the amount of water to be used in the treatment. Estimates of
31 water to be recycled following the well stimulation treatment may be included.

32 (ii) The anticipated source of the water to be used in the treatment.

33 (iii) The disposal method identified for the recovered water in the flowback fluid
34 from the treatment that is not produced water included in the statement pursuant to
35 Section 3227.

36 (D) A complete list of the names, Chemical Abstract Service (CAS) numbers, and
37 estimated concentrations, in percent by mass, of each and every chemical
38 constituent of the well stimulation fluids anticipated to be used in the treatment. If
39 a CAS number does not exist for a chemical constituent, the well owner or operator
40 may provide another unique identifier, if available.

41 (E) The planned location of the well stimulation treatment on the well bore, the
42 estimated length, height, and direction of the induced fractures or other planned

1 modification, if any, and the location of existing wells, including plugged and
2 abandoned wells, that may be impacted by these fractures and modifications.

3 (F) A groundwater monitoring plan. Required groundwater monitoring in the
4 vicinity of the well subject to the well stimulation treatment shall be satisfied by one
5 of the following:

6 (i) The well is located within the boundaries of an existing oil or gas field-specific
7 or regional monitoring program developed pursuant to Section 10783 of the Water
8 Code.

9 (ii) The well is located within the boundaries of an existing oil or gas field-specific
10 or regional monitoring program developed and implemented by the well owner or
11 operator meeting the model criteria established pursuant to Section 10783 of the
12 Water Code.

13 (iii) Through a well-specific monitoring plan implemented by the owner or
14 operator meeting the model criteria established pursuant to Section 10783 of the
15 Water Code, and submitted to the appropriate regional water board for review.

16 (G) The estimated amount of treatment-generated waste materials that are not
17 reported in subparagraph (C) and an identified disposal method for the waste
18 materials.

19 (2)(A) At the supervisor's discretion, and if applied for concurrently, the well
20 stimulation treatment permit described in this section may be combined with the
21 well drilling and related operation notice of intent required pursuant to Section 3203
22 into a single combined authorization. The portion of the combined authorization
23 applicable to well stimulation shall meet all of the requirements of a well stimulation
24 treatment permit pursuant to this section.

25 (B) The time period available for approval of the combined authorization
26 applicable to well stimulation is subject to the terms of this section, and not Section
27 3203.

28 (3)(A) The supervisor or district deputy shall review the well stimulation
29 treatment permit application and may approve the permit if the application is
30 complete. An incomplete application shall not be approved.

31 (B) A well stimulation treatment or repeat well stimulation treatment shall not be
32 performed on any well without a valid permit that the supervisor or district deputy
33 has approved.

34 (C) In considering the permit application, the supervisor shall evaluate the
35 quantifiable risk of the well stimulation treatment.

36 (D) In the absence of state implementation of a regional groundwater monitoring
37 program pursuant to paragraph (1) of subdivision (h) of Section 10783 of the Water
38 Code, the supervisor or district deputy may approve a permit application for well
39 stimulation treatment pursuant to subparagraph (A) prior to the approval by the State
40 Water Resources Control Board or a regional water quality control board of an area-
41 specific groundwater monitoring program developed by an owner or operator
42 pursuant to paragraph (2) of subdivision (h) of Section 10783 of the Water Code,

1 but the well stimulation treatment shall not commence until the state board or the
2 regional board approves the area-specific groundwater monitoring program.

3 (4) The well stimulation treatment permit shall expire one year from the date that
4 the permit is issued.

5 (5) Within five business days of issuing a permit to perform a well stimulation
6 treatment, the division shall provide a copy of the permit to the appropriate regional
7 water quality control board or boards and to the local planning entity where the well,
8 including its subsurface portion, is located. The division shall also post the permit
9 on the publicly accessible portion of its Internet Web site within five business days
10 of issuing a permit.

11 (6)(A) It is the policy of the state that a copy of the approved well stimulation
12 treatment permit and information on the available water sampling and testing be
13 provided to every tenant of the surface property and every surface property owner
14 or authorized agent of that owner whose property line location is one of the
15 following:

16 (i) Within a 1,500 foot radius of the wellhead.

17 (ii) Within 500 feet from the horizontal projection of all subsurface portions of
18 the designated well to the surface.

19 (B)(i) The well owner or operator shall identify the area requiring notification and
20 shall contract with an independent entity or person who is responsible for, and shall
21 perform, the notification required pursuant to subparagraph (A).

22 (ii) The independent entity or person shall identify the individuals notified, the
23 method of notification, the date of the notification, a list of those notified, and shall
24 provide a list of this information to the division.

25 (iii) The performance of the independent entity or persons shall be subject to
26 review and audit by the division.

27 (C) A well stimulation treatment shall not commence before 30 calendar days
28 after the permit copies pursuant to subparagraph (A) are provided.

29 (7)(A) A property owner notified pursuant to paragraph (6) may request water
30 quality sampling and testing from a designated qualified contractor on any water
31 well suitable for drinking or irrigation purposes and on any surface water suitable
32 for drinking or irrigation purposes as follows:

33 (i) Baseline measurements prior to the commencement of the well stimulation
34 treatment.

35 (ii) Followup measurements after the well stimulation treatment on the same
36 schedule as the pressure testing of the well casing of the treated well.

37 (B) The State Water Resources Control Board shall designate one or more
38 qualified independent third-party contractor or contractors that adhere to board-
39 specified standards and protocols to perform the water sampling and testing. The
40 well owner or operator shall pay for the sampling and testing. The sampling and
41 testing performed shall be subject to audit and review by the State Water Resources
42 Control Board or applicable regional water quality control board, as appropriate.

1 (C) The results of the water testing shall be provided to the division, appropriate
2 regional water board, and the property owner or authorized agent. A tenant notified
3 pursuant to paragraph (6) shall receive information on the results of the water testing
4 to the extent authorized by ~~his or her~~ the tenant's lease and, where the tenant has
5 lawful use of the ground or surface water identified in subparagraph (A), the tenant
6 may independently contract for similar groundwater or surface water testing.

7 (8) The division shall retain a list of the entities and property owners notified
8 pursuant to paragraphs (5) and (6).

9 (9) The operator shall provide notice to the division at least 72 hours prior to the
10 actual start of the well stimulation treatment in order for the division to witness the
11 treatment.

12 (e) The Secretary of the Natural Resources Agency shall notify the Joint
13 Legislative Budget Committee and the chairs of the Assembly Natural Resources,
14 Senate Environmental Quality, and Senate Natural Resources and Water
15 Committees on the progress of the independent scientific study on well stimulation
16 and related activities. The first progress report shall be provided to the committees
17 on or before April 1, 2014, and progress reports shall continue every four months
18 thereafter until the independent study is completed, including a peer review of the
19 study by independent scientific experts.

20 (f) If a well stimulation treatment is performed on a well, a supplier that performs
21 any part of the stimulation or provides additives directly to the operator for a well
22 stimulation treatment shall furnish the operator with information suitable for public
23 disclosure needed for the operator to comply with subdivision (g). This information
24 shall be provided as soon as possible but no later than 30 days following the
25 conclusion of the well stimulation treatment.

26 (g) Within 60 days following cessation of a well stimulation treatment on a well,
27 the operator shall post or cause to have posted to an Internet Web site designated or
28 maintained by the division and accessible to the public, all of the well stimulation
29 fluid composition and disposition information required to be collected pursuant to
30 rules and regulations adopted under subdivision (b), including well identification
31 number and location. This shall include the collected water quality data, which the
32 operator shall report electronically to the State Water Resources Control Board.

33 (h) The operator is responsible for compliance with this section.

34 (i)(1) All geologic features within a distance reflecting an appropriate safety
35 factor of the fracture zone for well stimulation treatments that fracture the formation
36 and that have the potential to either limit or facilitate the migration of fluids outside
37 of the fracture zone shall be identified and added to the well history. Geologic
38 features include seismic faults identified by the California Geologic Survey.

39 (2) For the purposes of this section, the “fracture zone” is defined as the volume
40 surrounding the well bore where fractures were created or enhanced by the well
41 stimulation treatment. The safety factor shall be at least five and may vary
42 depending upon geologic knowledge.

1 (3) The division shall review the geologic features important to assessing well
2 stimulation treatments identified in the independent study pursuant to paragraph (5)
3 of subdivision (a). Upon completion of the review, the division shall revise the
4 regulations governing the reporting of geologic features pursuant to this subdivision
5 accordingly.

6 (j)(1) Public disclosure of well stimulation treatment fluid information claimed to
7 contain trade secrets is governed by Section 1060 of the Evidence Code, or the
8 Uniform Trade Secrets Act (Title 5 (commencing with Section 3426) of Part 1 of
9 Division 4 of the Civil Code), and the California Public Records Act (~~Chapter 3.5~~
10 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
11 Section 7920.000) of Title 1 of the Government Code).

12 (2) Notwithstanding any other law or regulation, none of the following
13 information shall be protected as a trade secret:

14 (A) The identities of the chemical constituents of additives, including CAS
15 identification numbers.

16 (B) The concentrations of the additives in the well stimulation treatment fluids.

17 (C) Any air or other pollution monitoring data.

18 (D) Health and safety data associated with well stimulation treatment fluids.

19 (E) The chemical composition of the flowback fluid.

20 (3) If a trade secret claim is invalid or invalidated, the division shall release the
21 information to the public by revising the information released pursuant to
22 subdivision (g). The supplier shall notify the division of any change in status within
23 30 days.

24 (4)(A) If a supplier believes that information regarding a chemical constituent of
25 a well stimulation fluid is a trade secret, the supplier shall nevertheless disclose the
26 information to the division in conjunction with a well stimulation treatment permit
27 application, if not previously disclosed, within 30 days following cessation of a well
28 stimulation on a well, and shall notify the division in writing of that belief.

29 (B) A trade secret claim shall not be made after initial disclosure of the
30 information to the division.

31 (C) To comply with the public disclosure requirements of this section, the supplier
32 shall indicate where trade secret information has been withheld and provide
33 substitute information for public disclosure. The substitute information shall be a
34 list, in any order, of the chemical constituents of the additive, including CAS
35 identification numbers. The division shall review and approve the supplied
36 substitute information.

37 (D) This subdivision does not permit a supplier to refuse to disclose the
38 information required pursuant to this section to the division.

39 (5) In order to substantiate the trade secret claim, the supplier shall provide
40 information to the division that shows all of the following:

41 (A) The extent to which the trade secret information is known by the supplier's
42 employees and others involved in the supplier's business and outside the supplier's
43 business.

1 (B) The measures taken by the supplier to guard the secrecy of the trade secret
2 information.

3 (C) The value of the trade secret information to the supplier and its competitors.

4 (D) The amount of effort or money the supplier expended developing the trade
5 secret information and the ease or difficulty with which the trade secret information
6 could be acquired or duplicated by others.

7 (6) If the division determines that the information provided in support of a request
8 for trade secret protection pursuant to paragraph (5) is incomplete, the division shall
9 notify the supplier and the supplier shall have 30 days to complete the submission.
10 An incomplete submission does not meet the substantive criteria for trade secret
11 designation.

12 (7) If the division determines that the information provided in support of a request
13 for trade secret protection does not meet the substantive criteria for trade secret
14 designation, the department shall notify the supplier by certified mail of its
15 determination. The division shall release the information to the public, but not
16 earlier than 60 days after the date of mailing the determination, unless, prior to the
17 expiration of the 60-day period, the supplier obtains an action in an appropriate court
18 for a declaratory judgment that the information is subject to protection or for a
19 preliminary injunction prohibiting disclosure of the information to the public and
20 provides notice to the division of the court order.

21 (8) The supplier is not required to disclose trade secret information to the operator.

22 (9) Upon receipt of a request for the release of trade secret information to the
23 public, the following procedure applies:

24 (A) The division shall notify the supplier of the request in writing by certified
25 mail, return receipt requested.

26 (B) The division shall release the information to the public, but not earlier than 60
27 days after the date of mailing the notice of the request for information, unless, prior
28 to the expiration of the 60-day period, the supplier obtains an action in an
29 appropriate court for a declaratory judgment that the information is subject to
30 protection or for a preliminary injunction prohibiting disclosure of the information
31 to the public and provides notice to the division of that action.

32 (10) The division shall develop a timely procedure to provide trade secret
33 information in the following circumstances:

34 (A) To an officer or employee of the division, the state, local governments,
35 including, but not limited to, local air districts, or the United States, in connection
36 with the official duties of that officer or employee, to a health professional under
37 any law for the protection of health, or to contractors with the division or other
38 government entities and their employees if, in the opinion of the division, disclosure
39 is necessary and required for the satisfactory performance of a contract, for
40 performance of work, or to protect health and safety.

41 (B) To a health professional in the event of an emergency or to diagnose or treat
42 a patient.

1 (C) In order to protect public health, to any health professional, toxicologist, or
2 epidemiologist who is employed in the field of public health and who provides a
3 written statement of need. The written statement of need shall include the public
4 health purposes of the disclosure and shall explain the reason the disclosure of the
5 specific chemical and its concentration is required.

6 (D) A health professional may share trade secret information with other persons
7 as may be professionally necessary, in order to diagnose or treat a patient, including,
8 but not limited to, the patient and other health professionals, subject to state and
9 federal laws restricting disclosure of medical records including, but not limited to,
10 Chapter 2 (commencing with Section 56.10) of Part 2.6 of Division 1 of the Civil
11 Code.

12 (E) For purposes of this paragraph, “health professional” means any person
13 licensed or certified pursuant to Division 2 (commencing with Section 500) of the
14 Business and Professions Code, the Osteopathic Initiative Act, the Chiropractic
15 Initiative Act, or the Emergency Medical Services System and the Prehospital
16 Emergency Medical Care Personnel Act (Division 2.5 (commencing with Section
17 1797) of the Health and Safety Code).

18 (F) A person in possession of, or access to, confidential trade secret information
19 pursuant to the provisions of this subdivision may disclose this information to any
20 person who is authorized to receive it. A written confidentiality agreement shall not
21 be required.

22 (k) A well granted confidential status pursuant to Section 3234 shall not be
23 required to disclose well stimulation treatment fluid information pursuant to
24 subdivision (g) until the confidential status of the well ceases. Notwithstanding the
25 confidential status of a well, it is public information that a well will be or has been
26 subject to a well stimulation treatment.

27 (l) The division shall perform random periodic spot check inspections to ensure
28 that the information provided on well stimulation treatments is accurately reported,
29 including that the estimates provided prior to the commencement of the well
30 stimulation treatment are reasonably consistent with the well history.

31 (m) Where the division shares jurisdiction over a well or the well stimulation
32 treatment on a well with a federal entity, the division’s rules and regulations shall
33 apply in addition to all applicable federal laws and regulations.

34 (n) This article does not relieve the division or any other agency from complying
35 with any other provision of existing laws, regulations, and orders.

36 (o) Well stimulation treatments used for routine maintenance of wells associated
37 with underground storage facilities where natural gas is injected into and withdrawn
38 from depleted or partially depleted oil or gas reservoirs pursuant to subdivision (a)
39 of Section 3403.5 are not subject to this section.

40 **Comment.** Section 3160 is amended to reflect nonsubstantive recodification of the California
41 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
42 Reports __ (2019).

43 The section is also amended to eliminate gendered pronouns.

1 § 3234 (amended). Well records

2 SEC. _____. Section 3234 of the Public Resources Code is amended to read:

3 3234. (a)(1) Except as otherwise provided in this section, all the well records,
4 including production reports, of any owner or operator ~~which~~ that are filed pursuant
5 to this chapter are public records for purposes of the California Public Records Act
6 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
7 (commencing with Section 7920.000) of Title 1 of the Government Code).

8 (2) Those records are public records when filed with the division unless the owner
9 or operator requests, in writing, that the division maintain the well records of
10 onshore exploratory wells or offshore exploratory wells as confidential information.
11 The records of other wells may be maintained as confidential information if, based
12 upon information in a written request of the owner or operator, the supervisor
13 determines there are extenuating circumstances. For onshore wells, the confidential
14 period shall not exceed two years from the cessation of drilling operations as defined
15 in subdivision (e). For offshore wells, the confidential period shall not exceed five
16 years from the cessation of drilling operations as specified in subdivision (e).

17 (3) Well records maintained as confidential information by the division shall be
18 open to inspection by those persons who are authorized by the owner or operator in
19 writing. Confidential status shall not apply to state officers charged with regulating
20 well operations, the director, or as provided in subdivision (c).

21 (4) On receipt by the supervisor of a written request documenting extenuating
22 circumstances relating to a particular well, including a well on an expired or
23 terminated lease, the supervisor may extend the period of confidentiality for six
24 months. For onshore wells, the total period of confidentiality, including all
25 extensions, shall not exceed four years from the cessation of drilling operations as
26 specified in subdivision (e), and for offshore wells the total period of confidentiality,
27 including all extensions, shall not exceed seven years from the cessation of drilling
28 operations as specified in subdivision (e), unless the director approves a longer
29 period after a 30-day public notice and comment period. The director shall initiate
30 and conduct a public hearing on receipt of a written complaint.

31 (b) Notwithstanding the provisions of subdivision (a) regarding the period of
32 confidentiality, the well records for onshore and offshore wells shall become public
33 records when the supervisor is notified that the lease has expired or terminated.

34 (c) Production reports filed pursuant to Section 3227 shall be open to inspection
35 by the State Board of Equalization or its duly appointed representatives when
36 making a survey pursuant to Section 1815 of the Revenue and Taxation Code or
37 when valuing state-assessed property pursuant to Section 755 of the Revenue and
38 Taxation Code, and by the assessor of the county in which a well referred to in
39 Section 3227 is located.

40 (d) For the purposes of this section, “well records” does not include either
41 experimental logs and tests or interpretive data not generally available to all
42 operators, as defined by the supervisor by regulation.

1 (e) The cessation of drilling operations occurs on the date of removal of drilling
2 machinery from the well site.

3 **Comment.** Section 3234 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
5 Reports __ (2019).

6 The section is also amended to make a grammatical correction.

7 **§ 3752 (amended). Well records**

8 SEC. ____. Section 3752 of the Public Resources Code is amended to read:

9 3752. (a)(1) Except as otherwise provided in this section, all the well records,
10 including production records, of an owner or operator that are filed pursuant to this
11 chapter are public records for purposes of the California Public Records Act
12 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
13 (commencing with Section 7920.000) of Title 1 of the Government Code).

14 (2) Those records are public records when filed with the division, unless the
15 owner or operator requests, in writing, that the division maintain the well records as
16 confidential information. The confidential period shall not exceed five years from
17 the cessation of drilling operations as specified in subdivision (e).

18 (3) Well records that are maintained as confidential information by the division
19 shall be open to inspection by those persons whom the owner or operator authorizes
20 in writing. Confidential status shall not apply to state officers charged with
21 regulating well operations, the director, or as provided in subdivision (c).

22 (4) On receipt by the supervisor of a written request documenting extenuating
23 circumstances relating to a particular well, including a well on an expired or
24 terminated lease, the supervisor may extend the period of confidentiality for six
25 months. The total period of confidentiality, including all extensions, shall not
26 exceed seven years from the cessation of drilling operations as specified in
27 subdivision (e), unless the director approves a longer period after a 30-day public
28 notice and comment period. The director shall initiate and conduct a public hearing
29 on receipt of a written complaint.

30 (b) Notwithstanding subdivision (a), the well records shall become public records
31 when the supervisor is notified that the lease has expired or terminated.

32 (c) Production reports filed pursuant to Section 3745 shall be open to inspection
33 by the State Board of Equalization or its duly appointed representative when making
34 a survey pursuant to Section 1815 of the Revenue and Taxation Code or when
35 valuing state-assessed property pursuant to Section 755 of the Revenue and
36 Taxation Code, and by the assessor of the county in which a well referred to in
37 Section 3745 is located.

38 (d) For the purposes of this section, “well records” does not include either
39 experimental logs and tests or interpretive data not generally available to all
40 operators, as defined by the supervisor by regulation.

41 (e) For purposes of this section, the cessation of drilling operations occurs on the
42 date of removal of drilling machinery from the well site.

1 **Comment.** Section 3752 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 **§ 4604 (amended). Inspections relating to timber operations**

5 SEC. ____. Section 4604 of the Public Resources Code is amended to read:

6 4604. (a) The department shall provide an initial inspection of the area in which
7 timber operations are to be conducted within 10 days from the date of filing of the
8 timber harvesting plan or nonindustrial timber management plan, or a longer period
9 as may be mutually agreed upon by the department and the person submitting the
10 plan, except that the inspection need not be made pursuant to the filing of a timber
11 harvesting plan if the department determines that the inspection would not add
12 substantive information that is necessary to enforce this chapter. The department
13 shall provide for inspections, as needed, as follows:

14 (1) During the period of commencement of timber operations.

15 (2) When timber operations are well under way.

16 (3) Following completion of timber operations.

17 (4) At any other times as determined to be necessary to enforce this chapter.

18 (b)(1) The Department of Fish and Game, the California regional water quality
19 control boards, or the State Water Resources Control Board, if accompanied by
20 Department of Forestry and Fire Protection personnel and after 24-hour advance
21 notification is given to the landowner, may enter and inspect land during normal
22 business hours at any time after commencement of timber harvest plan activities on
23 the land and before the director issues a report of satisfactory completion of stocking
24 pursuant to Section 4588 or at any time before the end of the first winter period
25 following the filing of a work completion report pursuant to Section 4585,
26 whichever is later. Any member of the inspection party may utilize whatever
27 measurement and evaluation devices, including, but not limited to, photographic
28 equipment and temperature measurement devices, that are determined to be
29 necessary, when participating in an inspection of an area pursuant to subdivision (a)
30 or after commencement of timber harvesting plan activities pursuant to this
31 subdivision.

32 (2) Photographs taken during inspections shall be clearly labeled as to time, date,
33 and location and shall be the property of the department and part of the inspection
34 record. The inspection record shall be subject to all provisions of the California
35 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
36 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
37 Code).

38 (3) This subdivision is not a limitation upon the authority of any agency to inspect
39 pursuant to any other provision of law.

40 (c) This section shall become operative on January 1, 1991, or on the effective
41 date of the rules and regulations adopted by the State Board of Forestry and Fire
42 Protection pursuant to Senate Bill 1566, whichever date occurs first.

1 **Comment.** Section 4604 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 **§ 5080.24 (amended). Interim agreement with Pacific Grove-Asilomar Operating**
5 **Corporation**

6 SEC. ____. Section 5080.24 of the Public Resources Code is amended to read:

7 5080.24. (a) The department may enter into an interim agreement with the Pacific
8 Grove-Asilomar Operating Corporation on the same basis as the cancelled contract,
9 except that it shall be modified as specified by subdivisions (b) to (e), inclusive,
10 until the department awards a contract pursuant to Section 5080.25.

11 (b) Any interim agreement pursuant to subdivision (a) shall provide that the
12 amount of compensation received by the general manager of the Pacific Grove-
13 Asilomar Operating Corporation shall be subject to determination by the Legislature
14 in the annual Budget Act.

15 (c) Any interim agreement pursuant to subdivision (a) shall require the Pacific
16 Grove-Asilomar Operating Corporation to continue to set rates and to take
17 reservations for dates beyond the date for which the interim agreement is operative.

18 (d) Any interim agreement pursuant to subdivision (a) shall provide that the
19 meetings of the board of directors of the Pacific Grove-Asilomar Operating
20 Corporation shall be conducted in accordance with the Bagley-Keene Open Meeting
21 Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division
22 3 of Title 2 of the Government Code) and the board of directors shall be considered
23 a state body under subdivision (b) of Section 11121 of the Government Code.

24 (e) Any interim agreement pursuant to subdivision (a) shall provide that all
25 business and financial records of the Pacific Grove-Asilomar Operating
26 Corporation, including existing records, but not including records that would be
27 personal information under Section 1798.3 of the Civil Code if maintained by an
28 agency, shall be treated as public records subject to disclosure under the California
29 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
30 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
31 Code). The term "employment contract" as used in Section ~~6254.8~~ 7928.400 of the
32 Government Code shall be deemed to mean an employment contract between the
33 Pacific Grove-Asilomar Operating Corporation and its employee.

34 **Comment.** Section 5080.24 is amended to reflect nonsubstantive recodification of the California
35 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
36 Reports __ (2019).

37 **§ 5080.25 (amended). Contract for construction, maintenance, and operation of concessions**
38 **at Asilomar Conference Grounds**

39 SEC. ____. Section 5080.25 of the Public Resources Code is amended to read:

40 5080.25. (a) The department shall enter into a contract for the construction,
41 maintenance, and operation of concessions at the Asilomar Conference Grounds.

1 The contract shall be awarded pursuant to this article, except this section shall
2 prevail in case of conflict between this section and this article.

3 (b) The contract shall not be advertised for bid, negotiated, renegotiated, or
4 amended in any material respect unless it has been submitted to the Legislature for
5 review.

6 (c) The contract shall require the concessionaire to pay for administrative costs,
7 capital expenditures, and department staff necessary for the operation of, and
8 improvements to, the Asilomar State Beach and Conference Center, including
9 restoration projects.

10 (d) The contract shall require all capital improvements to the Asilomar State
11 Beach and Conference Center to be solely the property of the state.

12 (e) The contract shall require the concessionaire to honor all rates and reservations
13 made by the Pacific Grove-Asilomar Operating Corporation under the interim
14 agreement described in Section 5080.24.

15 (f) The contract shall require the concessionaire to give preference to the
16 employees of the Pacific Grove-Asilomar Operating Corporation when staffing the
17 operation of the concessionaire.

18 (g) The contract shall emphasize the importance of protecting the natural and
19 cultural values of the Asilomar State Beach and Conference Center.

20 (h) In awarding the contract, the department shall consider bids or proposals from
21 both nonprofit and for-profit entities.

22 (i) If the contract is awarded to a concessionaire governed by a board of directors,
23 the contract shall require the department to be present at meetings of the board of
24 directors relating to the construction, maintenance, finances, or operation of
25 concessions at the Asilomar Conference Grounds, and shall require those meetings
26 to be conducted in accordance with the Bagley-Keene Open Meeting Act (Article 9
27 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
28 the Government Code). If the contract is awarded to a concessionaire that is not
29 governed by a board of directors, the contract shall require the concessionaire to
30 hold quarterly meetings at the Asilomar Conference Grounds, relating to the
31 construction, maintenance, finances, or operation of concessions at the Asilomar
32 Conference Grounds, at which the department shall be present, that shall be
33 conducted in accordance with the Bagley-Keene Open Meeting Act (Article 9
34 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
35 the Government Code).

36 (j) The contract shall provide that all business and financial records of the
37 concessionaire relating to the construction, maintenance, or operation of
38 concessions at the Asilomar Conference Grounds, including existing records, but
39 not including records that would be personal information under Section 1798.3 of
40 the Civil Code if maintained by an agency, shall be treated as public records subject
41 to disclosure under the California Public Records Act (~~Chapter 3.5 (commencing~~
42 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
43 of Title 1 of the Government Code). The term “employment contract” as used in

1 Section ~~6254.8~~ 7928.400 of the Government Code shall be deemed to mean an
2 employment contract between the concessionaire and its employee.

3 (k) In awarding the contract, the department shall consider without prejudice any
4 bid or proposal submitted by the Pacific Grove-Asilomar Operating Corporation.

5 (l) The department shall, for the purpose of ensuring that all bidders are afforded
6 an equal opportunity to compete for the contract, consider the estimated amount of
7 fees or taxes that might be paid to the state or to a local government by a bidder as
8 a result of the contract among those factors to be used to evaluate the bidder's bid
9 or proposal for the contract. The department shall consult with the Department of
10 Finance and the Board of Equalization to obtain information necessary to estimate
11 the amount of fees or taxes that might be paid by a bidder as a result of the contract.

12 (m) Any revenues received by the department pursuant to the contract that are
13 identified by the department as funds in excess of the approved operating budget
14 and the approved capital improvement budget for the Asilomar Conference Grounds
15 shall be deposited in the State Parks and Recreation Fund.

16 (n) On or before January 1, 1995, the department shall submit a request for
17 proposal for the contract to the Assembly Water, Parks, and Wildlife Committee,
18 the Senate Natural Resources Committee, the Assembly Ways and Means
19 Committee, and the Senate Budget and Fiscal Review Committee for review.

20 **Comment.** Section 5080.25 is amended to reflect nonsubstantive recodification of the California
21 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
22 Reports __ (2019).

23 **§ 5096.512 (amended). Review of appraisal for major acquisition of land**

24 SEC. ____. Section 5096.512 of the Public Resources Code is amended to read:

25 5096.512. (a) In addition to the review by the Department of General Services
26 pursuant to Section 1348.2 of the Fish and Game Code, the appraisal prepared for a
27 major acquisition of land shall be reviewed by a qualified independent appraiser
28 retained by the acquisition agency for this purpose, and who meets the following
29 conditions:

30 (1) The review appraiser did not conduct the appraisal pursuant to Section
31 5096.510 and has no financial interest in the major acquisition.

32 (2) The review appraiser is licensed pursuant to Part 3 (commencing with Section
33 11300) of Division 4 of the Business and Professions Code.

34 (b) The review appraiser shall review the appraisal and prepare an appraisal
35 review report, in a narrative format, that does all of the following:

36 (1) Summarizes the appraisal.

37 (2) States the basis on which the value of the land was established.

38 (3) Describes the standards used to prepare the appraisal.

39 (4) Determines whether or not the appraisal meets the standards established under
40 the Uniform Standards of Professional Appraisal Practice.

41 (c) The appraisal review report need not include any proprietary information
42 provided by or on behalf of the seller or that is otherwise exempt from public

1 disclosure pursuant to the California Public Records Act (~~Chapter 3.5 (commencing~~
2 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
3 of Title 1 of the Government Code).

4 (d)(1) If a major acquisition of conservation lands will be approved by more than
5 one acquisition agency and each acquisition agency complies with paragraph (2),
6 not more than one independent appraisal is required pursuant to Section 5096.510,
7 and not more than one appraisal review report is required pursuant to this section.

8 (2) Paragraph (1) is applicable if each acquisition agency does all of the following:

9 (A) Utilizes the independent appraisal and appraisal review report, as required by
10 this chapter.

11 (B) Makes an independent determination of whether to approve the major
12 acquisition of conservation lands.

13 (C) Complies with all of the public disclosure and independent review
14 requirements of this chapter.

15 (e) An acquisition agency shall not utilize property acreage as a categorical
16 threshold to impose an independent review of an appraisal pursuant to this section.
17 However, this prohibition does not prohibit an agency from otherwise considering
18 possible impacts from the acquisition of a large acreage property.

19 **Comment.** Section 5096.512 is amended to reflect nonsubstantive recodification of the
20 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
21 Comm'n Reports __ (2019).

22 **§ 5096.513 (amended). Disclosure of information by acquisition agency before public**
23 **hearing on authorizing major acquisition of conservation lands**

24 SEC. ____. Section 5096.513 of the Public Resources Code is amended to read:

25 5096.513. Not less than 30 calendar days prior to holding a public hearing for the
26 purpose of authorizing a major acquisition of conservation lands, an acquisition
27 agency shall make available for public review information, except information that
28 is exempt from being disclosed pursuant to the California Public Records Act
29 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
30 (commencing with Section 7920.000) of Title 1 of the Government Code) ~~all of~~,
31 that includes, but is not limited to, all of the following:

32 (a) A copy of the independent appraisal review prepared pursuant to Section
33 5096.512.

34 (b) A summary of the basis for the recommendation of approval for the major
35 acquisition of the land made by the acquisition agency.

36 (c) Any relevant environmental studies, documents, or other information.

37 **Comment.** Section 5096.513 is amended to reflect nonsubstantive recodification of the
38 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
39 Comm'n Reports __ (2019). The section is also amended to correct a grammatical mistake.

40 **Note.** There appears to be a grammatical mistake in Public Resources Code Section 5096.513. It
41 requires an acquisition agency to “*make available for public review information*, except
42 information that is exempt from being disclosed pursuant to the California Public Records Act

1 (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code)
2 *all of, that includes*, but is not limited to” (Emphasis added.)

3 The Commission suspects that the phrase “all of” was inadvertently inserted in the wrong place
4 when the section was enacted. *Compare* 2004 Cal. Stat. ch. 708, § 1 with AB 1701 (Laird), as
5 amended in Senate, Aug. 23, 2004). The amendment shown above would relocate that phrase where
6 it appears to belong.

7 **The Commission welcomes comments on any aspect of this tentative recommendation, but**
8 **it would especially appreciate comments on this proposed grammatical correction.**

9 **§ 14551.4 (amended). Data on volumes of materials collected from certified recycling**
10 **centers**

11 SEC. _____. Section 14551.4 of the Public Resources Code is amended to read:

12 14551.4. The department shall make available the information collected pursuant
13 to subdivision (a) of Section 14551, concerning the volumes of materials collected
14 from certified recycling centers, only to a governmental agency ~~which~~ that requests
15 the information, including a city or county, or an entity specifically designated by
16 the city or county to receive the information if the entity requests the information,
17 if all of the following conditions are met:

18 (a) The request is made in writing.

19 (b) All information provided by the department is provided using the aggregate
20 amounts collected in the city or county unless the city or county, or an entity
21 specifically designated by the city or county to receive the information, requests the
22 information provided by each individual certified recycling center.

23 (c) All information provided to the governmental agency, including a city or
24 county, or an entity specifically designated by the city or county to receive the
25 information, is considered proprietary and confidential in nature and protected in
26 accordance with the requirements of subdivision (b) of Section 14551 of the Public
27 Resources Code, Section 14554 of the Public Resources Code, and ~~subdivision (e)~~
28 ~~of Section 6254.5~~ paragraph (5) of subdivision (c) of Section 7921.505 of the
29 Government Code.

30 **Comment.** Section 14551.4 is amended to reflect nonsubstantive recodification of the California
31 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
32 Reports __ (2019).

33 The section is also amended to make a grammatical correction.

34 **§ 14554 (amended). Protection of privileged, confidential, commercial, or financial**
35 **information**

36 SEC. _____. Section 14554 of the Public Resources Code is amended to read:

37 14554. The department shall establish procedures to protect any privileged,
38 confidential, commercial, or financial information obtained while collecting
39 information for carrying out the requirements of this division. Any privileged,
40 confidential, commercial, or financial information obtained in confidence by the
41 department is not a public record for purposes of ~~Chapter 3.5 (commencing with~~
42 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
43 Title 1 of the Government Code.

1 **Comment.** Section 14554 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 **§ 21082.3 (amended). Impact on tribal cultural resources**

5 SEC. ____. Section 21082.3 of the Public Resources Code is amended to read:

6 21082.3. (a) Any mitigation measures agreed upon in the consultation conducted
7 pursuant to Section 21080.3.2 shall be recommended for inclusion in the
8 environmental document and in an adopted mitigation monitoring and reporting
9 program, if determined to avoid or lessen the impact pursuant to paragraph (2) of
10 subdivision (b), and shall be fully enforceable.

11 (b) If a project may have a significant impact on a tribal cultural resource, the lead
12 agency's environmental document shall discuss both of the following:

13 (1) Whether the proposed project has a significant impact on an identified tribal
14 cultural resource.

15 (2) Whether feasible alternatives or mitigation measures, including those
16 measures that may be agreed to pursuant to subdivision (a), avoid or substantially
17 lessen the impact on the identified tribal cultural resource.

18 (c)(1) Any information, including, but not limited to, the location, description, and
19 use of the tribal cultural resources, that is submitted by a California Native
20 American tribe during the environmental review process shall not be included in the
21 environmental document or otherwise disclosed by the lead agency or any other
22 public agency to the public, consistent with ~~subdivision (e) of Section 6254 of, and~~
23 ~~Section 6254.10 of, Sections 7927.000 and 7927.005 of the Government Code, and~~
24 subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations,
25 without the prior consent of the tribe that provided the information. If the lead
26 agency publishes any information submitted by a California Native American tribe
27 during the consultation or environmental review process, that information shall be
28 published in a confidential appendix to the environmental document unless the tribe
29 that provided the information consents, in writing, to the disclosure of some or all
30 of the information to the public. This subdivision does not prohibit the confidential
31 exchange of the submitted information between public agencies that have lawful
32 jurisdiction over the preparation of the environmental document.

33 (2)(A) This subdivision does not prohibit the confidential exchange of
34 information regarding tribal cultural resources submitted by a California Native
35 American tribe during the consultation or environmental review process among the
36 lead agency, the California Native American tribe, the project applicant, or the
37 project applicant's agent. Except as provided in subparagraph (B) or unless the
38 California Native American tribe providing the information consents, in writing, to
39 public disclosure, the project applicant or the project applicant's legal advisers,
40 using a reasonable degree of care, shall maintain the confidentiality of the
41 information exchanged for the purposes of preventing looting, vandalism, or

1 damage to tribal cultural resources and shall not disclose to a third party confidential
2 information regarding tribal cultural resources.

3 (B) This paragraph does not apply to data or information that are or become
4 publicly available, are already in the lawful possession of the project applicant
5 before the provision of the information by the California Native American tribe, are
6 independently developed by the project applicant or the project applicant's agents,
7 or are lawfully obtained by the project applicant from a third party that is not the
8 lead agency, a California Native American tribe, or another public agency.

9 (3) This subdivision does not affect or alter the application of ~~subdivision (r) of~~
10 ~~Section 6254 of the Government Code, Section 6254.10~~ Section 7927.000 or
11 7927.005 of the Government Code, or subdivision (d) of Section 15120 of Title 14
12 of the California Code of Regulations.

13 (4) This subdivision does not prevent a lead agency or other public agency from
14 describing the information in general terms in the environmental document so as to
15 inform the public of the basis of the lead agency's or other public agency's decision
16 without breaching the confidentiality required by this subdivision.

17 (d) In addition to other provisions of this division, the lead agency may certify an
18 environmental impact report or adopt a mitigated negative declaration for a project
19 with a significant impact on an identified tribal cultural resource only if one of the
20 following occurs:

21 (1) The consultation process between the California Native American tribe and
22 the lead agency has occurred as provided in Sections 21080.3.1 and 21080.3.2 and
23 concluded pursuant to subdivision (b) of Section 21080.3.2.

24 (2) The California Native American tribe has requested consultation pursuant to
25 Section 21080.3.1 and has failed to provide comments to the lead agency, or
26 otherwise failed to engage, in the consultation process.

27 (3) The lead agency has complied with subdivision (d) of Section 21080.3.1 and
28 the California Native American tribe has failed to request consultation within 30
29 days.

30 (e) If the mitigation measures recommended by the staff of the lead agency as a
31 result of the consultation process are not included in the environmental document
32 or if there are no agreed upon mitigation measures at the conclusion of the
33 consultation or if consultation does not occur, and if substantial evidence
34 demonstrates that a project will cause a significant effect to a tribal cultural resource,
35 the lead agency shall consider feasible mitigation pursuant to subdivision (b) of
36 Section 21084.3.

37 (f) Consistent with subdivision (c), the lead agency shall publish confidential
38 information obtained from a California Native American tribe during the
39 consultation process in a confidential appendix to the environmental document and
40 shall include a general description of the information, as provided in paragraph (4)
41 of subdivision (c) in the environmental document for public review during the
42 public comment period provided pursuant to this division.

1 (g) This section is not intended, and may not be construed, to limit consultation
2 between the state and tribal governments, existing confidentiality provisions, or the
3 protection of religious exercise to the fullest extent permitted under state and federal
4 law.

5 **Comment.** Section 21082.3 is amended to reflect nonsubstantive recodification of the California
6 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
7 Reports __ (2019).

8 **§ 21089 (amended). Fees**

9 SEC. _____. Section 21089 of the Public Resources Code is amended to read:

10 21089. (a) A lead agency may charge and collect a reasonable fee from a person
11 proposing a project subject to this division in order to recover the estimated costs
12 incurred by the lead agency in preparing a negative declaration or an environmental
13 impact report for the project and for procedures necessary to comply with this
14 division on the project. Litigation expenses, costs, and fees incurred in actions
15 alleging noncompliance with this division under Section 21167 are not recoverable
16 under this section.

17 (b) The Department of Fish and Game may charge and collect filing fees, as
18 provided in Section 711.4 of the Fish and Game Code. Notwithstanding Section
19 21080.1, a finding required under Section 21081, or a project approved under a
20 certified regulatory program authorized pursuant to Section 21080.5 is not
21 operative, vested, or final until the filing fees required pursuant to Section 711.4 of
22 the Fish and Game Code are paid.

23 (c)(1) A public agency may charge and collect a reasonable fee from members of
24 the public for a copy of an environmental document not to exceed the cost of
25 reproducing the environmental document. A public agency may provide the
26 environmental document in an electronic format as provided pursuant to
27 ~~Section 6253.9~~ Sections 7922.570 to 7922.580, inclusive, of the Government Code.

28 (2) For purposes of this subdivision, “environmental document” means an initial
29 study, negative declaration, mitigated negative declaration, draft and final
30 environmental impact report, a document prepared as a substitute for an
31 environmental impact report, negative declaration, or mitigated negative declaration
32 under a program certified pursuant to Section 21080.5, and a document prepared
33 under the federal National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321
34 et seq.) and used by a state or local agency in the place of the initial study, negative
35 declaration, mitigated negative declaration, or an environmental impact report.

36 **Comment.** Section 21089 is amended to reflect nonsubstantive recodification of the California
37 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
38 Reports __ (2019).

39 **§ 21160 (amended). Submission of data and information on environmental effect of**
40 **proposed project**

41 SEC. _____. Section 21160 of the Public Resources Code is amended to read:

1 21160. (a) Whenever any person applies to any public agency for a lease, permit,
2 license, certificate, or other entitlement for use, the public agency may require that
3 person to submit data and information ~~which~~ that may be necessary to enable the
4 public agency to determine whether the proposed project may have a significant
5 effect on the environment or to prepare an environmental impact report.

6 (b) If any or all of the information so submitted is a “trade secret” as defined in
7 Section ~~6254.7~~ 7924.510 of the Government Code by those submitting that
8 information, it shall not be included in the impact report or otherwise disclosed by
9 any public agency. This section shall not be construed to prohibit the exchange of
10 properly designated trade secrets between public agencies who have lawful
11 jurisdiction over the preparation of the impact report.

12 **Comment.** Section 21160 is amended to reflect nonsubstantive recodification of the California
13 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
14 Reports __ (2019).

15 The section is also amended to insert subdivision labels and make a grammatical correction.

16 **§ 21167.6.2 (amended). Certified record of proceedings**

17 SEC. ____. Section 21167.6.2 of the Public Resources Code is amended to read:

18 21167.6.2. (a)(1) Notwithstanding Section 21167.6, upon the written request of a
19 project applicant received no later than 30 days after the date that the lead agency
20 makes a determination pursuant to subdivision (a) of Section 21080.1, Section
21 21094.5, or Chapter 4.2 (commencing with Section 21155) and with the consent of
22 the lead agency as provided in subdivision (e), the lead agency shall prepare and
23 certify the record of proceedings in the following manner:

24 (A) The lead agency for the project shall prepare the record of proceedings
25 pursuant to this division concurrently with the administrative process.

26 (B) All documents and other materials placed in the record of proceedings shall
27 be posted on, and be downloadable from, an Internet Web site maintained by the
28 lead agency commencing with the date of the release of the draft environmental
29 document for the project. If the lead agency cannot maintain an Internet Web site
30 with the information required pursuant to this section, the lead agency shall provide
31 a link on the agency’s Internet Web site to that information.

32 (C) The lead agency shall make available to the public in a readily accessible
33 electronic format the draft environmental document for the project, and all other
34 documents submitted to, cited by, or relied on by the lead agency, in the preparation
35 of the draft environmental document for the project.

36 (D) A document prepared by the lead agency or submitted by the applicant after
37 the date of the release of the draft environmental document for the project that is a
38 part of the record of the proceedings shall be made available to the public in a readily
39 accessible electronic format within 5 business days after the document is released
40 or received by the lead agency.

41 (E) The lead agency shall encourage written comments on the project to be
42 submitted in a readily accessible electronic format, and shall make any comment

1 available to the public in a readily accessible electronic format within 5 business
2 days of its receipt.

3 (F) Within 7 business days after the receipt of any comment that is not in an
4 electronic format, the lead agency shall convert that comment into a readily
5 accessible electronic format and make it available to the public in that format.

6 (G) The lead agency shall certify the record of proceedings within 30 days after
7 the filing of the notice required pursuant to Section 21108 or 21152.

8 (2) This subdivision does not require the disclosure or posting of any trade secret
9 as defined in Section ~~6254.7~~ 7924.510 of the Government Code, information about
10 the location of archaeological sites or sacred lands, or any other information that is
11 subject to the disclosure restrictions of ~~Section 6254~~ any provision listed in Section
12 7920.505 of the Government Code.

13 (b) Any dispute regarding the record of proceedings prepared pursuant to this
14 section shall be resolved by the court in an action or proceeding brought pursuant
15 to subdivision (b) or (c) of Section 21167.

16 (c) The content of the record of proceedings shall be as specified in subdivision
17 (e) of Section 21167.6.

18 (d) The negative declaration, mitigated negative declaration, draft and final
19 environmental impact report, or other environmental document shall include a
20 notice in no less than 12-point type stating the following:

21
22 “THIS DOCUMENT IS SUBJECT TO SECTION 21167.6.2 OF THE PUBLIC
23 RESOURCES CODE, WHICH REQUIRES THE RECORD OF PROCEEDINGS
24 FOR THIS PROJECT TO BE PREPARED CONCURRENTLY WITH THE
25 ADMINISTRATIVE PROCESS; DOCUMENTS PREPARED BY, OR
26 SUBMITTED TO, THE LEAD AGENCY TO BE POSTED ON THE LEAD
27 AGENCY’S INTERNET WEB SITE; AND THE LEAD AGENCY TO
28 ENCOURAGE WRITTEN COMMENTS ON THE PROJECT TO BE
29 SUBMITTED TO THE LEAD AGENCY IN A READILY ACCESSIBLE
30 ELECTRONIC FORMAT.”

31
32 (e)(1) The lead agency shall respond to a request by the project applicant within
33 10 business days from the date that the request pursuant to subdivision (a) is
34 received by the lead agency.

35 (2) A project applicant and the lead agency may mutually agree, in writing, to
36 extend the time period for the lead agency to respond pursuant to paragraph (1), but
37 they shall not extend that period beyond the commencement of the public review
38 period for the proposed negative declaration, mitigated negative declaration, draft
39 environmental impact report, or other environmental document.

40 (3) The request to prepare a record of proceedings pursuant to this section shall
41 be deemed denied if the lead agency fails to respond within 10 business days of
42 receiving the request or within the time period agreed upon pursuant to paragraph
43 (2), whichever ends later.

1 (f) The written request of the applicant submitted pursuant to subdivision (a) shall
2 include an agreement to pay all of the lead agency's costs of preparing and certifying
3 the record of proceedings pursuant to this section and complying with the
4 requirements of this section, in a manner specified by the lead agency.

5 (g) The costs of preparing the record of proceedings pursuant to this section and
6 complying with the requirements of this section are not recoverable costs pursuant
7 to Section 1032 of the Code of Civil Procedure.

8 (h) Pursuant to subdivision (f) and Section 21089, the lead agency may charge
9 and collect a reasonable fee from the person making the request pursuant to
10 subdivision (a) to recover the costs incurred by the lead agency in preparing the
11 record of proceedings pursuant to this section.

12 **Comment.** Section 21167.6.2 is amended to reflect nonsubstantive recodification of the
13 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
14 Comm'n Reports __ (2019).

15 **§ 25223 (amended). Public access to information filed or submitted**

16 SEC. ____. Section 25223 of the Public Resources Code is amended to read:

17 25223. The commission shall make available any information filed or submitted
18 pursuant to this division under the provisions of the California Public Records Act,
19 ~~Chapter 3.5 (commencing with Section 6250) of Division 7, Division 10~~
20 ~~(commencing with Section 7920.000) of Title 1 of the Government Code; provided,~~
21 however, that the commission shall keep confidential any information submitted to
22 the Division of Oil and Gas of the Department of Conservation that the division
23 determines, pursuant to Section 3752, to be proprietary.

24 **Comment.** Section 25223 is amended to reflect nonsubstantive recodification of the California
25 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
26 Reports __ (2019).

27 **§ 25322 (amended). Confidentiality requirements for data collection system**

28 SEC. ____. Section 25322 of the Public Resources Code is amended to read:

29 25322. (a) The data collection system managed pursuant to Section 25320 shall
30 include the following requirements regarding the confidentiality of the information
31 collected by the commission:

32 (1) Any person required to present information to the commission pursuant to this
33 section may request that specific information be held in confidence. The
34 commission shall grant the request in any of the following circumstances:

35 (A) The information is exempt from disclosure under the California Public
36 Records Act, ~~Chapter 3.5 (commencing with Section 6250) of Division 7 Division~~
37 ~~10 (commencing with Section 7920.000) of Title 1 of the Government Code.~~

38 (B) The information satisfies the confidentiality requirements of Article 2
39 (commencing with Section 2501) of Chapter 7 of Division 2 of Title 20 of the
40 California Code of Regulations, as those regulations existed on January 1, 2002.

1 (C) On the facts of the particular case, the public interest served by not disclosing
2 the information clearly outweighs the public interest served by disclosure of the
3 information.

4 (2) The commission may, by regulation, designate certain categories of
5 information as confidential, which removes the obligation to request confidentiality
6 for that information.

7 (3) Any confidential information pertinent to the responsibilities of the
8 commission specified in this chapter that is obtained by another state agency, or the
9 California Independent System Operator or its successor, shall be available to the
10 commission and shall be treated in a confidential manner.

11 (4) Information presented to or developed by the commission and deemed
12 confidential pursuant to this section shall be held in confidence by the commission.
13 Confidential information shall be aggregated or masked to the extent necessary to
14 assure confidentiality if public disclosure of the specific information would result
15 in an unfair competitive disadvantage to the person supplying the information.

16 (b) Requests for records of information shall be handled as follows:

17 (1) If the commission receives a written request to publicly disclose information
18 that is being held in confidence pursuant to paragraph (1) or (2) of subdivision (a),
19 the commission shall provide the person making the request with written
20 justification for the confidential designation and a description of the process to seek
21 disclosure.

22 (2) If the commission receives a written request to publicly disclose a
23 disaggregated or unmasked record of information designated as confidential under
24 paragraph (1) or (2) of subdivision (a), notice of the request shall be provided to the
25 person that submitted the record. Upon receipt of the notice, the person that
26 submitted the record may, within five working days of receipt of the notice, provide
27 a written justification of the claim of confidentiality.

28 (3) The commission or its designee shall rule on a request made pursuant to
29 paragraph (2) on or before 20 working days after its receipt. The commission shall
30 deny the request if the disclosure will result in an unfair competitive disadvantage
31 to the person that submitted the information.

32 (4) If the commission grants the request pursuant to paragraph (3), it shall
33 withhold disclosure for a reasonable amount of time, not to exceed 14 working days,
34 to allow the submitter of the information to seek judicial review.

35 (c) No information submitted to the commission pursuant to this section is
36 confidential if the person submitting the information has made it public.

37 (d) The commission shall establish, maintain, and use appropriate security
38 practices and procedures to ensure that the information it has designated as
39 confidential, or received with a confidential designation from another government
40 agency, is protected against disclosure other than that authorized using the
41 procedures in subdivision (b). The commission shall incorporate the following
42 elements into its security practices and procedures:

1 (1) Commission employees shall sign a confidential data disclosure agreement
2 providing for various remedies, including, but not limited to, fines and termination
3 for wrongful disclosure of confidential information.

4 (2) Commission employees, or contract employees of the commission, shall only
5 have access to confidential information when it is appropriate to their job
6 assignments and if they have signed a nondisclosure agreement.

7 (3) Computer data systems that hold confidential information shall include
8 sufficient security measures to protect the data from inadvertent or wrongful access
9 by unauthorized commission employees and the public.

10 (e) Data collected by the commission on petroleum fuels in Section 25320 shall
11 be subject to the confidentiality provisions of Sections 25364 to 25366, inclusive.

12 **Comment.** Section 25322 is amended to reflect nonsubstantive recodification of the California
13 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
14 Reports __ (2019).

15 **§ 25402.10 (amended). Utility records of energy usage data**

16 SEC. ____. Section 25402.10 of the Public Resources Code is amended to read:

17 25402.10. (a) For the purposes of this section, the following terms have the
18 following meanings:

19 (1) “Benchmark” means to obtain information on the energy use in an entire
20 building for a specific period to enable that usage to be tracked or compared against
21 other buildings.

22 (2) “Covered building” for purposes of this section means either or both of the
23 following:

24 (A) Any building with no residential utility accounts.

25 (B) Any building with five or more active utility accounts, residential or
26 nonresidential.

27 (3) “Energy” means electricity, natural gas, steam, or fuel oil sold by a utility to a
28 customer for end uses addressed by the ENERGY STAR Portfolio Manager system.

29 (4) “ENERGY STAR Portfolio Manager” means the tool developed and
30 maintained by the United States Environmental Protection Agency to track and
31 assess the energy performance of buildings.

32 (b) On and after January 1, 2016, each utility shall maintain records of the energy
33 usage data of all buildings to which they provide service for at least the most recent
34 12 complete calendar months.

35 (c)(1) Subject to the requirements of paragraph (2), beginning no later than
36 January 1, 2017, each utility shall, upon the request and written authorization or
37 secure electronic authorization of the owner, owner’s agent, or operator of a covered
38 building, deliver or otherwise provide aggregated energy usage data for a covered
39 building to the owner, owner’s agent, building operator, or to the owner’s account
40 in the ENERGY STAR Portfolio Manager. The commission may specify additional
41 information to be delivered by utilities to enable building owners to complete

1 benchmarking of the energy use in their buildings and in other systems or formats
2 for information delivery and automation.

3 (2) The delivery of information by utilities pursuant to this section shall be subject
4 to the following requirements:

5 (A) For covered buildings with three or more active utility accounts, each utility
6 shall deliver information showing the aggregated energy usage data of all utility
7 customers in the same building for each of the 12 prior months. Notwithstanding
8 any other law, energy usage data aggregated in this manner shall not be deemed
9 customer utility usage information or confidential information by the utility for
10 purposes of delivery to the owner, owner's agent, or operator of a building. The
11 building owner and utility shall not have any liability for any use or disclosure of
12 aggregated energy usage data delivered as required by this section.

13 (B) For covered buildings not subject to subparagraph (A), each utility shall
14 deliver the information showing the aggregated energy usage data of all utility
15 customers in each covered building for each of the prior 12 months if the
16 accountholder provides written or electronic consent for the delivery of the
17 accountholder's energy usage data to the owner, owner's agent, operator, or utility.

18 (C) Each utility shall deliver, upload, or otherwise provide aggregated energy
19 usage data within four weeks of receiving a request from an owner, owner's agent,
20 or operator of a covered building.

21 (D) Each utility shall make available the covered building energy usage data
22 aggregated at a monthly level unless otherwise specified by the commission.

23 (E) The building owner and utility shall not have any liability for any use or
24 disclosure by others of usage information delivered as required by this section.

25 (d) The commission shall adopt regulations providing for the delivery to the
26 commission and public disclosure of benchmarking of energy use for covered
27 buildings, as follows:

28 (1) This subdivision shall not require the owner of a building with 16 or fewer
29 residential utility accounts to collect or deliver energy usage information to the
30 commission.

31 (2) The commission may do, but is not limited to doing, all of the following in
32 regulations adopted pursuant to this subdivision:

33 (A) Identify and provide for the collection of the energy usage data for
34 calculations for purpose of benchmarking of energy use.

35 (B) Identify and provide for the collection of the covered building characteristic
36 information deemed necessary by the commission for the calculation of
37 benchmarking of energy use.

38 (C) Specify the manner in which certain benchmarking of energy use shall be
39 publicly disclosed.

40 (D) Determine which covered buildings, in addition to those described in
41 paragraph (1), are not subject to the public disclosure requirement.

42 (E) Set a schedule to implement the requirements for public disclosure adopted
43 by the commission.

1 (F) Determine if compliance with a local or county benchmarking program fulfills
2 the commission’s requirements adopted pursuant to this subdivision.

3 (G) Identify categories of information it receives pursuant to this section that are
4 protected from release under either the California Public Records Act (~~Chapter 3.5~~
5 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
6 Section 7920.000) of Title 1 of the Government Code) or the Information Practices
7 Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of
8 Division 3 of the Civil Code).

9 (3) The commission shall determine who will deliver the energy usage data and
10 related information for any covered building to the commission.

11 (e) The commission may ensure timely and accurate compliance with the data
12 submission requirements of this section by using the enforcement measures
13 identified in Section 25321. An owner of a covered building, or its agents or
14 operators, shall not be liable for any noncompliance due to the failure of a utility to
15 provide the information required for compliance.

16 (f) For buildings that are not covered buildings, and for customer information that
17 is not aggregated pursuant to subparagraph (A) of paragraph (2) of subdivision (c),
18 the commission may adopt regulations prescribing how utilities shall either obtain
19 the customer’s permission or determine that a building owner has obtained the
20 customer’s permission, for the owner to receive aggregated energy usage data or,
21 where applicable, individual customer usage information, including by use of
22 electronic authorization and in a lease agreement between the owner and the
23 customer.

24 (g) The reasonable costs of an electrical or gas corporation in delivering electrical
25 or gas usage data pursuant to this section or other information as required under
26 state or federal law or by an order of the commission shall be recoverable in rates
27 evaluated and approved by the Public Utilities Commission.

28 (h) The reasonable costs of local publicly owned electric utilities in disclosing
29 electrical usage data pursuant to this section may be considered “cost-effective
30 demand-side management services to promote energy efficiency and energy
31 conservation” and thereby reimbursable by their general fund.

32 (i)(1) For purposes of adopting or revising regulations pursuant to subdivision (d),
33 the commission may include two or more buildings located on a single parcel or
34 adjacent parcels with the same owner of record and with five or more active utility
35 accounts, in aggregate, residential or nonresidential, as a single covered building, as
36 defined in subparagraph (B) of paragraph (2) of subdivision (a).

37 (2) An electrical or gas utility shall provide to the owner, owner’s agent, or
38 operator of a property containing two or more buildings on a single parcel or
39 adjacent parcels with five or more active utility accounts, in aggregate, residential
40 or nonresidential, upon request of the owner, agent, or operator, aggregate energy
41 usage data on all ~~such~~ of the buildings in a manner provided pursuant to subdivision
42 (c) as if those buildings are a single covered building as defined in subparagraph (B)
43 of paragraph (2) of subdivision (a).

1 (j) Nothing in this section shall prevent a city or county from establishing its own
2 benchmarking program requiring collection, delivery, and disclosure of building
3 information.

4 **Comment.** Section 25402.10 is amended to reflect nonsubstantive recodification of the
5 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
6 Comm'n Reports __ (2019).

7 The section is also amended to make a technical change.

8 **§ 26213 (amended). Board procedures**

9 SEC. ____. Section 26213 of the Public Resources Code is amended to read:

10 26213. (a) The board shall meet at least four times per year or as often as the chair
11 or the board deems necessary to conduct its business.

12 (b) The chair shall, with the assistance of staff, prepare the agenda for each board
13 meeting. Meeting agendas shall be prepared in advance of each meeting based on
14 input from board members, staff, and the public.

15 (c) The board and any committees established by the board shall comply with, and
16 be subject to, the requirements of the Bagley-Keene Open Meeting Act (Article 9
17 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
18 the Government Code).

19 (d) The board shall comply with, and be subject to, the requirements of the
20 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of~~
21 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
22 Government Code).

23 **Comment.** Section 26213 is amended to reflect nonsubstantive recodification of the California
24 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
25 Reports __ (2019).

26 **§ 29754 (amended). Office and records of Delta Protection Commission**

27 SEC. ____. Section 29754 of the Public Resources Code is amended to read:

28 29754. The commission shall establish and maintain an office within the Delta or
29 the City of Rio Vista, and for this purpose the commission may rent or own property
30 and equipment. Any rule, regulation, procedure, plan, or other record of the
31 commission ~~which is of such a nature as to constitute~~ that constitutes a public record
32 under state law shall be available for inspection and copying pursuant to the
33 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of~~
34 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
35 Government Code).

36 **Comment.** Section 29754 is amended to reflect nonsubstantive recodification of the California
37 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
38 Reports __ (2019).

39 The section is also amended to make a technical change.

40 **§ 40062 (amended). Trade secret**

41 SEC. _____. Section 40062 of the Public Resources Code is amended to read:

1 40062. (a) Upon the request of any person furnishing any report, notice,
2 application, plan, or other document required by this division, including any
3 research or survey information requested by the board for the purpose of
4 implementing its programs, neither the board nor an enforcement agency, in
5 accordance with subdivisions (c) and (d), shall make available for inspection by the
6 public any portion of the report, notice, application, plan, or other document that
7 contains a trade secret, as defined in subdivision (d) of Section 3426.1 of the Civil
8 Code, that has been identified pursuant to subdivision (b).

9 (b) Any person furnishing information, as described in subdivision (a), to the
10 board or an enforcement agency pursuant to this division shall, at the time of
11 submission, identify all information ~~which~~ that the person believes is a trade secret.
12 Any information not identified by the person as a trade secret shall be made
13 available to the public, unless exempted from disclosure by another provision of
14 law.

15 (c)(1) With regard to information that has been identified as a trade secret
16 pursuant to subdivision (b), the board, upon its own initiative, or upon receipt of a
17 request for public information pursuant to ~~Chapter 3.5 (commencing with Section~~
18 ~~6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of
19 the Government Code, shall determine whether any or all of the information has
20 been properly identified as a trade secret. If the board determines that the
21 information is not a trade secret, the board shall notify the person who furnished the
22 information by certified mail.

23 (2) The person who furnished the information shall have 30 days from the date of
24 receipt of the notice required by paragraph (1) to provide the board with a complete
25 justification and statement of the grounds on which the trade secret privilege is
26 claimed. The justification and statement shall be submitted to the board by certified
27 mail.

28 (3) The board shall determine whether the information is protected as a trade
29 secret within 15 days from the date of receipt of the justification and statement or,
30 if no justification and statement is filed, within 45 days from the date of the notice
31 required by paragraph (1). The board shall notify the person who furnished the
32 information and any party who has requested the information pursuant to ~~Chapter~~
33 ~~3.5 (commencing with Section 6250) of Division 7~~ Division 10 (commencing with
34 Section 7920.000) of Title 1 of the Government Code of that determination by
35 certified mail. If the board has determined that the information is not protected as a
36 trade secret, this final notice shall also specify a date, not sooner than 15 days from
37 the date of the date of mailing of the final notice, when the information shall be
38 available to the public.

39 (d) Except as provided in subdivision (c), the board or an enforcement agency
40 may release information submitted and designated as a trade secret only to the
41 following public agencies under the following conditions:

42 (1) To other public agencies in connection with the responsibilities of the board
43 or an enforcement agency under this division or for use in making reports.

1 (2) To the state or any state agency in judicial review for enforcement proceedings
2 involving the person furnishing the information.

3 (e) For the purpose of implementing this section, the disclosure of information
4 shall be consistent with ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
5 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
6 Code.

7 **Comment.** Section 40062 is amended to reflect nonsubstantive recodification of the California
8 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
9 Reports __ (2019).

10 The section is also amended to make a grammatical correction.

11 **§ 41821.5 (amended). Information on handling, processing, and disposal of solid wastes and**
12 **recyclable materials**

13 SEC. _____. Section 41821.5 of the Public Resources Code is amended to read:

14 41821.5. (a) Disposal facility operators shall submit information on the disposal
15 tonnages by jurisdiction or region of origin that are disposed of at each disposal
16 facility to the department, and to counties that request the information, in a form
17 prescribed by the department. To enable disposal facility operators to provide that
18 information, solid waste handlers and transfer station operators shall provide
19 information to disposal facility operators on the origin of the solid waste that they
20 deliver to the disposal facility.

21 (b)(1) Recycling and composting operations and facilities shall submit periodic
22 information to the department on the types and quantities of materials that are
23 disposed of, sold, or transferred to other recycling or composting facilities, end users
24 inside of the state or outside of the state, or exporters, brokers, or transporters for
25 sale inside of the state or outside of the state.

26 (2) Exporters, brokers, self-haulers, and transporters of recyclables or compost
27 shall submit periodic information to the department on the types, quantities, and
28 destinations of materials that are disposed of, sold, or transferred. The department
29 shall develop regulations implementing this section that define “self-hauler” to
30 include, at a minimum, a person or entity that generates and transports, utilizing its
31 own employees and equipment, more than one cubic yard per week of its own food
32 waste to a location or facility that is not owned and operated by that person or entity.

33 (3) The information in the reports submitted pursuant to this subdivision may be
34 provided to the department on an aggregated facility-wide basis and may exclude
35 financial data, such as contract terms and conditions (including information on
36 pricing, credit terms, volume discounts and other proprietary business terms), the
37 jurisdiction of the origin of the materials, or information on the entities from which
38 the materials are received. The department may provide this information to
39 jurisdictions, aggregated by company, upon request. The aggregated information,
40 other than that aggregated by company, is public information.

41 (c) The department shall adopt regulations pursuant to this section requiring
42 practices and procedures that are reasonable and necessary to implement this

1 section, and that provide a representative accounting of solid wastes and recyclable
2 materials that are handled, processed, or disposed. Those regulations approved by
3 the department shall not impose an unreasonable burden on waste and recycling
4 handling, processing, or disposal operations or otherwise interfere with the safe
5 handling, processing, and disposal of solid waste and recyclables. The department
6 shall include in those regulations both of the following:

7 (1) Procedures to ensure that an opportunity to comply is provided prior to
8 initiation of enforcement authorized by Section 41821.7.

9 (2) Factors to be considered in determining penalty amounts that are similar to
10 those provided in Section 45016.

11 (d) Any person who refuses or fails to submit information required by regulations
12 adopted pursuant to this section is liable for a civil penalty of not less than five
13 hundred dollars (\$500) and not more than five thousand dollars (\$5,000) for each
14 violation of a separate provision or, for continuing violations, for each day that the
15 violation continues.

16 (e) Any person who knowingly or willfully files a false report, or any person who
17 refuses to permit the department or any of its representatives to make inspection or
18 examination of records, or who fails to keep any records for the inspection of the
19 department, or who alters, cancels, or obliterates entries in the records for the
20 purpose of falsifying the records as required by regulations adopted pursuant to this
21 section, is liable for a civil penalty of not less than five hundred dollars (\$500) and
22 not more than ten thousand dollars (\$10,000) for each violation of a separate
23 provision or, for continuing violations, for each day that the violation continues.

24 (f) Liability under this section may be imposed in a civil action, or liability may
25 be imposed administratively pursuant to this article.

26 (g)(1) Notwithstanding Title 5 (commencing with Section 3426) of Part 1 of
27 Division 4 of the Civil Code and Article 11 (commencing with Section 1060) of
28 Chapter 4 of Division 8 of the Evidence Code, all records that the facility or operator
29 is reasonably required to keep to allow the department to verify information in, or
30 verification of, the reports required pursuant to subdivisions (a) and (b) and
31 implementing regulations shall be subject to inspection and copying by the
32 department, but shall be confidential and shall not be subject to disclosure under the
33 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of~~
34 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
35 Government Code).

36 (2) Notwithstanding Title 5 (commencing with Section 3426) of Part 1 of Division
37 4 of the Civil Code and Article 11 (commencing with Section 1060) of Chapter 4 of
38 Division 8 of the Evidence Code, an employee of a government entity may, at the
39 disposal facility, inspect and copy records related to tonnage received at the facility
40 on or after July 1, 2015, and originating within the government entity's geographic
41 jurisdiction. Those records shall be limited to weight tags that identify the hauler,
42 vehicle, quantity, date, type, and origin of waste received at a disposal facility.
43 Those records shall be available to those government entities for the purposes of

1 subdivision (a) and as necessary to enforce the collection of local fees, but those
2 records shall be confidential and shall not be subject to disclosure under the
3 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of
4 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
5 Government Code). Names of haulers using specific landfills shall not be disclosed
6 by a government entity unless necessary as part of an administrative or judicial
7 enforcement proceeding to fund local programs or enforce local franchises.

8 (3) A government entity may petition the superior court for injunctive or
9 declaratory relief to enforce its authority under paragraph (2). The times for
10 responsive pleadings and hearings in these proceedings shall be set by the judge of
11 the court with the object of securing a decision as to these matters at the earliest
12 possible time.

13 (4) For purposes of this section, a government entity is an entity identified in
14 Section 40145 or an entity formed pursuant to Section 40976.

15 (5) For purposes of this subdivision, “disposal” and “disposal facility” have the
16 same meanings as prescribed by Sections 40120.1 and 40121, respectively.

17 (6) Nothing in this subdivision shall be construed to limit or expand the authority
18 of a government entity that may have been provided by this section and
19 implementing regulations as they read on December 31, 2015.

20 (7) The records subject to inspection and copying by the department pursuant to
21 paragraph (1) or by an employee of a government entity pursuant to paragraph (2)
22 may be redacted by the operator before inspection to exclude confidential pricing
23 information contained in the records, such as contract terms and conditions
24 (including information on pricing, credit terms, volume discounts, and other
25 proprietary business terms), if the redacted information is not information that is
26 otherwise required to be reported to the department.

27 (h) Notwithstanding the Uniform Electronic Transactions Act (Title 2.5
28 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code),
29 reports required by this section shall be submitted electronically, using an electronic
30 reporting format system established by the department.

31 (i) All records provided in accordance with this section shall be subject to Section
32 40062.

33 **Comment.** Section 41821.5 is amended to reflect nonsubstantive recodification of the California
34 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
35 Reports __ (2019).

36 **§ 41821.6 (amended). Audit, site inspection, observation of facility operations, or other**
37 **investigation of recordkeeping and reporting**

38 SEC. ____ . Section 41821.6 of the Public Resources Code is amended to read:

39 41821.6. In order to ensure that records required pursuant to this article are
40 properly maintained, in addition to inspecting all relevant records, the department
41 may conduct audits, perform site inspections, observe facility operations, and
42 otherwise investigate the recordkeeping and reporting of persons subject to the

1 requirements of this article. Any records, reports, notes, studies, drawings,
2 schematics, photographs, or trade secrets, as defined in Section 3426.1 of the Civil
3 Code, obtained, produced, or created by the department in connection with or arising
4 from ~~such~~ those audits, inspections, or observations are confidential and shall not
5 be subject to disclosure under the California Public Records Act (~~Chapter 3.5~~
6 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
7 Section 7920.000) of Title 1 of the Government Code).

8 **Comment.** Section 41821.6 is amended to reflect nonsubstantive recodification of the California
9 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
10 Reports __ (2019).

11 The section is also amended to make a technical change.

12 **§ 42036.4 (amended). Confidentiality of proprietary information submitted**

13 SEC. ____. Section 42036.4 of the Public Resources Code is amended to read:

14 42036.4. Proprietary information submitted to the department under this chapter
15 shall be protected by all parties as confidential and shall be exempt from public
16 disclosure under the California Public Records Act (~~Chapter 3.5 (commencing with~~
17 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
18 Title 1 of the Government Code). The department and other parties may only
19 disclose proprietary information in an aggregated form that does not directly or
20 indirectly identify financial, production, or sales data of an individual covered entity
21 or stewardship organization. Proprietary information may be disclosed to the party
22 that submitted the proprietary information.

23 **Comment.** Section 42036.4 is amended to reflect nonsubstantive recodification of the California
24 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
25 Reports __ (2019).

26 **§ 42987.3 (amended). Review of mattress recycling plan**

27 SEC. ____. Section 42987.3 of the Public Resources Code is amended to read:

28 42987.3. (a) The department shall review the plan for compliance with this
29 chapter and shall approve, disapprove, or conditionally approve the plan within 90
30 days of receipt of the plan. If the department fails to act within 90 days of the receipt
31 of the plan, the plan shall be deemed approved.

32 (b) If the department disapproves the plan pursuant to subdivision (a), the
33 department shall explain, in writing, how the plan does not comply with this chapter,
34 and the mattress recycling organization shall resubmit a plan to the department. If
35 the department finds that the plan resubmitted by the organization does not comply
36 with the requirements of this chapter, the mattress recycling organization shall not
37 be deemed in compliance with this chapter until the organization submits a plan that
38 the department finds complies with the requirements of this chapter.

39 (c) The approved plan shall be a public record, except that financial, production,
40 or sales data reported to the department by the mattress recycling organization is not
41 public record for purposes of the California Public Records Act (~~Chapter 3.5~~
42 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with

1 Section 7920.000) of Title 1 of the Government Code) and shall not be open to
2 public inspection. The department may release financial, production, or sales data
3 in summary form only so the information cannot be attributable to a specific
4 manufacturer or retailer or to any other entity.

5 **Comment.** Section 42987.3 is amended to reflect nonsubstantive recodification of the California
6 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
7 Reports __ (2019).

8 **§ 48704 (amended). Approval, implementation, and enforcement of plan for paint**
9 **stewardship program**

10 SEC. ____ . Section 48704 of the Public Resources Code is amended to read:

11 48704. (a) The department shall review the plan within 90 days of receipt, and
12 make a determination whether or not to approve the plan. The department shall
13 approve the plan if it provides for the establishment of a paint stewardship program
14 that meets the requirements of Section 48703.

15 (b)(1) The approved plan shall be a public record, except that financial,
16 production, or sales data reported to the department by a manufacturer or the
17 stewardship organization is not a public record under the California Public Records
18 Act, as described in ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
19 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
20 Code and shall not be open to public inspection.

21 (2) Notwithstanding paragraph (1), the department may release a summary form
22 of financial, production, or sales data if it does not disclose financial, production, or
23 sales data of a manufacturer or stewardship organization.

24 (c) On or before July 1, 2012, or three months after a plan is approved pursuant
25 to subdivision (a), whichever date is later, the manufacturer or stewardship
26 organization shall implement the architectural paint stewardship program described
27 in the approved plan.

28 (d) The department shall enforce this chapter.

29 (e)(1) The stewardship organization shall pay the department a quarterly
30 administrative fee pursuant to paragraph (2).

31 (2) The department shall impose fees in an amount that is sufficient to cover the
32 full administrative and enforcement costs of the requirements of this chapter,
33 including any program development costs or regulatory costs incurred by the
34 department prior to the submittal of the stewardship plans. The stewardship
35 organization shall pay the fee on or before the last day of the month following the
36 end of each quarter. Fee revenues collected under this section shall only be used to
37 administer and enforce this chapter.

38 (f)(1) A civil penalty may be administratively imposed by the department on any
39 person who violates this chapter in an amount of up to one thousand dollars (\$1,000)
40 per violation per day.

1 (2) A person who intentionally, knowingly, or negligently violates this chapter
2 may be assessed a civil penalty by the department of up to ten thousand dollars
3 (\$10,000) per violation per day.

4 **Comment.** Section 48704 is amended to reflect nonsubstantive recodification of the California
5 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
6 Reports __ (2019).

7 PUBLIC UTILITIES CODE

8 **§ 345.5 (amended). Independent System Operator**

9 SEC. ____. Section 345.5 of the Public Utilities Code is amended to read:

10 345.5. (a) The Independent System Operator, as a nonprofit, public benefit
11 corporation, shall conduct its operations consistent with applicable state and federal
12 laws and consistent with the interests of the people of the state.

13 (b) To ensure the reliability of electric service and the health and safety of the
14 public, the Independent System Operator shall manage the transmission grid and
15 related energy markets in a manner that is consistent with all of the following:

16 (1) Making the most efficient use of available energy resources. For purposes of
17 this section, “available energy resources” include energy, capacity, ancillary
18 services, and demand bid into markets administered by the Independent System
19 Operator. “Available energy resources” do not include a schedule submitted to the
20 Independent System Operator by an electrical corporation or a local publicly owned
21 electric utility to meet its own customer load.

22 (2) Reducing, to the extent possible, overall economic cost to the state’s
23 consumers.

24 (3) Applicable state law intended to protect the public’s health and the
25 environment.

26 (4) Maximizing availability of existing electric generation resources necessary to
27 meet the needs of the state’s electricity consumers.

28 (5) Conducting internal operations in a manner that minimizes cost impact on
29 ratepayers to the extent practicable and consistent with the provisions of this
30 chapter.

31 (6) Communicating with all balancing area authorities in California in a manner
32 that supports electrical reliability.

33 (c) The Independent System Operator shall do all of the following:

34 (1) Consult and coordinate with appropriate state and local agencies to ensure that
35 the Independent System Operator operates in furtherance of state law regarding
36 consumer and environmental protection.

37 (2) Ensure that the purposes and functions of the Independent System Operator
38 are consistent with the purposes and functions of nonprofit, public benefit
39 corporations in the state, including duties of care and conflict-of-interest standards
40 for officers and directors of a corporation.

1 (3) Maintain open meeting standards and meeting notice requirements consistent
2 with the general policies of the Bagley-Keene Open Meeting Act (Article 9
3 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
4 the Government Code) and affording the public the greatest possible access,
5 consistent with other duties of the corporation. The Independent System Operator’s
6 Open Meeting Policy, as adopted on April 23, 1998, and in effect as of May 1, 2002,
7 meets the requirements of this paragraph. The Independent System Operator shall
8 maintain a policy that is no less consistent with the Bagley-Keene Open Meeting
9 Act than its policy in effect as of May 1, 2002.

10 (4) Provide public access to corporate records consistent with the general policies
11 of the California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~
12 ~~of Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
13 Government Code) and affording the public the greatest possible access, consistent
14 with the other duties of the corporation. The Independent System Operator’s
15 Information Availability Policy, as adopted on October 22, 1998, and in effect as of
16 May 1, 2002, meets the requirements of this paragraph. The Independent System
17 Operator shall maintain a policy that is no less consistent with the California Public
18 Records Act than its policy in effect as of May 1, 2002.

19 **Comment.** Section 345.5 is amended to reflect nonsubstantive recodification of the California
20 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
21 Reports __ (2019).

22 **§ 349.5 (amended). Independent System Operator to provide notice regarding interruptible**
23 **service contract or similar arrangement**

24 SEC. ____. Section 349.5 of the Public Utilities Code is amended to read:

25 349.5. (a) Beginning January 15, 2002, and at least once monthly thereafter, the
26 Independent System Operator shall notify each air pollution control district and air
27 quality management district of the name and address of each entity within the
28 district’s boundaries within the Independent System Operator’s control area with
29 whom the Independent System Operator enters into an interruptible service contract
30 or similar arrangement.

31 (b) For the purposes of this section, “interruptible service contract or similar
32 arrangement” means any arrangement in which a nonresidential entity agrees to
33 reduce or consider reducing its electrical consumption during periods of peak
34 demand or at the request of the Independent System Operator in exchange for
35 compensation, or for assurances not to be blacked out or other similar nonmonetary
36 assurances.

37 (c) The local air pollution control district or air quality management district shall
38 maintain in a confidential manner the information received pursuant to this section.
39 However, nothing in this subdivision shall affect the applicability of ~~Chapter 3.5~~
40 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
41 Section 7920.000) of Title 1 of the Government Code, or of any other similar open
42 records statute or ordinance, to information provided pursuant to this section.

1 **Comment.** Section 349.5 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 **§ 388.2 (amended). Energy savings contract for energy retrofit project**

5 SEC. ____. Section 388.2 of the Public Utilities Code is amended to read:

6 388.2. (a) For purposes of this section, the following definitions apply:

7 (1) “Apprenticeable occupation” means an occupation for which the chief has
8 approved an apprenticeship program pursuant to Section 3075 of the Labor Code
9 before January 1, 2014.

10 (2) “Chief” means the Chief of the Division of Apprenticeship Standards of the
11 Department of Industrial Relations.

12 (3) “Department” means the Department of General Services.

13 (4)(A) “Energy retrofit project” means a project for which the state works with a
14 qualified energy service company to identify, develop, design, and implement
15 energy conservation measures in existing facilities to reduce energy or water use or
16 make more efficient use of energy or water.

17 (B) “Energy retrofit project” does not include the erection or installation of a
18 power generation system, a power purchase agreement, or a project utilizing a site
19 license or lease agreement.

20 (5) “Energy savings” means a measured and verified reduction in fuel, energy, or
21 water consumption when compared to an established baseline of consumption.

22 (6) “Enforceable commitment” means an enforceable agreement with the
23 department or state agency that the entity and its subcontractors at every tier will
24 comply with this section.

25 (7)(A) “Qualified energy service company” means a company with a
26 demonstrated ability to provide or arrange for building or facility energy auditors,
27 selection and design of appropriate energy savings measures, project financing,
28 implementation of these measures, and maintenance and ongoing measurement of
29 these measures as to ensure and verify energy savings.

30 (B) An entity is not a qualified energy service company unless the entity has
31 provided to the agency an enforceable commitment that the entity and its
32 subcontractors at every tier will use a skilled and trained workforce to perform all
33 work on the project or contract that falls within an apprenticeable occupation in the
34 building and construction trades.

35 (8) “Skilled and trained workforce” means a workforce that meets all of the
36 following conditions:

37 (A) All workers performing work in an apprenticeable occupation in the building
38 and construction trades are either skilled journeypersons or apprentices in an
39 apprenticeship program approved by the chief.

40 (B)(i) Except as provided in clause (ii), at least 60 percent of the skilled
41 journeypersons employed to perform work on a contract or project by every
42 contractor and each of its subcontractors at every tier are graduates of an

1 apprenticeship program that was either approved by the chief pursuant to Section
2 3075 of the Labor Code, or an apprenticeship program located outside the state that
3 is approved pursuant to the apprenticeship regulations adopted by the United States
4 Secretary of Labor, for the applicable occupation.

5 (ii) For an apprenticeable occupation in which no apprenticeship program had
6 been approved by the chief before January 1, 1995, up to one-half of the requirement
7 in clause (i) may be satisfied by skilled journeypersons who commenced working
8 in an apprenticeable occupation before the chief's approval of an apprenticeship
9 program in the county in which the project is located.

10 (iii) The requirements of this subparagraph are satisfied if, in a particular calendar
11 month, either of the following is true:

12 (I) The percentage of the skilled journeypersons employed by the contractor or
13 subcontractor to perform work on the contract or project is at least equal to 60
14 percent.

15 (II) For the hours of work performed by skilled journeypersons employed by the
16 contractor or subcontractor on the contract or project, the percentage of hours
17 performed by skilled journeypersons is at least equal to 60 percent.

18 (iv) This subparagraph does not apply to a contractor or subcontractor if, during
19 the calendar month, the contractor or subcontractor employs skilled journeypersons
20 to perform fewer than 10 hours of work on the contract or project.

21 (v) This subparagraph does not apply to a subcontractor if both of the following
22 are true:

23 (I) The subcontractor is not a listed subcontractor in the investment grade audit or
24 a substitute for a listed subcontractor.

25 (II) The subcontract does not exceed $\frac{1}{2}$ of 1 percent of the price of the prime
26 contract.

27 (9) "Skilled journeyperson" means a worker who is being paid at least the
28 prevailing rate or per diem wages published by the Department of Industrial
29 Relations for the occupation and geographic area and who either:

30 (A) Graduated from an apprenticeship program that was either approved by the
31 chief pursuant to Section 3075 of the Labor Code, or an apprenticeship program
32 located outside the state that is approved pursuant to the apprenticeship regulations
33 adopted by the United States Secretary of Labor, for the applicable occupation.

34 (B) Has at least as many hours of on-the-job training experience in the applicable
35 occupation as would be required to graduate from an apprenticeship program for the
36 applicable occupation that is approved by the chief.

37 (b)(1) The department or any other state agency intending to enter into an energy
38 savings contract for an energy retrofit project may establish one or more pools of
39 qualified energy services companies based on qualification, experience, pricing, or
40 other pertinent factors. The department or state agency may select a qualified energy
41 service company identified in the pool for a contract for a specific energy retrofit
42 project on a rotational basis.

1 (2) The department or state agency has the exclusive authority to reject the plan
2 or proposal of a qualified energy service company selected for an energy retrofit
3 project pursuant to paragraph (1) and may continue the selection process until a
4 satisfactory proposal is identified.

5 (c)(1) A qualified energy service company working on an energy retrofit project
6 shall submit to the department or state agency, as appropriate, on a monthly basis, a
7 report demonstrating compliance with this section.

8 (2) If the qualified energy service company fails to submit the monthly report or
9 submits a report that is incomplete, the department or state agency, as appropriate,
10 shall withhold further payments until a complete report is submitted.

11 (3) The monthly report is a public record under the California Public Records Act
12 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
13 (commencing with Section 7920.000) of Title 1 of the Government Code) and shall
14 be available for public inspection.

15 (d) Prior to performing an investment grade audit, the department or other state
16 agency shall provide a public notification that includes the project location, assigned
17 energy services company, and the appropriate contact information on the
18 department's Internet Web site.

19 (e) Subparagraph (B) of paragraph (7) of subdivision (a) and subdivision (c) do
20 not apply if either of the following applies:

21 (1) The department or state agency, as appropriate, has entered into a project labor
22 agreement, as defined in paragraph (1) of subdivision (b) of Section 2500 of the
23 Public Contract Code, that will bind all contractors and subcontractors performing
24 work on the project or contract and the entity agrees to be bound by that project
25 labor agreement.

26 (2) The entity has entered into a project labor agreement, as defined in paragraph
27 (1) of subdivision (b) of Section 2500 of the Public Contract Code, that will bind
28 the entity and all contractors and subcontractors at every tier performing the project
29 or contract.

30 (f) Subparagraph (B) of paragraph (7) of subdivision (a) and subdivision (c) do
31 not apply to work performed by the California Conservation Corps that is nontrades
32 and nonconstruction related.

33 (g) This section is not intended to waive other terms and conditions applicable to
34 a state contract for an energy retrofit project.

35 (h) This section shall remain in effect only until January 1, 2020, and as of that
36 date is repealed, unless a later enacted statute, that is enacted before January 1, 2020,
37 deletes or extends that date.

38 **Comment.** Section 388.2 is amended to reflect nonsubstantive recodification of the California
39 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
40 Reports __ (2019).

41 **§ 399.25 (amended). Duties of Energy Commission**

42 SEC. ____. Section 399.25 of the Public Utilities Code is amended to read:

1 399.25. The Energy Commission shall do all of the following:

2 (a) Certify eligible renewable energy resources that it determines meet the criteria
3 described in subdivision (e) of Section 399.12.

4 (b) Design and implement an accounting system to verify compliance with the
5 renewables portfolio standard by retail sellers and local publicly owned electric
6 utilities, to ensure that electricity generated by an eligible renewable energy
7 resource is counted only once for the purpose of meeting the renewables portfolio
8 standard of this state or any other state, to certify renewable energy credits produced
9 by eligible renewable energy resources, and to verify retail product claims in this
10 state or any other state. In establishing the guidelines governing this accounting
11 system, the Energy Commission shall collect data from electricity market
12 participants that it deems necessary to verify compliance of retail sellers and local
13 publicly owned electric utilities, in accordance with the requirements of this article
14 and the California Public Records Act (~~Chapter 3.5 (commencing with Section~~
15 ~~6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of
16 the Government Code). In seeking data from electrical corporations, the Energy
17 Commission shall request data from the commission. The commission shall collect
18 data from electrical corporations and remit the data to the Energy Commission
19 within 90 days of the request.

20 (c) Establish a system for tracking and verifying renewable energy credits that,
21 through the use of independently audited data, verifies the generation of electricity
22 associated with each renewable energy credit and protects against multiple counting
23 of the same renewable energy credit. The Energy Commission shall consult with
24 other western states and with the WECC in the development of this system.

25 (d) Certify, for purposes of compliance with the renewables portfolio standard
26 requirements by a retail seller, the eligibility of renewable energy credits associated
27 with eligible renewable energy resources procured by a local publicly owned
28 electric utility, if the Energy Commission determines that all of the conditions of
29 Section 399.31 have been met.

30 **Comment.** Section 399.25 is amended to reflect nonsubstantive recodification of the California
31 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
32 Reports __ (2019).

33 **§ 743.3 (amended). Electrical corporation to provide notice regarding interruptible service**
34 **contract or similar arrangement**

35 SEC. __. Section 743.3 of the Public Utilities Code is amended to read:

36 743.3. (a) Beginning January 15, 2002, and at least once monthly thereafter, an
37 electrical corporation shall notify each air pollution control district and air quality
38 management district of the name and address of each entity within the district's
39 boundaries within the electrical corporation's control or service area with whom the
40 electrical corporation enters into an interruptible service contract or similar
41 arrangement.

1 (b) For the purposes of this section, “interruptible service contract or similar
2 arrangement” means any arrangement in which a nonresidential electrical customer
3 agrees to reduce or consider reducing its electrical consumption during periods of
4 peak demand or at the request of the Independent System Operator in exchange for
5 compensation, or for assurances not to be blacked out or other similar nonmonetary
6 assurances.

7 (c) The local air pollution control district or air quality management district shall
8 maintain in a confidential manner the information received pursuant to this section.
9 However, nothing in this subdivision shall affect the applicability of ~~Chapter 3.5~~
10 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
11 Section 7920.000) of Title 1 of the Government Code, or of any other similar open
12 records statute or ordinance, to information provided pursuant to this section.

13 **Comment.** Section 743.3 is amended to reflect nonsubstantive recodification of the California
14 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
15 Reports __ (2019).

16 **§ 3328 (amended). Application of CPRA to Consumer Power and Conservation Financing**
17 **Authority**

18 SEC. ____. Section 3328 of the Public Utilities Code is amended to read:

19 3328. The California Public Records Act (~~Chapter 3.5 (commencing with~~
20 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
21 Title 1 of the Government Code) applies to all records of the authority.

22 **Comment.** Section 3328 is amended to reflect nonsubstantive recodification of the California
23 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
24 Reports __ (2019).

25 **§ 6354 (amended). Surcharges and related matters**

26 SEC. ____. Section 6354 of the Public Utilities Code is amended to read:

27 6354. (a) Surcharges calculated pursuant to Section 6353 shall be recovered from
28 the transportation customer through the energy transporter’s normal billing process.

29 (b) Surcharges collected from the transportation customer shall be remitted to the
30 municipality granting a franchise pursuant to this division in the manner and at the
31 time prescribed for payment of franchise fees in the energy transporter’s franchise
32 agreement. In recognition of costs to be incurred by energy transporters in
33 administering the surcharge established by this chapter, the energy transporter may
34 retain interest earned on cash balances resulting from the timing difference between
35 the monthly collection of the surcharge and the remittance thereof, as required by
36 individual franchise agreements.

37 (c) In the event that payment on a transportation customer closed account
38 becomes more than 90 days delinquent, or a transportation customer notifies the
39 utility that they refuse to pay the surcharge, the energy transporter shall, within 30
40 days, notify the municipality of the delinquency and provide information on the
41 name and address of the delinquent transportation customer and the surcharge

1 amount owed. The energy transporter shall not be liable for these delinquent
2 surcharges.

3 (d) The municipality, including its authorized officials, employees and agents
4 shall use the delinquent transportation customer information only for the purpose of
5 enforcing the surcharge and shall not disclose the information to any officials,
6 employees, agents, or any third parties who are not responsible for and involved in
7 the enforcement of the municipality's franchise agreements. Nothing herein
8 precludes the municipality, through appropriate officials, employees or agents, from
9 contacting the transportation customers in order to collect any surcharges due from
10 the transportation customer.

11 (e) By March 31 of each year, every person, firm, or corporation that transports
12 gas or electricity to any other person, firm, or corporation within a municipality,
13 upon request of the municipality, shall provide the names and addresses of each of
14 its transportation customers and ~~such~~ other information for the preceding calendar
15 year as may be necessary for the municipality to enforce its taxes and fees. The
16 municipality, including its authorized employees and agents, shall use the
17 transportation customer information and any other customer specific information
18 only for the purpose of enforcing its taxes and fees and shall not disclose the
19 information to any officials, employees, agents, or any third parties not responsible
20 for, and involved in, the enforcement of the taxes and fees. Nothing in this
21 subdivision shall prohibit the municipality, through appropriate officials,
22 employees, or agents, from contacting the customers in order to collect any taxes
23 and fees due from the customer.

24 (f) Notwithstanding any other provision of law, any transportation customer
25 information provided by an energy transporter to a municipality pursuant to this
26 chapter or pursuant to a utility user tax ordinance is not a public record within the
27 definitions contained in the California Public Records Act (Chapter 3.5
28 (commencing with Section 6250) of Division 7 Division 10 (commencing with
29 Section 7920.000) of Title 1 of the Government Code).

30 (g) In acknowledgment of the potential for systems startup costs to be incurred by
31 the energy transporters in implementing this chapter, authorization is hereby granted
32 for each energy transporter to retain 10 percent of the added fees collected pursuant
33 to this chapter on transported gas or electricity for systems startup costs not to
34 exceed seven hundred fifty thousand dollars (\$750,000), provided that the portion
35 of collections withheld by the energy transporter shall be apportioned to all
36 municipalities based upon each municipality's share of total franchise fees allocated
37 by the transporter in the prior calendar year.

38 (h) Surcharges collected pursuant to this chapter shall be separately identified on
39 the transportation customer's normal bill. At the request of the energy transporter,
40 the municipality shall publish notice in a newspaper of general circulation
41 announcing the change in method of collecting franchise fees brought about by
42 deregulation. Energy transporters may send out notice to transportation customers
43 announcing the change in method of collecting franchise fees through the surcharge.

1 The mailing costs incurred by the energy transporter shall be considered to be part
2 of the implementation costs referenced in subdivision (g).

3 (i) In the case of partial payment by a transportation customer, the transportation
4 customer payment shall first be applied to the energy transporter charges. Only after
5 all energy transporter charges have been satisfied, shall remaining payment amounts
6 be used to satisfy the municipality's surcharge requirement.

7 (j) Energy transporter collection of the surcharge shall begin on or before April 1,
8 1994. During the interim period between expiration of the targeted sales program
9 and implementation of the energy transporters surcharge collection program, upon
10 request of the municipality, the energy transporter shall provide the municipality
11 with a monthly list of the names and addresses of the transportation customers
12 within the municipality's jurisdiction, the volume of transported gas in therms, the
13 applicable tariffed core subscription weighted average cost of gas (WACOG)
14 exclusive of any California sourced franchise factor, and the franchise fee factor
15 authorized by the commission to enable the municipality to collect the surcharge
16 directly from the transportation customers. Notwithstanding any other provision of
17 law, except as provided in Section 6352, a municipality is hereby authorized to
18 collect an interim surcharge computed in accordance with Section 6353 until the
19 energy transporter commences billing of the surcharge pursuant to this chapter.

20 **Comment.** Section 6354 is amended to reflect nonsubstantive recodification of the California
21 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
22 Reports __ (2019).

23 The section is also amended to make a technical change.

24 **§ 7665.4 (amended). Rail infrastructure protection program**

25 SEC. ____. Section 7665.4 of the Public Utilities Code is amended to read:

26 7665.4. (a) By January 1, 2008, every rail operator shall develop and implement
27 an infrastructure protection program to protect rail infrastructure in the state from
28 acts of sabotage, terrorism, or other crimes.

29 (b)(1) The infrastructure protection program shall address the security of all
30 critical infrastructure.

31 (2) The infrastructure protection program shall provide training to all employees
32 of the rail operator performing work at a rail facility on how to recognize, prevent,
33 and respond to acts of sabotage, terrorism, or other crimes.

34 (c)(1) All employees of a contractor or subcontractor of a rail operator, and any
35 other person performing work at a rail facility that is not the employee of the rail
36 operator, shall receive training equivalent to that received by employees of the rail
37 operator pursuant to paragraph (2) of subdivision (b), within a reasonable period of
38 time. The commission, in consultation with the director, may adopt reasonable rules
39 or orders to implement this requirement.

40 (2) All employees of a contractor or subcontractor of a rail operator, and any other
41 person performing work at a rail facility that is not the employee of the rail operator,
42 shall undergo an equivalent evaluation of their background, skills, and fitness as the

1 rail operator implements for its employees pursuant to its infrastructure protection
2 plan. The commission, in consultation with the director, may adopt reasonable rules
3 or orders to implement this requirement.

4 (d) Each rail operator in the state shall provide to the commission and the director
5 a copy of its infrastructure protection program. Notwithstanding ~~Chapter 3.5~~
6 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
7 Section 7920.000) of Title 1 of the Government Code, the commission and the
8 director shall keep this information confidential.

9 (e) The infrastructure protection program shall be updated by the rail operator at
10 least once every year, and the updated plan shall be submitted to the commission
11 and the director.

12 (f) The commission, in consultation with the office, shall review the infrastructure
13 protection program submitted by a rail operator, may conduct inspections to
14 facilitate the review, and may order a rail operator to improve, modify, or change
15 its program to comply with the requirements of this article.

16 (g) The commission may fine a rail operator for failure to comply with the
17 requirements of this section or an order of the commission pursuant to this section.

18 **Comment.** Section 7665.4 is amended to reflect nonsubstantive recodification of the California
19 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
20 Reports __ (2019).

21 **§ 9614 (amended). Local publicly owned electric utility to provide notice regarding**
22 **interruptible service contract or similar arrangement**

23 SEC. __. Section 9614 of the Public Utilities Code is amended to read:

24 9614. (a) Beginning January 15, 2002, and at least once monthly thereafter, a local
25 publicly owned electric utility shall notify each air pollution control district and air
26 quality management district of the name and address of each entity within the
27 district's boundaries within the local publicly owned electric utility's control or
28 service area with whom the utility enters into an interruptible service contract or
29 similar arrangement.

30 (b) For the purposes of this section, "interruptible service contract or similar
31 arrangement" means any arrangement in which a nonresidential electrical customer
32 agrees to reduce or consider reducing its electrical consumption during periods of
33 peak demand or at the request of the local publicly owned electric utility in exchange
34 for compensation, or for assurances not to be blacked out or other similar
35 nonmonetary assurances.

36 (c) The local air pollution control district or air quality management district shall
37 maintain in a confidential manner the information received pursuant to this section.
38 However, nothing in this subdivision shall affect the applicability of ~~Chapter 3.5~~
39 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
40 Section 7920.000) of Title 1 of the Government Code, or of any other similar open
41 records statute or ordinance, to information provided pursuant to this section.

1 **Comment.** Section 9614 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 **§ 9618 (amended). Electrical grid data relevant in addressing well failure at Aliso Canyon**
5 **natural gas storage facility**

6 SEC. ____. Section 9618 of the Public Utilities Code is amended to read:

7 9618. (a)(1) Except as provided in paragraph (2), a local publicly owned electric
8 utility that provides electric service to 250,000 or more customers within the Los
9 Angeles Basin shall make publicly available, upon request of any person, electrical
10 grid data necessary or useful to enable distributed energy resource providers to
11 target solutions that support reliability in the area where electrical reliability has
12 been impacted as a result of reductions in gas storage capacity and gas deliverability
13 resulting from the well failure at the Aliso Canyon natural gas storage facility first
14 reported to the commission in October 2015.

15 (2) A local publicly owned electric utility shall not make data available pursuant
16 to paragraph (1) that is prohibited from being disclosed pursuant to state or federal
17 law.

18 (3) The data made available pursuant to this subdivision shall be available
19 pursuant to the California Public Records Act (~~Chapter 3.5 (commencing with~~
20 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
21 Title 1 of the Government Code), commencing within 60 days of the effective date
22 of this section.

23 (b) For purposes of this section, “Los Angeles Basin” means the area identified as
24 the “Aliso Canyon Delivery Area” on page 11 of the Aliso Canyon Risk Assessment
25 Technical Report, dated April 5, 2016.

26 **Comment.** Section 9618 is amended to reflect nonsubstantive recodification of the California
27 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
28 Reports __ (2019).

29 **§ 28844 (amended). Public access to investigatory file compiled by BART Inspector General**

30 SEC. ____. Section 28844 of the Public Utilities Code is amended to read:

31 28844. Any investigatory file compiled by the BART Inspector General is an
32 investigatory file compiled by a local law enforcement agency subject to disclosure
33 pursuant to ~~subdivision (f) of Section 6254~~ Article 1 (commencing with Section
34 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.

35 **Comment.** Section 28844 is amended to reflect nonsubstantive recodification of the California
36 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
37 Reports __ (2019).

38 **§ 99246 (amended). Audit of transportation planning agency, transit development board, or**
39 **county transportation commission**

40 SEC. ____. Section 99246 of the Public Utilities Code is amended to read:

1 99246. (a)(1) The transportation planning agency shall designate entities other
2 than itself, a county transportation commission, a transit development board, or an
3 operator to make a performance audit of its activities and the activities of each
4 operator to whom it allocates funds. The transportation planning agency shall
5 consult with the entity to be audited prior to designating the entity to make the
6 performance audit.

7 (2) Where a transit development board created pursuant to Division 11
8 (commencing with Section 120000) or a county transportation commission exists,
9 the board or commission, as the case may be, shall designate entities other than
10 itself, a transportation planning agency, or an operator to make a performance audit
11 of its activities and those of operators located in the area under its jurisdiction to
12 whom it directs the allocation of funds. The board or commission shall consult with
13 the entity to be audited prior to designating the entity to make the performance audit.

14 (b) The performance audit shall evaluate the efficiency, effectiveness, and
15 economy of the operation of the entity being audited and shall be conducted in
16 accordance with the efficiency, economy, and program results portions of the
17 Comptroller General’s “Standards for Audit of Governmental Organizations,
18 Programs, Activities, and Functions.” Performance audits shall be conducted
19 triennially pursuant to a schedule established by the transportation planning agency,
20 transit development board, or county transportation commission having jurisdiction
21 over the operator.

22 (c) The performance audit of the transportation planning agency, county
23 transportation commission, or transit development board shall be submitted to the
24 director. The transportation planning agency, county transportation commission, or
25 transit development board, as the case may be, shall certify in writing to the director
26 that the performance audit of operators located in the area under its jurisdiction has
27 been completed.

28 (d)(1) With respect to an operator providing public transportation services, the
29 performance audit shall include, but not be limited to, a verification of the operator’s
30 operating cost per passenger, operating cost per vehicle service hour, passengers per
31 vehicle service hour, passengers per vehicle service mile, and vehicle service hours
32 per employee, as defined in Section 99247. The performance audit shall include, but
33 not be limited to, consideration of the needs and types of the passengers being served
34 and the employment of part-time drivers and the contracting with common carriers
35 of persons operating under a franchise or license to provide services during peak
36 hours, as defined in subdivision (a) of Section 99260.2.

37 (2) The performance audit may include performance evaluations both for the
38 entire system and for the system excluding special, new, or expanded services
39 instituted to test public transportation service growth potential.

40 (e) The performance audit prepared pursuant to this section shall be made
41 available to the public pursuant to the provisions of the California Public Records
42 Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
43 (commencing with Section 7920.000) of Title 1 of the Government Code).

1 **Comment.** Section 99246 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 The section is also amended to insert paragraph labels.

5 **§ 130051.28 (amended). Inspector general for Los Angeles County Metropolitan**
6 **Transportation Authority**

7 SEC. ____. Section 130051.28 of the Public Utilities Code is amended to read:

8 130051.28. (a) The Los Angeles County Metropolitan Transportation Authority
9 shall appoint an inspector general to a term of office of four years. The inspector
10 general shall be removed from office only if either or both of the following occur:

11 (1) A two-thirds majority of the members of the authority votes for removal.

12 (2) The inspector general violates a federal or state law or regulation, a local
13 ordinance, or a policy or practice of the authority, relative to ethical practices,
14 including, but not limited to, the acceptance of gifts or contributions.

15 (b) The inspector general shall, at a noticed public hearing of the authority, report
16 quarterly on the expenditures of the authority for travel, meals and refreshments,
17 private club dues, membership fees and other charges, and any other expenditures
18 ~~which that~~ are specified by the authority.

19 (c) Any investigatory file compiled by the inspector general is an investigatory
20 file compiled by a local law enforcement agency subject to disclosure pursuant to
21 ~~subdivision (f) of Section 6254~~ Article 1 (commencing with Section 7923.600) of
22 Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.

23 **Comment.** Section 130051.28 is amended to reflect nonsubstantive recodification of the
24 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
25 Comm'n Reports __ (2019).

26 The section is also amended to make a grammatical correction.

27 **§ 132354.1 (amended). Audit of financial transactions and records of consolidated agency**

28 SEC. ____. Section 132354.1 of the Public Utilities Code is amended to read:

29 132354.1. (a) The board shall arrange for a post audit of the financial transactions
30 and records of the consolidated agency to be made at least annually by a certified
31 public accountant.

32 (b)(1) The audit committee shall appoint an independent performance auditor,
33 subject to approval by the board, who may only be removed for cause by a vote of
34 at least two-thirds of the audit committee and the board.

35 (2) The independent performance auditor shall have authority to conduct or to
36 cause to be conducted performance audits of all departments, offices, boards,
37 activities, agencies, and programs of the consolidated agency. The auditor shall
38 prepare annually an audit plan and conduct audits in accordance therewith and
39 perform those other duties as may be required by ordinance or as provided by the
40 California Constitution and general laws of the state. The auditor shall follow
41 government auditing standards. All officers and employees of the consolidated
42 agency shall furnish to the auditor unrestricted access to employees, information,

1 and records, including electronic data, within their custody regarding powers,
2 duties, activities, organization, property, financial transactions, contracts, and
3 methods of business required to conduct an audit or otherwise perform audit duties.
4 It is also the duty of any consolidated agency officer, employee, or agent to fully
5 cooperate with the auditor, and to make full disclosure of all pertinent information.

6 (3) The auditor shall have the power to appoint, employ, and remove assistants,
7 employees, and personnel as deemed necessary for the efficient and effective
8 administration of the affairs of the office and to prescribe their duties, scope of
9 authority, and qualifications.

10 (4) The auditor may investigate any material claim of financial fraud, waste, or
11 impropriety within the consolidated agency and for that purpose may summon any
12 officer, agent, or employee of the consolidated agency, any claimant, or other
13 person, and examine him or her upon oath or affirmation relative thereto. All
14 consolidated agency contracts with consultants, vendors, or agencies will be
15 prepared with an adequate audit provision to allow the auditor access to the entity's
16 records needed to verify compliance with the terms specified in the contract. Results
17 of all audits and reports shall be made available to the public in accordance with the
18 requirements of the California Public Records Act (~~Chapter 3.5 (commencing with~~
19 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
20 Title 1 of the Government Code).

21 (c) The board shall develop and adopt internal control guidelines to prevent and
22 detect financial errors and fraud based on the internal control guidelines developed
23 by the Controller pursuant to Section 12422.5 of the Government Code and the
24 standards adopted by the American Institute of Certified Public Accountants.

25 (d) The board shall develop and adopt an administration policy that includes a
26 process to conduct staff performance evaluations on a regular basis to determine if
27 the knowledge, skills, and abilities of staff members are sufficient to perform their
28 respective functions, and shall monitor the evaluation process on a regular basis.

29 (e) The board members shall make an annual report to their member agencies at
30 a public meeting pursuant to Chapter 9 (commencing with Section 54950) of Part 1
31 of Division 2 of Title 5 of the Government Code, that includes a summary of
32 activities by the consolidated agency including, but not limited to, program
33 developments, project updates, changes to voter-approved expenditure plans, and
34 potential ballot measures.

35 **Comment.** Section 132354.1 is amended to reflect nonsubstantive recodification of the
36 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
37 Comm'n Reports __ (2019).

38 **§ 132360.5 (amended). Compliance with CPRA**

39 SEC. _____. Section 132360.5 of the Public Utilities Code is amended to read:

40 132360.5. All documents created in compliance with this article shall be made
41 available and ready for public review in compliance with the California Public

1 Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of ~~Division 7~~ Division
2 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

3 **Comment.** Section 132360.5 is amended to reflect nonsubstantive recodification of the
4 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
5 Comm'n Reports __ (2019).

6 **§ 132660 (amended). Transparency requirements applicable to Tri-Valley-San Joaquin**
7 **Valley Regional Rail Authority**

8 SEC. ____. Section 132660 of the Public Utilities Code is amended to read:

9 132660. The authority and any entity contracted with to serve as the operator of
10 any transit connectivity developed and delivered pursuant to this chapter shall be
11 subject to all of the following:

12 (a) The Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500)
13 of Division 4 of Title 1 of the Government Code).

14 (b) The California Public Records Act (~~Chapter 3.5 (commencing with~~
15 ~~Section 6250)~~ of ~~Division 7~~ Division 10 (commencing with Section 7920.000) of
16 Title 1 of the Government Code).

17 (c) The Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of
18 Part 1 of Division 2 of Title 5 of the Government Code).

19 **Comment.** Section 132660 is amended to reflect nonsubstantive recodification of the California
20 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
21 Reports __ (2019).

22 REVENUE AND TAXATION CODE

23 **§ 408.2 (amended). Public access to assessor's records and information**

24 SEC. ____. Section 408.2 of the Revenue and Taxation Code is amended to read:

25 408.2. (a) Except as otherwise provided in Sections 63.1, 69.5, 451, and 481 of
26 this code and in ~~Section 6254~~ the provisions listed in Section 7920.505 of the
27 Government Code, any information and records in the assessor's office ~~which that~~
28 are required by law to be kept or prepared by the assessor, other than homeowners'
29 exemption claims, are public records and shall be open to public inspection.
30 Property receiving the homeowners' exemption shall be clearly identified on the
31 assessment roll. The assessor shall maintain records ~~which that~~ shall be open to
32 public inspection to identify those claimants who have been granted the
33 homeowners' exemption.

34 (b) The assessor may provide any appraisal data in ~~his or her~~ the assessor's
35 possession to the assessor of any county and shall provide any market data in ~~his or~~
36 ~~her~~ the assessor's possession to an assessee of property or ~~his or her~~ an assessee's
37 designated representative upon request. The assessor shall permit an assessee of
38 property or ~~his or her~~ an assessee's designated representative to inspect at the
39 assessor's office any information and records, whether or not required to be kept or
40 prepared by the assessor, relating to the appraisal and the assessment of ~~his or her~~
41 the assessee's property. Except as provided in Section 408.1, an assessee or ~~his or~~

1 ~~her~~ an assessee's designated representative, however, shall not be provided or
2 permitted to inspect information and records, other than market data, which also
3 relate to the property or business affairs of another person, unless that disclosure is
4 ordered by a competent court in a proceeding initiated by a taxpayer seeking to
5 challenge the legality of ~~his or her~~ the taxpayer's assessment.

6 (c) The assessor shall disclose information, furnish abstracts, or permit access to
7 all records in ~~his or her~~ the assessor's office to law enforcement agencies, the county
8 grand jury, the board of supervisors or their duly authorized agents, employees or
9 representatives when conducting an investigation of the assessor's office pursuant
10 to Section 25303 of the Government Code, the Controller, probate referees,
11 employees of the Franchise Tax Board for tax administration purposes only, the
12 State Board of Equalization, and other duly authorized legislative or administrative
13 bodies of the state pursuant to their authorization to examine the records.

14 (d) For purposes of this section, "market data" means any information in the
15 assessor's possession, whether or not required to be prepared or kept by ~~him or her~~
16 the assessor, relating to the sale of any property comparable to the property of the
17 assessee, if the assessor bases ~~his or her~~ the assessment of the assessee's property,
18 in whole or in part, on that comparable sale or sales. The assessor shall provide the
19 names of the seller and buyer of each property on which the comparison is based,
20 the location of that property, the date of the sale, and the consideration paid for the
21 property, whether paid in money or otherwise, but for purposes of providing market
22 data, the assessor shall not display any document relating to the business affairs or
23 property of another.

24 (e) This section applies only to a county with a population that exceeds 4,000,000.

25 **Comment.** Section 408.2 is amended to reflect nonsubstantive recodification of the California
26 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
27 Reports __ (2019).

28 The section is also amended to eliminate gendered pronouns and make grammatical corrections.

29 **§ 408.3 (amended). Property characteristics information maintained by assessor**

30 SEC. _____. Section 408.3 of the Revenue and Taxation Code is amended to read:

31 408.3. (a) Except as otherwise provided in Sections 451 and 481 and in ~~Section~~
32 ~~6254~~ the provisions listed in Section 7920.505 of the Government Code, property
33 characteristics information maintained by the assessor is a public record and shall
34 be open to public inspection.

35 (b) For purposes of this section, "property characteristics," includes, but is not
36 limited to, the year of construction of improvements to the property, their square
37 footage, the number of bedrooms and bathrooms of all dwellings, the property's
38 acreage, and other attributes of or amenities to the property, such as swimming
39 pools, views, zoning classifications or restrictions, use code designations, and the
40 number of dwelling units of multiple family properties.

41 (c)(1) Notwithstanding Section ~~6257~~ 7922.530 of the Government Code or any
42 other provision of law, if the assessor provides property characteristics information

1 at the request of any party, the assessor may require that a fee reasonably related to
2 the actual cost of developing and providing the information be paid by the party
3 receiving the information.

4 (2) The actual cost of providing the information is not limited to duplication or
5 production costs, but may include recovery of developmental and indirect costs, as
6 overhead, personnel, supply, material, office, storage, and computer costs. All
7 revenue collected by the assessor for providing information under this section shall
8 be used solely to support, maintain, improve, and provide for the creation, retention,
9 automation, and retrieval of assessor information.

10 (d) The Legislature finds and declares that information concerning property
11 characteristics is maintained solely for assessment purposes and is not continuously
12 updated by the assessor. Therefore, neither the county nor the assessor shall incur
13 any liability for errors, omissions, or approximations with respect to property
14 characteristics information provided by the assessor to any party pursuant to this
15 section. Further, this subdivision shall not be construed to imply liability on the part
16 of the county or the assessor for errors, omissions, or other defects in any other
17 information or records provided by the assessor pursuant to the provisions of this
18 part.

19 **Comment.** Section 408.3 is amended to reflect nonsubstantive recodification of the California
20 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
21 Reports __ (2019).

22 The amendment also corrects a cross-reference to “Section 6257 of the Government Code.” That
23 cross-reference became obsolete when former Government Code Section 6257 (1981 Cal. Stat. ch.
24 968, § 3.5) was repealed by 1998 Cal. Stat. ch. 620, § 10. At that time, the substance of former
25 Government Code Section 6257 was relocated to newly-added Government Code Section 6253
26 (see 1998 Cal. Stat. ch. 620, § 5). Pursuant to the CPRA Recodification Act of 2020, Government
27 Code Section 6253 has in turn been repealed and recodified; the fee-related material from former
28 Government Code Section 6257 is now located in Government Code Section 7922.530.

29 The section is also amended to insert paragraph labels.

30 **§ 409 (amended). Assessor’s fee**

31 SEC. _____. Section 409 of the Revenue and Taxation Code is amended to read:

32 409. (a)(1) Notwithstanding Section ~~6257~~ 7922.530 of the Government Code or
33 any other statutory provision, if the assessor, pursuant to the request of any party,
34 provides information or records that the assessor is not required by law to prepare
35 or keep, the county may require that a fee reasonably related to the actual cost of
36 developing and providing that information be paid by the party receiving the
37 information.

38 (2) The actual cost of providing the information is not limited to duplication or
39 reproduction costs, but may include recovery of developmental and indirect costs,
40 such as overhead, personnel, supply, material, office, storage, and computer costs.

41 (3) It is the intent of this section that the county may impose this fee for
42 information and records maintained for county use, as well as for information and
43 records not maintained for county use.

1 (4) Nothing herein shall be construed to require an assessor to provide information
2 to any party beyond that which ~~he or she~~ the assessor is otherwise statutorily
3 required to provide.

4 (b) For purposes of this section, “market data,” as defined in Section 408.1, shall
5 be deemed to be information the assessor is required by law to prepare or keep when
6 requested by the assessee or a designated representative of the assessee.

7 (c) This section shall not apply to requests of the State Board of Equalization for
8 information.

9 **Comment.** Section 409 is amended to reflect nonsubstantive recodification of the California
10 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
11 Reports __ (2019).

12 The amendment also corrects a cross-reference to “Section 6257 of the Government Code.” That
13 cross-reference became obsolete when former Government Code Section 6257 (1981 Cal. Stat. ch.
14 968, § 3.5, derived from 1976 Cal. Stat. ch. 822, § 1) was repealed by 1998 Cal. Stat. ch. 620, § 10.
15 At that time, the substance of former Government Code Section 6257 was relocated to newly-added
16 Government Code Section 6253 (see 1998 Cal. Stat. ch. 620, § 5). Pursuant to the CPRA
17 Recodification Act of 2020, Government Code Section 6253 has in turn been repealed and
18 recodified; the fee-related material from former Government Code Section 6257 is now located in
19 Government Code Section 7922.530.

20 The section is also amended to insert paragraph labels and eliminate gendered pronouns.

21 **§ 7284.6 (amended). Utility user’s tax return and records of payment of utility user’s tax**

22 SEC. _____. Section 7284.6 of the Revenue and Taxation Code is amended to read:

23 7284.6. (a) It is unlawful for any local jurisdiction, including any employee,
24 officer, authorized agent, or contractor of the local jurisdiction, to permit any utility
25 user’s tax return or copy thereof, or any records of any payment of utility user’s tax,
26 to be seen or examined by, or disclosed to, any person who is not one of the
27 following:

28 (1) An employee, officer, authorized agent, or contractor of the local jurisdiction
29 with administrative or compliance responsibilities relating to the utility user’s tax
30 ordinance.

31 (2) An employee of the utility or other company that is required to report or pay
32 a utility user’s tax to the local jurisdiction, and that furnished the records or
33 information.

34 (b) Notwithstanding subdivision (a), this section does not prohibit a local
35 jurisdiction from doing any of the following:

36 (1) Disclosing to a taxpayer information derived from the records of a utility or
37 other utility service provider, if the information is used to calculate the utility user’s
38 tax of that taxpayer; or, disclosing that information in a tax collection action,
39 provided that that information is subject to a protective order issued by a court.

40 (2) Disclosing to a tax officer of the state or federal government, pursuant to a
41 written reciprocal agreement, information derived from the records of a utility or
42 other utility service provider, if the information is used to calculate the local utility
43 user’s tax.

1 (3) Disclosing the gross utility user’s tax revenues collected from the customers
2 of a utility that is owned or operated by the local jurisdiction that imposes the utility
3 user’s tax.

4 (c) For purposes of this section:

5 (1) “Local jurisdiction” means any city, county, city and county, including any
6 chartered city or city and county, district, or public or municipal corporation.

7 (2) “District” means any agency of the state, formed pursuant to general law or a
8 special act, for the local performance of governmental or proprietary functions
9 within limited boundaries.

10 (d) Any violation of this section is a misdemeanor and is punishable by a fine not
11 exceeding one thousand dollars (\$1,000), by imprisonment in a county jail not
12 exceeding one year, or by both, in the discretion of the court.

13 (e) This section shall not be construed to prohibit the divulging of information to
14 the State Board of Equalization for the purposes of its administration of the Energy
15 Resources Surcharge Law (Part 19 (commencing with Section 40001) of Division
16 2).

17 (f) Any information subject to subdivision (a) shall be exempt from disclosure
18 under the California Public Records Act (~~Chapter 3.5 (commencing with Section~~
19 ~~6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1
20 of the Government Code), except that nothing in this section shall be construed to
21 prohibit the disclosure of records pursuant to Section ~~6254.16~~ 7927.410 of the
22 Government Code.

23 **Comment.** Section 7284.6 is amended to reflect nonsubstantive recodification of the California
24 Public Records Act (“CPRA”). See *California Public Records Act Clean-Up*, __ Cal. L. Revision
25 Comm’n Reports __ (2019). By updating the reference to the CPRA, the amendment also remedies
26 an omission in that cross-reference (before recodification, the cross-reference should have been to
27 “Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code”).

28 **§ 7284.7 (amended). Prohibited disclosure of information in utility user tax records of local**
29 **jurisdiction**

30 SEC. _____. Section 7284.7 of the Revenue and Taxation Code is amended to read:

31 7284.7. (a) It is unlawful for any employee, officer, authorized agent or contractor
32 of a local jurisdiction levying a utility user’s tax, that obtains access to information
33 contained in utility user tax records of a local jurisdiction, to disclose any
34 information obtained from the records of a utility or other company required to
35 report or pay a utility user’s tax to the local jurisdiction as a result of an audit, or
36 any other information obtained in the course of an on-site audit, to any person who
37 is not an employee, officer, authorized agent, or contractor of the local jurisdiction
38 with administrative or compliance responsibilities relating to the utility user’s tax
39 ordinance.

40 (b) Any violation of this section is a misdemeanor and is punishable by a fine not
41 exceeding one thousand dollars (\$1,000), by imprisonment in a county jail not
42 exceeding one year, or by both, in the discretion of the court.

1 (c) This section shall not be construed to prohibit the divulging of information to
2 the State Board of Equalization for the purposes of its administration of the Energy
3 Resources Surcharge Law (Part 19 (commencing with Section 40001) of Division
4 2).

5 (d) Notwithstanding subdivisions (a) and (b), this section shall not be construed
6 to prohibit an employee, officer, authorized agent, or contractor of a local
7 jurisdiction levying a utility user's tax from doing any of the following:

8 (1) Disclosing to a taxpayer information derived from the records of a utility or
9 other utility service provider, if the information is used to calculate the utility user's
10 tax of that taxpayer; or, disclosing that information in a tax collection action,
11 provided that the information is subject to a protective order issued by a court.

12 (2) Disclosing to a tax officer of the state or federal government, pursuant to a
13 written reciprocal agreement, information obtained from the records of a utility or
14 other utility service provider, if the information is used to calculate the local utility
15 user's tax.

16 (3) Disclosing the gross utility user's tax revenues collected from the customers
17 of a utility that is owned or operated by the local jurisdiction that imposes the utility
18 user's tax.

19 (e) For purposes of this section:

20 (1) "Local jurisdiction" means any city, county, city and county, including any
21 chartered city or city and county, district, or public or municipal corporation.

22 (2) "District" means any agency of the state, formed pursuant to general law or a
23 special act, for the local performance of governmental or proprietary functions
24 within limited boundaries.

25 (f) Nothing in this section shall be construed to create an exemption from
26 disclosure under ~~subdivision (k) of Section 6254~~ Section 7927.705 of the
27 Government Code, or to prohibit the disclosure of records pursuant to Section
28 ~~6254.16 of the Government Code or subdivision (i) of Section 6254~~ 7925.000 or
29 7927.410 of the Government Code.

30 **Comment.** Section 7284.7 is amended to reflect nonsubstantive recodification of the California
31 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
32 Reports __ (2019).

33 **§ 7284.10 (as added by 2018 Cal. Stat. ch. 61, § 1) (amended). Definitions**

34 SEC. ____. Section 7284.10 of the Revenue and Taxation Code is amended to read:
35 7284.10. For the purposes of this chapter, all of the following definitions shall
36 apply:

37 (a) "Alcoholic beverages" has the same meaning as that term is defined in Section
38 23004 of the Business and Professions Code.

39 (b) "Cannabis products" has the same meaning as that term is defined in Section
40 11018.1 of the Health and Safety Code.

41 (c) "Cigarettes" has the same meaning as that term is defined in Section 30121.

1 (d) “Electronic cigarettes” has the same meaning as that term is defined in Section
2 30121.

3 (e)(1) “Groceries” means any raw or processed food or beverage including its
4 packaging, wrapper or container, or any ingredient thereof, intended for human
5 consumption, including, but is not limited to, meat, poultry, fish, fruits, vegetables,
6 grains, bread, milk, cheese and other dairy products, carbonated and noncarbonated
7 nonalcoholic beverages, kombucha with less than 0.5 percent alcohol by volume,
8 condiments, spices, cereals, seasonings, leavening agents, eggs, cocoa, teas, and
9 coffees whether raw or processed, including its packaging, wrapper, or container.

10 (2) “Groceries” does not include alcoholic beverages, cannabis products,
11 cigarettes, tobacco products, and electronic cigarettes.

12 (f) “Local agency” has the same meaning as provided in Section ~~6252~~ 7920.510
13 of the Government Code, and includes the electorate of a local agency in exercising
14 the initiative power.

15 (g) “Tax, fee, or other assessment on groceries” includes, but is not limited to, a
16 sales tax, gross receipts tax, business and occupation tax, business license tax, excise
17 tax, privilege tax, surcharge, or any other similar levy, charge, or exaction of any
18 kind on groceries or the manufacture, supply, distribution, sale, acquisition,
19 possession, ownership, transfer, transportation, delivery, use, or consumption
20 thereof.

21 (h) “Tobacco products” has the same meaning as that term is defined in Section
22 30121.

23 **Comment.** Section 7284.10 is amended to reflect nonsubstantive recodification of the California
24 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
25 Reports __ (2019).

26 **Note.** Two similar, but not identical, versions of Revenue and Taxation Code Section 7284.10 were
27 added to the codes in 2018: (1) 2018 Cal. Stat. ch. 61, § 1 (shown directly above) and (2) 2018 Cal.
28 Stat. ch. 88, § 1 (shown directly below). Both versions include the same definition of “local
29 agency,” which cross-refers to Government Code Section 6252.

30 The Commission proposes to update that cross-reference in both versions of Section 7284.10,
31 to conform to the Commission’s proposed recodification of the California Public Records Act. If
32 someone introduces a bill to resolve the conflict between the two versions, the Commission will
33 coordinate its proposed legislation with that bill as needed.

34 **§ 7284.10 (as added by 2018 Cal. Stat. ch. 88, § 1) (amended). Definitions**

35 SEC. ____. Section 7284.10 of the Revenue and Taxation Code is amended to read:
36 7284.10. For the purposes of this chapter, all of the following definitions shall
37 apply:

38 (a) “Alcoholic beverages” has the same meaning as that term is defined in Section
39 23004 of the Business and Professions Code.

40 (b) “Cannabis” has the same meaning as that term is defined in Section 26001 of
41 the Business and Professions Code.

42 (c) “Cannabis products” has the same meaning as that term is defined in Section
43 26001 of the Business and Professions Code.

1 (d) “Cigarettes” has the same meaning as that term is defined in Section 30121.

2 (e) “Electronic cigarettes” has the same meaning as that term is defined in Section
3 30121.

4 (f)(1) “Groceries” means any raw or processed food or beverage including its
5 packaging, wrapper, or container, or any ingredient thereof, intended for human
6 consumption, including, but is not limited to, meat, poultry, fish, fruits, vegetables,
7 grains, bread, milk, cheese and other dairy products, carbonated and noncarbonated
8 nonalcoholic beverages, kombucha with less than 0.5 percent alcohol by volume,
9 condiments, spices, cereals, seasonings, leavening agents, eggs, cocoa, teas, and
10 coffees whether raw or processed, including its packaging, wrapper, or container.

11 (2) “Groceries” does not include alcoholic beverages, cannabis, cannabis
12 products, cigarettes, tobacco products, and electronic cigarettes.

13 (g) “Local agency” has the same meaning as provided in Section ~~6252~~ 7920.510
14 of the Government Code, and includes the electorate of a local agency in exercising
15 the initiative power.

16 (h) “Tax, fee, or other assessment on groceries” includes, but is not limited to,
17 sales and use taxes, a gross receipts tax, business and occupation tax, business
18 license tax, excise tax, privilege tax, surcharge, or any other similar levy, charge, or
19 exaction of any kind on groceries or the manufacture, supply, distribution, sale,
20 acquisition, possession, ownership, transfer, transportation, delivery, use, or
21 consumption thereof.

22 (i) “Tobacco products” has the same meaning as that term is defined in Section
23 30121.

24 **Comment.** Section 7284.10 is amended to reflect nonsubstantive recodification of the California
25 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
26 Reports __ (2019).

27 **Note.** Two similar, but not identical, versions of Revenue and Taxation Code Section 7284.10 were
28 added to the codes in 2018: (1) 2018 Cal. Stat. ch. 88, § 1 (shown directly above) and (2) 2018 Cal.
29 Stat. ch. 61, § 1 (shown immediately preceding the above amendment). Both versions include the
30 same definition of “local agency,” which cross-refers to Government Code Section 6252.

31 The Commission proposes to update that cross-reference in both versions of Section 7284.10,
32 to conform to the Commission’s proposed recodification of the California Public Records Act. If
33 someone introduces a bill to resolve the conflict between the two versions, the Commission will
34 coordinate its proposed legislation with that bill as needed.

35 **§ 18410.2 (amended). California Competes Tax Credit Committee**

36 SEC. _____. Section 18410.2 of the Revenue and Taxation Code is amended to read:

37 18410.2. (a) The California Competes Tax Credit Committee is hereby
38 established. The committee shall consist of the Treasurer, the Director of Finance,
39 and the Director of the Governor’s Office of Business and Economic Development,
40 who shall serve as chair of the committee, or their designated representatives, and
41 one appointee each by the Speaker of the Assembly and the Senate Committee on
42 Rules. A Member of the Legislature shall not be appointed.

1 (b) For purposes of Sections 17059.2 and 23689, the California Competes Tax
2 Credit Committee shall do all of the following:

3 (1) Approve or reject any written agreement for a tax credit allocation by
4 resolution at a duly noticed public meeting held in accordance with the Bagley-
5 Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter
6 1 of Part 1 of Division 3 of Title 2 of the Government Code), but only after receipt
7 of the fully executed written agreement between the taxpayer and the Governor's
8 Office of Business and Economic Development.

9 (2) Approve or reject any recommendation to recapture, in whole or in part, a tax
10 credit allocation by resolution at a duly noticed public meeting held in accordance
11 with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section
12 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), but
13 only after receipt of the recommendation from the Governor's Office of Business
14 and Economic Development pursuant to the terms of the fully executed written
15 agreement.

16 (c) For purposes of Sections 17059.2 and 23689, the Governor's Office of
17 Business and Economic Development shall provide a member of the committee, or
18 their designated representatives, listed in subdivision (a), upon request of that
19 member, with any information necessary to fulfill their duties or otherwise comply
20 with the requirements of this section. Nothing in this subdivision shall be construed
21 to require the Governor's Office of Business and Economic Development to provide
22 information to the member or their designated representative that the applicant
23 considers to be a trade secret, confidential, privileged, or otherwise exempt from
24 disclosure under the California Public Records Act (~~Chapter 3.5 (commencing with~~
25 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
26 Title 1 of the Government Code).

27 **Comment.** Section 18410.2 is amended to reflect nonsubstantive recodification of the California
28 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
29 Reports __ (2019).

30 **§ 19195 (amended). Largest tax delinquencies in excess of \$100,000**

31 SEC. _____. Section 19195 of the Revenue and Taxation Code is amended to read:
32 19195. (a) Notwithstanding any other provision of law, including
33 ~~Section 6254.21~~ Section 7920.500 and Article 3 (commencing with Section
34 7928.200) of Chapter 14 of Part 5 of Division 10 of Title 1 of the Government Code,
35 the Franchise Tax Board shall make available as a matter of public record at least
36 twice each calendar year a list of the 500 largest tax delinquencies in excess of one
37 hundred thousand dollars (\$100,000) under Part 10 and Part 11 of this division. For
38 purposes of compiling the list, a tax delinquency means the total amount owed by a
39 taxpayer to the State of California for which a notice of state tax lien has been
40 recorded in any county recorder's office in this state, pursuant to Chapter 14
41 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

1 (b) For purposes of the list, a tax delinquency does not include any of the
2 following and may not be included on the list:

3 (1) A delinquency for which payment arrangements have been agreed to by both
4 the taxpayer and the Franchise Tax Board and the taxpayer is in compliance with
5 the arrangement.

6 (2) A delinquency for which the taxpayer has filed for bankruptcy protection
7 pursuant to Title 11 of the United States Code.

8 (3) A delinquency for which the person or persons liable for the tax have contacted
9 the Franchise Tax Board and for which resolution of the tax delinquency has been
10 accepted by the Franchise Tax Board.

11 (c) Each list shall, with respect to each delinquency, include all the following:

12 (1) The name of the person or persons liable for payment of the tax and that
13 person's or persons' address.

14 (2) The amount of tax delinquency as shown on the notice or notices of state tax
15 lien and any applicable interest or penalties, less any amounts paid.

16 (3) The earliest date that a notice of state tax lien was filed.

17 (4) The type of tax that is delinquent.

18 (5) The type, status, and license number of any occupational or professional
19 license held by the person or persons liable for payment of the tax.

20 (6) The names and titles of the principal officers of the person liable for payment
21 of the tax if that person is a limited liability company or corporation. The Franchise
22 Tax Board shall refer to the limited liability company's or the corporation's
23 Statement of Information filed with the Secretary of State or to the limited liability
24 company's or the corporation's tax return filed pursuant to this part to determine the
25 principal officers of the limited liability company or corporation. Principal officers
26 appearing on a list solely pursuant to this paragraph shall not be subject to Section
27 494.5 of the Business and Professions Code, or Section 10295.4 of the Public
28 Contract Code.

29 (d) Prior to making a tax delinquency a matter of public record as required by this
30 section, the Franchise Tax Board shall provide a preliminary written notice to the
31 person or persons liable for the tax by certified mail, return receipt requested. If
32 within 30 days after issuance of the notice, the person or persons do not remit the
33 amount due or make arrangements with the Franchise Tax Board for payment of the
34 amount due, the tax delinquency shall be included on the list.

35 (e) The list described in subdivision (a) shall include the following:

36 (1) The telephone number and address of the Franchise Tax Board office to
37 contact if a person believes placement of ~~his or her~~ the person's name on the list is
38 in error.

39 (2) The aggregate number of persons that have appeared on the list who have
40 satisfied their delinquencies in their entirety and the dollar amounts, in the
41 aggregate, that have been paid attributable to those delinquencies.

1 (f) As promptly as feasible, but no later than five business days from the
2 occurrence of any of the following, the Franchise Tax Board shall remove that
3 taxpayer's name from the list of tax delinquencies:

4 (1) Tax delinquencies for which the person liable for the tax has contacted the
5 Franchise Tax Board and resolution of the delinquency has been arranged.

6 (2) Tax delinquencies for which the Franchise Tax Board has verified that an
7 active bankruptcy proceeding has been initiated.

8 (3) Tax delinquencies for which the Franchise Tax Board has verified that a
9 bankruptcy proceeding has been completed and there are no assets available with
10 which to pay the delinquent amount or amounts.

11 (4) Tax delinquencies that the Franchise Tax Board has determined to be
12 uncollectible.

13 (g) A person whose delinquency appears on the list, and who satisfies that
14 delinquency in whole or in part, may request the Franchise Tax Board to include in
15 its list any payments that person made to satisfy the delinquency. Upon receipt of
16 that request, the Franchise Tax Board shall include those payments on the list as
17 promptly as feasible.

18 (h) Notwithstanding subdivision (a), a person whose delinquency appeared on the
19 list and whose name has been removed pursuant to paragraph (1) of subdivision (f)
20 shall comply with the terms of the arranged resolution. If the person fails to do so,
21 the Franchise Tax Board may add that person's name to the list of delinquencies
22 without providing the prior written notice otherwise required by subdivision (d).

23 **Comment.** Section 19195 is amended to reflect nonsubstantive recodification of the California
24 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
25 Reports __ (2019).

26 The section is also amended to eliminate gendered pronouns.

27 **§ 19528 (amended). Licensee information**

28 SEC. ____. Section 19528 of the Revenue and Taxation Code is amended to read:

29 19528. (a) Notwithstanding any other law, the Franchise Tax Board may require
30 any board, as defined in Section 22 of the Business and Professions Code, and the
31 State Bar, the Bureau of Real Estate, and the Insurance Commissioner (hereinafter
32 referred to as licensing board) to provide to the Franchise Tax Board the following
33 information with respect to every licensee:

34 (1) Name.

35 (2) Address or addresses of record.

36 (3) Federal employer identification number, if the licensee is a partnership, or the
37 licensee's individual taxpayer identification number or social security number of all
38 other licensees.

39 (4) Type of license.

40 (5) Effective date of license or renewal.

41 (6) Expiration date of license.

42 (7) Whether license is active or inactive, if known.

1 (8) Whether license is new or renewal.

2 (b) The Franchise Tax Board may do the following:

3 (1) Send a notice to any licensee failing to provide the federal employer
4 identification number, individual taxpayer identification number, or social security
5 number as required by subdivision (a) of Section 30 of the Business and Professions
6 Code and subdivision (a) of Section 1666.5 of the Insurance Code, describing the
7 information that was missing, the penalty associated with not providing it, and that
8 failure to provide the information within 30 days will result in the assessment of the
9 penalty.

10 (2) After 30 days following the issuance of the notice described in paragraph (1),
11 assess a one-hundred-dollar (\$100) penalty, due and payable upon notice and
12 demand, for any licensee failing to provide either its federal employer identification
13 number (if the licensee is a partnership) or ~~his or her~~ the licensee's individual
14 taxpayer identification number or social security number (for all others) as required
15 in Section 30 of the Business and Professions Code and Section 1666.5 of the
16 Insurance Code.

17 (c) Notwithstanding ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
18 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
19 Code, the information furnished to the Franchise Tax Board pursuant to Section 30
20 of the Business and Professions Code or Section 1666.5 of the Insurance Code shall
21 not be deemed to be a public record and shall not be open to the public for
22 inspection.

23 **Comment.** Section 19528 is amended to reflect nonsubstantive recodification of the California
24 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
25 Reports __ (2019).

26 The section is also amended to eliminate gendered pronouns.

27 STREETS AND HIGHWAYS CODE

28 § 36612 (amended). “Owners’ association”

29 SEC. _____. Section 36612 of the Streets and Highways Code is amended to read:

30 36612. “Owners’ association” means a private nonprofit entity that is under
31 contract with a city to administer or implement improvements, maintenance, and
32 activities specified in the management district plan. An owners’ association may be
33 an existing nonprofit entity or a newly formed nonprofit entity. An owners’
34 association is a private entity and may not be considered a public entity for any
35 purpose, nor may its board members or staff be considered to be public officials for
36 any purpose. Notwithstanding this section, an owners’ association shall comply with
37 the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of
38 Division 2 of Title 5 of the Government Code), at all times when matters within the
39 subject matter of the district are heard, discussed, or deliberated, and with the
40 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of~~

1 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
2 Government Code), for all records relating to activities of the district.

3 **Comment.** Section 36612 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
5 Reports __ (2019).

6 **§ 36740 (amended). Compliance of owners' association with Ralph M. Brown Act and**
7 **CPRA**

8 SEC. ____. Section 36740 of the Streets and Highways Code is amended to read:
9 36740. Notwithstanding any other provision of this part, an owners' association
10 shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section
11 54950) of Part 1 of Division 2 of Title 5 of the Government Code), at all times when
12 matters within the subject matter of the district are heard, discussed, or deliberated,
13 and with the California Public Records Act (~~Chapter 3.5 (commencing with~~
14 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
15 Title 1 of the Government Code), for all documents relating to activities of the
16 district.

17 **Comment.** Section 36740 is amended to reflect nonsubstantive recodification of the California
18 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
19 Reports __ (2019).

20 UNEMPLOYMENT INSURANCE CODE

21 **§ 10205 (amended). Duties of Employment Training Panel**

22 SEC. ____. Section 10205 of the Unemployment Insurance Code is amended to
23 read:

24 10205. The panel shall do all of the following:

25 (a) Establish a three-year plan that shall be updated annually, based on the demand
26 of employers for trained workers, changes in the state's economy and labor markets,
27 and continuous reviews of the effectiveness of panel training contracts. The updated
28 plan shall be submitted to the Governor and the Legislature not later than January 1
29 of each year. In carrying out this section, the panel shall review information in the
30 following areas:

31 (1) Labor market information, including the state-local labor market information
32 program in the Employment Development Department and other relevant regional
33 or statewide initiatives and collaboratives.

34 (2) Evaluations of the effectiveness of training as measured by increased security
35 of employment for workers and benefits to the California economy.

36 (3) The demand for training by industry, type of training, and size of employer.

37 (4) Changes in skills necessary to perform jobs, including changes in basic
38 literacy skills.

39 (5) Changes in the demographics of the labor force and the population entering
40 the labor market.

1 (6) Proposed expenditures by other agencies of federal Workforce Investment Act
2 funds and other state and federal training and vocational education funds on eligible
3 participants.

4 (b) Maintain a system to continuously monitor economic and other data required
5 under this plan. If this data changes significantly during the life of the plan, the plan
6 shall be amended by the panel. Each plan shall include all of the following:

7 (1) The panel's objectives with respect to the criteria and priorities specified in
8 Section 10200 and the distribution of funds between new-hire training and
9 retraining.

10 (2) The identification of specific industries, production and quality control
11 techniques, and regions of the state where employment training funds would most
12 benefit the state's economy and plans to encourage training in these areas, including
13 specific standards and a system for expedited review of proposals that meet the
14 standards.

15 (3) A system for expedited review of proposals that are substantially similar with
16 respect to employer needs, training curriculum, duration of training, and costs of
17 training, in order to encourage the development of proposals that meet the needs
18 identified in paragraph (2).

19 (4) The panel's goals, operational objectives, and strategies to meet the needs of
20 small businesses, including, but not limited to, those small businesses with 100 or
21 fewer employees. These strategies proposed by the panel may include, but not be
22 limited to, pilot demonstration projects designed to identify potential barriers that
23 small businesses may experience in accessing panel programs and workforce
24 training resources, including barriers that may exist within small businesses.

25 (5) The research objectives of the panel that contribute to the effectiveness of this
26 chapter in benefiting the economy of the state as a whole.

27 (6) A priority list of skills or occupations that are in such short supply that
28 employers are choosing to not locate or expand their businesses in the state or are
29 importing labor in response to these skills shortages.

30 (7) A review of the panel's efforts to coordinate with the California Workforce
31 Investment Board and local boards to achieve an effective and coordinated approach
32 in the delivery of the state's workforce resources.

33 (A) The panel will consider specific strategies to achieve this goal that include the
34 development of initiatives to engage local workforce investment boards in
35 enhancing the utilization of panel training resources by companies in priority
36 sectors, special populations, and in geographically underserved areas of the state.

37 (B) Various approaches to foster greater program integration between workforce
38 investment boards and the panel will also be considered, which may include
39 marketing agreements, expanded technical assistance, modification of program
40 regulations and policy, and expanded use of multiple employer contracts.

41 (c) Solicit proposals and write contracts on the basis of proposals made directly
42 to it. Contracts for the purpose of providing employment training may be written
43 with any of the following:

1 (1) An employer or group of employers.

2 (2) A training agency.

3 (3) A local workforce investment board with the approval of the appropriate local
4 elected officials in the local workforce investment area.

5 (4) A grant recipient or administrative entity selected pursuant to the federal
6 Workforce Investment Act of 1998, with the approval of the local workforce
7 investment board and the appropriate local elected officials.

8 These contracts shall be in the form of fixed-fee performance contracts.
9 Notwithstanding any provision of law to the contrary, contracts entered into
10 pursuant to this chapter shall not be subject to competitive bidding procedures.
11 Contracts for training may be written for a period not to exceed 24 months for the
12 purpose of administration by the panel and the contracting employer or any group
13 of employers acting jointly or any training agency for the purpose of providing
14 employment training.

15 (d) Fund training projects that best meet the priorities identified annually. In doing
16 so, the panel shall seek to facilitate the employment of the maximum number of
17 eligible participants.

18 (e) Establish minimum standards for the consideration of proposals, which shall
19 include, but not be limited to, evidence of labor market demand, the number of jobs
20 available, the skill requirements for the identified jobs, the projected cost per person
21 trained, hired, and retained in employment, the wages paid successful trainees upon
22 placement, and the curriculum for the training. No proposal shall be considered or
23 approved that proposes training for employment covered by a collective bargaining
24 agreement unless the signatory labor organization agrees in writing.

25 (f) Ensure the provision of adequate fiscal and accounting controls for, monitoring
26 and auditing of, and other appropriate technical and administrative assistance to,
27 projects funded by this chapter.

28 (g) Provide for evaluation of projects funded by this chapter. The evaluations shall
29 assess the effectiveness of training previously funded by the panel to improve job
30 security and stability for workers, and benefit participating employers and the state's
31 economy, and shall compare the wages of trainees in the 12-month period prior to
32 training as well as the 12-month period subsequent to completion of training, as
33 reflected in the department's unemployment insurance tax records. Individual
34 project evaluations shall contain a summary description of the project, the number
35 of persons entering training, the number of persons completing training, the number
36 of persons employed at the end of the project, the number of persons still employed
37 three months after the end of the project, the wages paid, the total costs of the
38 project, and the total reimbursement received from the Employment Training Fund.

39 (h) Report annually to the Legislature, by November 30, on projects operating
40 during the previous state fiscal year. These annual reports shall provide separate
41 summaries of all of the following:

42 (1) Projects completed during the year, including their individual and aggregate
43 performance and cost.

1 (2) Projects not completed during the year, briefly describing each project and
2 identifying approved contract amounts by contract and for this category as a whole,
3 and identifying any projects in which funds are expected to be disencumbered.

4 (3) Projects terminated prior to completion and the reasons for the termination.

5 (4) A description of the amount, type, and effectiveness of literacy training funded
6 by the panel.

7 (5) Results of complete project evaluations.

8 (6) A description of pilot projects, and the strategies that were identified through
9 these projects, to increase access by small businesses to panel training contracts.

10 (7) A listing of training projects that were funded in high unemployment areas
11 and a detailed description of the policies and procedures that were used to designate
12 geographic regions and municipalities as high unemployment areas.

13 In addition, based upon its experience in administering job training projects, the
14 panel shall include in these reports policy recommendations concerning the impact
15 of job training and the panel's program on economic development, labor-
16 management relations, employment security, and other related issues.

17 (i) Conduct ongoing reviews of panel policies with the goal of developing an
18 improved process for developing, funding, and implementing panel contracts as
19 described in this chapter.

20 (j) Expedite the processing of contracts for firms considering locating or
21 expanding businesses in the state, in accordance with the priorities for employment
22 training programs set forth in subdivision (b) of Section 10200.

23 (k) Coordinate and consult regularly with business groups and labor
24 organizations, the California Workforce Investment Board, the State Department of
25 Education, the office of the Chancellor of the California Community Colleges, and
26 the Employment Development Department.

27 (l) Adopt by regulation procedures for the conduct of panel business, including
28 the scheduling and conduct of meetings, the review of proposals, the disclosure of
29 contacts between panel members and parties at interest concerning particular
30 proposals, contracts or cases before the panel or its staff, the awarding of contracts,
31 the administration of contracts, and the payment of amounts due to contractors. All
32 decisions by the panel shall be made by resolution of the panel and any adverse
33 decision shall include a statement of the reason for the decision.

34 (m) Adopt regulations and procedures providing reasonable confidentiality for the
35 proprietary information of employers seeking training funds from the panel if the
36 public disclosure of that information would result in an unfair competitive
37 disadvantage to the employer supplying the information. The panel may not
38 withhold information from the public regarding its operations, procedures, and
39 decisions that would otherwise be subject to disclosure under the California Public
40 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
41 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

42 (n) Review and comment on the budget and performance of any program, project,
43 or activity funded by the panel utilizing funds collected pursuant to Section 976.6.

1 **Comment.** Section 10205 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 VEHICLE CODE

5 **§ 12801.9 (amended). Driver's license for person unable to prove authorized presence in**
6 **United States**

7 SEC. ____. Section 12801.9 of the Vehicle Code is amended to read:

8 12801.9. (a) Notwithstanding Section 12801.5, the department shall issue an
9 original driver's license to a person who is unable to submit satisfactory proof that
10 the applicant's presence in the United States is authorized under federal law if ~~he or~~
11 ~~she~~ the person meets all other qualifications for licensure and provides satisfactory
12 proof to the department of ~~his or her~~ the person's identity and California residency.

13 (b) The department shall adopt emergency regulations to carry out the purposes
14 of this section, including, but not limited to, procedures for (1) identifying
15 documents acceptable for the purposes of proving identity and California residency,
16 (2) procedures for verifying the authenticity of the documents, (3) issuance of a
17 temporary license pending verification of any document's authenticity, and (4)
18 hearings to appeal a denial of a license or temporary license.

19 (c) Emergency regulations adopted for purposes of establishing the documents
20 acceptable to prove identity and residency pursuant to subdivision (b) shall be
21 promulgated by the department in consultation with appropriate interested parties,
22 in accordance with the rulemaking provisions of the Administrative Procedure Act
23 (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of
24 the Government Code), including law enforcement representatives, immigrant
25 rights representatives, labor representatives, and other stakeholders, which may
26 include, but are not limited to, the Department of the California Highway Patrol, the
27 California State Sheriffs' Association, and the California Police Chiefs Association.
28 The department shall accept various types of documentation for this purpose,
29 including, but not limited to, the following documents:

30 (1) A valid, unexpired consular identification document issued by a consulate
31 from the applicant's country of citizenship, or a valid, unexpired passport from the
32 applicant's country of citizenship.

33 (2) An original birth certificate, or other proof of age, as designated by the
34 department.

35 (3) A home utility bill, lease or rental agreement, or other proof of California
36 residence, as designated by the department.

37 (4) The following documents, which, if in a language other than English, shall be
38 accompanied by a certified translation or an affidavit of translation into English:

39 (A) A marriage license or divorce certificate.

40 (B) A foreign federal electoral photo card issued on or after January 1, 1991.

41 (C) A foreign driver's license.

1 (5) A United States Department of Homeland Security Form I-589, Application
2 for Asylum and for Withholding of Removal.

3 (6) An official school or college transcript that includes the applicant’s date of
4 birth or a foreign school record that is sealed and includes a photograph of the
5 applicant at the age the record was issued.

6 (7) A United States Department of Homeland Security Form I-20 or Form DS-
7 2019.

8 (8) A deed or title to real property.

9 (9) A property tax bill or statement issued within the previous 12 months.

10 (10) An income tax return.

11 (d)(1) A license issued pursuant to this section, including a temporary license
12 issued pursuant to Section 12506, shall include a recognizable feature on the front
13 of the card, such as the letters “DP” instead of, and in the same font size as, the
14 letters “DL,” with no other distinguishable feature.

15 (2) The license shall bear the following notice: “This card is not acceptable for
16 official federal purposes. This license is issued only as a license to drive a motor
17 vehicle. It does not establish eligibility for employment, voter registration, or public
18 benefits.”

19 (3) The notice described in paragraph (2) shall be in lieu of the notice provided in
20 Section 12800.5.

21 (e) If the United States Department of Homeland Security determines a license
22 issued pursuant to this section does not satisfy the requirements of Section 37.71 of
23 Title 6 of the Code of Federal Regulations, adopted pursuant to paragraph (11) of
24 subdivision (d) of Section 202 of the Real ID Act of 2005 (Public Law 109-13), the
25 department shall modify the license only to the extent necessary to satisfy the
26 requirements of that section.

27 (f) Notwithstanding Section 40300 or any other law, a peace officer shall not
28 detain or arrest a person solely on the belief that the person is an unlicensed driver,
29 unless the officer has reasonable cause to believe the person driving is under 16
30 years of age.

31 (g) The inability to obtain a driver’s license pursuant to this section does not
32 abrogate or diminish in any respect the legal requirement of every driver in this state
33 to obey the motor vehicle laws of this state, including laws with respect to licensing,
34 motor vehicle registration, and financial responsibility.

35 (h) It is a violation of law to discriminate against a person because ~~he or she~~ the
36 person holds or presents a license issued under this section, including, but not
37 limited to, the following:

38 (1) It is a violation of the Unruh Civil Rights Act (Section 51 of the Civil Code),
39 for a business establishment to discriminate against a person because ~~he or she~~ the
40 person holds or presents a license issued under this section.

41 (2)(A) It is a violation of the California Fair Employment and Housing Act (Part
42 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government
43 Code) for an employer or other covered person or entity, pursuant to Section 12940

1 of the Government Code and subdivision (v) of Section 12926 of the Government
2 Code, to discriminate against a person because the person holds or presents a
3 driver's license issued pursuant to this section, or for an employer or other covered
4 entity to require a person to present a driver's license, unless possessing a driver's
5 license is required by law or is required by the employer and the employer's
6 requirement is otherwise permitted by law. This section shall not be construed to
7 limit or expand an employer's authority to require a person to possess a driver's
8 license.

9 (B) Notwithstanding subparagraph (A), this section shall not be construed to alter
10 an employer's rights or obligations under Section 1324a of Title 8 of the United
11 States Code regarding obtaining documentation evidencing identity and
12 authorization for employment. An action taken by an employer that is required by
13 the federal Immigration and Nationality Act (8 U.S.C. Sec. 1324a) is not a violation
14 of law.

15 (3) It is a violation of Section 11135 of the Government Code for a state or local
16 governmental authority, agent, or person acting on behalf of a state or local
17 governmental authority, or a program or activity that is funded directly or receives
18 financial assistance from the state, to discriminate against an individual because ~~he~~
19 ~~or she~~ the individual holds or presents a license issued pursuant to this section,
20 including by notifying a law enforcement agency of the individual's identity or that
21 the individual carries a license issued under this section if a notification is not
22 required by law or would not have been provided if the individual held a license
23 issued pursuant to Section 12801.

24 (i) Driver's license information obtained by an employer shall be treated as
25 private and confidential, is exempt from disclosure under the California Public
26 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
27 10 (commencing with Section 7920.000) of Title 1 of the Government Code), and
28 shall not be disclosed to any unauthorized person or used for any purpose other than
29 to establish identity and authorization to drive.

30 (j) Information collected pursuant to this section is not a public record and shall
31 not be disclosed by the department, except as required by law.

32 (k) Documents provided by applicants to prove identity or residency pursuant to
33 this section shall not be disclosed except in response to a subpoena for individual
34 records in a criminal proceeding or a court order, or in response to a law enforcement
35 request to address an urgent health or safety need if the law enforcement agency
36 certifies in writing the specific circumstances that do not permit authorities time to
37 obtain a court order.

38 (l) A license issued pursuant to this section shall not be used as evidence of an
39 individual's citizenship or immigration status for any purpose.

40 (m) On or before January 1, 2018, the California Research Bureau shall compile
41 and submit to the Legislature and the Governor a report of any violations of
42 subdivisions (h) and (k). Information pertaining to any specific individual shall not
43 be provided in the report.

1 (n) In addition to the fees required by Section 14900, a person applying for an
2 original license pursuant to this section may be required to pay an additional fee
3 determined by the department that is sufficient to offset the reasonable
4 administrative costs of implementing the provisions of the act that added this
5 section. If this additional fee is assessed, it shall only apply until June 30, 2017.

6 (o) This section shall become operative on January 1, 2015, or on the date that the
7 director executes a declaration pursuant to Section 12801.11, whichever is sooner.

8 (p) This section shall become inoperative on the effective date of a final judicial
9 determination made by any court of appellate jurisdiction that any provision of the
10 act that added this section, or its application, either in whole or in part, is enjoined,
11 found unconstitutional, or held invalid for any reason. The department shall post
12 this information on its Internet Web site.

13 **Comment.** Section 12801.9 is amended to reflect nonsubstantive recodification of the California
14 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
15 Reports __ (2019).

16 The section is also amended to eliminate gendered pronouns.

17 **§ 21362.5 (amended). Automated rail crossing enforcement system**

18 SEC. _____. Section 21362.5 of the Vehicle Code is amended to read:

19 21362.5. (a)(1) Railroad and rail transit grade crossings may be equipped with an
20 automated rail crossing enforcement system if the system is identified by signs
21 clearly indicating the system's presence and visible to traffic approaching from each
22 direction.

23 (2) Only a governmental agency, in cooperation with a law enforcement agency,
24 may operate an automated rail crossing enforcement system.

25 (b) Notwithstanding ~~Section 6253~~ Article 1 (commencing with Section 7922.500)
26 and Article 2 (commencing with Section 7922.525) of Chapter 1 of Part 3 of
27 Division 10 of Title 1 of the Government Code, or any other provision of law,
28 photographic records made by an automated rail crossing enforcement system shall
29 be confidential, and shall be made available only to governmental agencies and law
30 enforcement agencies for the purposes of this section.

31 **Comment.** Section 21362.5 is amended to reflect nonsubstantive recodification of the California
32 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
33 Reports __ (2019).

34 The section is also amended to insert paragraph labels.

35 **§ 21455.5 (amended). Automated traffic enforcement system**

36 SEC. _____. Section 21455.5 of the Vehicle Code is amended to read:

37 21455.5. (a) The limit line, the intersection, or a place designated in Section
38 21455, where a driver is required to stop, may be equipped with an automated traffic
39 enforcement system if the governmental agency utilizing the system meets all of the
40 following requirements:

41 (1) Identifies the system by signs posted within 200 feet of an intersection where
42 a system is operating that clearly indicate the system's presence and are visible to

1 traffic approaching from all directions in which the automated traffic enforcement
2 system is being utilized to issue citations. A governmental agency utilizing ~~such a~~
3 this type of system does not need to post signs visible to traffic approaching the
4 intersection from directions not subject to the automated traffic enforcement system.
5 Automated traffic enforcement systems installed as of January 1, 2013, shall be
6 identified no later than January 1, 2014.

7 (2) Locates the system at an intersection and ensures that the system meets the
8 criteria specified in Section 21455.7.

9 (b) Prior to issuing citations under this section, a local jurisdiction utilizing an
10 automated traffic enforcement system shall commence a program to issue only
11 warning notices for 30 days. The local jurisdiction shall also make a public
12 announcement of the automated traffic enforcement system at least 30 days prior to
13 the commencement of the enforcement program.

14 (c) Only a governmental agency, in cooperation with a law enforcement agency,
15 may operate an automated traffic enforcement system. A governmental agency that
16 operates an automated traffic enforcement system shall do all of the following:

17 (1) Develop uniform guidelines for screening and issuing violations and for the
18 processing and storage of confidential information, and establish procedures to
19 ensure compliance with those guidelines. For systems installed as of January 1,
20 2013, a governmental agency that operates an automated traffic enforcement system
21 shall establish those guidelines by January 1, 2014.

22 (2) Perform administrative functions and day-to-day functions, including, but not
23 limited to, all of the following:

24 (A) Establishing guidelines for the selection of a location. Prior to installing an
25 automated traffic enforcement system after January 1, 2013, the governmental
26 agency shall make and adopt a finding of fact establishing that the system is needed
27 at a specific location for reasons related to safety.

28 (B) Ensuring that the equipment is regularly inspected.

29 (C) Certifying that the equipment is properly installed and calibrated, and is
30 operating properly.

31 (D) Regularly inspecting and maintaining warning signs placed under paragraph
32 (1) of subdivision (a).

33 (E) Overseeing the establishment or change of signal phases and the timing
34 thereof.

35 (F) Maintaining controls necessary to ensure that only those citations that have
36 been reviewed and approved by law enforcement are delivered to violators.

37 (d) The activities listed in subdivision (c) that relate to the operation of the system
38 may be contracted out by the governmental agency, if it maintains overall control
39 and supervision of the system. However, the activities listed in paragraph (1) of, and
40 subparagraphs (A), (D), (E), and (F) of paragraph (2) of, subdivision (c) shall not
41 be contracted out to the manufacturer or supplier of the automated traffic
42 enforcement system.

1 (e) The printed representation of computer-generated information, video, or
2 photographic images stored by an automated traffic enforcement system does not
3 constitute an out-of-court hearsay statement by a declarant under Division 10
4 (commencing with Section 1200) of the Evidence Code.

5 (f)(1) Notwithstanding ~~Section 6253~~ Article 1 (commencing with Section
6 7922.500) and Article 2 (commencing with Section 7922.525) of Chapter 1 of Part
7 3 of Division 10 of Title 1 of the Government Code, or any other law, photographic
8 records made by an automated traffic enforcement system shall be confidential, and
9 shall be made available only to governmental agencies and law enforcement
10 agencies and only for the purposes of this article.

11 (2) Confidential information obtained from the Department of Motor Vehicles for
12 the administration or enforcement of this article shall be held confidential, and shall
13 not be used for any other purpose.

14 (3) Except for court records described in Section 68152 of the Government Code,
15 the confidential records and information described in paragraphs (1) and (2) may be
16 retained for up to six months from the date the information was first obtained, or
17 until final disposition of the citation, whichever date is later, after which time the
18 information shall be destroyed in a manner that will preserve the confidentiality of
19 any person included in the record or information.

20 (g) Notwithstanding subdivision (f), the registered owner or any individual
21 identified by the registered owner as the driver of the vehicle at the time of the
22 alleged violation shall be permitted to review the photographic evidence of the
23 alleged violation.

24 (h)(1) A contract between a governmental agency and a manufacturer or supplier
25 of automated traffic enforcement equipment shall not include provision for the
26 payment or compensation to the manufacturer or supplier based on the number of
27 citations generated, or as a percentage of the revenue generated, as a result of the
28 use of the equipment authorized under this section.

29 (2) Paragraph (1) does not apply to a contract that was entered into by a
30 governmental agency and a manufacturer or supplier of automated traffic
31 enforcement equipment before January 1, 2004, unless that contract is renewed,
32 extended, or amended on or after January 1, 2004.

33 (3) A governmental agency that proposes to install or operate an automated traffic
34 enforcement system shall not consider revenue generation, beyond recovering its
35 actual costs of operating the system, as a factor when considering whether or not to
36 install or operate a system within its local jurisdiction.

37 (i) A manufacturer or supplier that operates an automated traffic enforcement
38 system pursuant to this section shall, in cooperation with the governmental agency,
39 submit an annual report to the Judicial Council that includes, but is not limited to,
40 all of the following information if this information is in the possession of, or readily
41 available to, the manufacturer or supplier:

42 (1) The number of alleged violations captured by the systems they operate.

1 (2) The number of citations issued by a law enforcement agency based on
2 information collected from the automated traffic enforcement system.

3 (3) For citations identified in paragraph (2), the number of violations that involved
4 traveling straight through the intersection, turning right, and turning left.

5 (4) The number and percentage of citations that are dismissed by the court.

6 (5) The number of traffic collisions at each intersection that occurred prior to, and
7 after the installation of, the automated traffic enforcement system.

8 (j) If a governmental agency utilizing an automated traffic enforcement system
9 has posted signs on or before January 1, 2013, that met the requirements of
10 paragraph (1) of subdivision (a) of this section, as it read on January 1, 2012, the
11 governmental agency shall not remove those signs until signs are posted that meet
12 the requirements specified in this section, as it reads on January 1, 2013.

13 **Comment.** Section 21455.5 is amended to reflect nonsubstantive recodification of the California
14 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
15 Reports __ (2019).

16 The section is also amended to make a technical change.

17 **§ 40240 (amended). Automated forward facing parking control devices**

18 SEC. _____. Section 40240 of the Vehicle Code is amended to read:

19 40240. (a) Subject to subdivision (g), the City and County of San Francisco and
20 the Alameda-Contra Costa Transit District may install automated forward facing
21 parking control devices on city-owned or district-owned public transit vehicles, as
22 defined by Section 99211 of the Public Utilities Code, for the purpose of video
23 imaging of parking violations occurring in transit-only traffic lanes. Citations shall
24 be issued only for violations captured during the posted hours of operation for a
25 transit-only traffic lane. The devices shall be angled and focused so as to capture
26 video images of parking violations and not unnecessarily capture identifying images
27 of other drivers, vehicles, and pedestrians. The devices shall record the date and
28 time of the violation at the same time as the video images are captured.

29 (b) Prior to issuing notices of parking violations pursuant to subdivision (a) of
30 Section 40241, the City and County of San Francisco and the Alameda-Contra Costa
31 Transit District shall commence a program to issue only warning notices for 30
32 days. The City and County of San Francisco and the Alameda-Contra Costa Transit
33 District shall also make a public announcement of the program at least 30 days prior
34 to commencement of issuing notices of parking violations.

35 (c) A designated employee of the City and County of San Francisco, or a
36 contracted law enforcement agency for the Alameda-Contra Costa Transit District,
37 who is qualified by the city and county or the district to issue parking citations, shall
38 review video image recordings for the purpose of determining whether a parking
39 violation occurred in a transit-only traffic lane. A violation of a statute, regulation,
40 or ordinance governing vehicle parking under this code, under a federal or state
41 statute or regulation, or under an ordinance enacted by the City and County of San
42 Francisco or the Alameda-Contra Costa Transit District occurring in a transit-only

1 traffic lane observed by the designated employee in the recordings is subject to a
2 civil penalty.

3 (d) The registered owner shall be permitted to review the video image evidence
4 of the alleged violation during normal business hours at no cost.

5 (e)(1) Except as it may be included in court records described in Section 68152 of
6 the Government Code, or as provided in paragraph (2), the video image evidence
7 may be retained for up to six months from the date the information was first
8 obtained, or 60 days after final disposition of the citation, whichever date is later,
9 after which time the information shall be destroyed.

10 (2) Notwithstanding Section 26202.6 of the Government Code, video image
11 evidence from forward facing automated enforcement devices that does not contain
12 evidence of a parking violation occurring in a transit-only traffic lane shall be
13 destroyed within 15 days after the information was first obtained.

14 (f) Notwithstanding ~~Section 6253~~ Article 1 (commencing with Section 7922.500)
15 and Article 2 (commencing with Section 7922.525) of Chapter 1 of Part 3 of
16 Division 10 of Title 1 of the Government Code, or any other law, the video image
17 records are confidential. Public agencies shall use and allow access to these records
18 only for the purposes authorized by this article.

19 (g) The authority for the Alameda-Contra Costa Transit District to implement an
20 automated enforcement system to enforce parking violations occurring in transit-
21 only traffic lanes exists only until January 1, 2022.

22 (h) The following definitions shall apply for purposes of this article:

23 (1) “Local agency” means the City and County of San Francisco and the Alameda-
24 Contra Costa Transit District.

25 (2) “Transit-only traffic lane” means any designated transit-only lane on which
26 use is restricted to mass transit vehicles, or other designated vehicles including taxis
27 and vanpools, during posted times.

28 **Comment.** Section 40240 is amended to reflect nonsubstantive recodification of the California
29 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
30 Reports __ (2019).

31 WATER CODE

32 **§ 5206 (amended). Personal information in report of groundwater extraction**

33 SEC. ____. Section 5206 of the Water Code is amended to read:

34 5206. Personal information included in a report of groundwater extraction shall
35 have the same protection from disclosure as is provided for information concerning
36 utility customers of local agencies pursuant to Section ~~6254.16~~ 7927.410 of the
37 Government Code.

38 **Comment.** Section 5206 is amended to reflect nonsubstantive recodification of the California
39 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
40 Reports __ (2019).

1 § 6102.5 (amended). Inspections of dams, reservoirs, and appurtenant structures

2 SEC. _____. Section 6102.5 of the Water Code is amended to read:

3 6102.5. (a) The department shall inspect dams, reservoirs, and appurtenant
4 structures to verify their safety in accordance with the following schedule:

5 (1) A facility that has been determined by the department, pursuant to Section
6 6160, to have a hazard classification of significant, high, or extremely high, shall be
7 inspected at least once per fiscal year.

8 (2) A facility that has been determined by the department, pursuant to Section
9 6160, to have a hazard classification of low shall be inspected at least once every
10 two fiscal years.

11 (b) The department shall require owners to perform, at the owner's expense, such
12 work as necessary to disclose information sufficient to enable the department to
13 determine conditions of dams, reservoirs, and critical appurtenant structures
14 regarding their safety and to perform, at the owner's expense, other work necessary
15 to secure maintenance and operation that will safeguard life and property. An
16 inspection pursuant to subdivision (a) shall include, but is not limited to, visual
17 inspection of major features of the dam, including its groins, abutments, and toe
18 areas, the dam's spillway, and the dam's outlet works. The inspection shall also
19 evaluate seepage and instrumentation, and include a review of available geological
20 data and existing geological conditions.

21 (c) An owner of a dam shall operate critical outlet and spillway control features
22 on an annual basis and shall demonstrate their full operability in the presence of the
23 department every three years or as directed by the department.

24 (d)(1) Except as provided in paragraph (2), dam inspection reports conducted by
25 the Division of Safety of Dams shall be public records subject to the California
26 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
27 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
28 Code).

29 (2)(A) Notwithstanding paragraph (1), the department, in accordance with
30 applicable law and in consultation with the dam owner and relevant local, state, or
31 federal public safety entities, may withhold from public release sensitive data,
32 images, or other information that discloses a dam's vulnerability or poses a security
33 threat.

34 (B) If the department withholds information pursuant to subparagraph (A), the
35 department shall include in the public release a statement of findings that the
36 withheld information would disclose a dam's vulnerability or pose a security threat,
37 as described in subparagraph (A).

38 **Comment.** Section 6102.5 is amended to reflect nonsubstantive recodification of the California
39 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
40 Reports __ (2019).

41 The section is also amended to make a technical change.

1 **§ 6161 (amended). Inundation map for state jurisdictional dam**

2 SEC. _____. Section 6161 of the Water Code is amended to read:

3 6161. (a)(1) An owner of a state jurisdictional dam, except an owner of a dam
4 classified by the department pursuant to Section 6160 as a low hazard dam, shall
5 submit electronically to the department an inundation map that shows the area that
6 would be subject to flooding under various failure scenarios unique to the dam and
7 the critical appurtenant structures of the dam.

8 (2) Before approval of an inundation map, the department shall review the map
9 and may require the owner to make changes that the department deems necessary.

10 (3) Upon approval of the inundation map or maps by the department, the owner
11 of the dam shall develop and submit electronically to the department and the Office
12 of Emergency Services an emergency action plan that is based upon the approved
13 inundation map or maps.

14 (4) If an owner of a dam has an existing emergency action plan as of March 1,
15 2017, the department shall review any inundation map or maps contained in the
16 plan. If the department determines the inundation map or maps are sufficient, as
17 described in subparagraphs (A) or (B), the owner of the dam shall submit the
18 emergency action plan associated with the inundation map or maps to the Office of
19 Emergency Services to review the emergency action plan as follows:

20 (A) If an emergency action plan existing as of March 1, 2017, contains an
21 inundation map for the dam and all critical appurtenant structures, if critical
22 appurtenant structures exist, and the department determines that the inundation map
23 or maps for the dam and all existing critical appurtenant structures are sufficient,
24 the owner of the dam shall submit the complete emergency action plan reflecting all
25 critical appurtenant structures to the Office of Emergency Services for review within
26 30 days of department approval.

27 (B)(i) If an emergency action plan existing as of March 1, 2017, contains an
28 inundation map for the dam but not for all critical appurtenant structures, if critical
29 appurtenant structures exist, the department shall review a map included in the
30 existing emergency action plan for sufficiency. If the department approves the map,
31 the owner of the dam shall submit the existing emergency action plan associated
32 with the approved map to the Office of Emergency Services. The owner of the dam
33 shall continue to prepare inundation maps with due diligence for any remaining
34 critical appurtenant structures and submit the map or maps to the department for
35 review and approval. The Office of Emergency Services may defer review and
36 approval of the new or updated emergency action plan until the Office of Emergency
37 Services has received inundation maps approved by the department for the dam and
38 all critical appurtenant structures. If the Office of Emergency Services approves an
39 emergency action plan when the owner of the dam is continuing to prepare
40 inundation maps with due diligence pursuant to this subparagraph, an owner of a
41 dam may use that emergency action plan that existed as of March 1, 2017, on an
42 interim basis, pending approval of a new or updated emergency action plan that
43 includes maps for the dam and all critical appurtenant structures.

1 (ii) For the purposes of this subparagraph, “due diligence” means that the owner
2 of a dam is progressing toward completion of the inundation map or maps for all
3 critical appurtenant structures according to a reasonable schedule proposed by the
4 owner of the dam and approved by the department. When evaluating the time
5 schedule proposed by the owner of the dam, the department may consider, among
6 other relevant factors, the hazard classification of the dam, the number of critical
7 appurtenant structure inundation maps that are outstanding, and the complexity of
8 the failure scenarios. The owner of a dam shall submit a proposed time schedule to
9 the department no later than 60 days after the effective date of the act that added this
10 subparagraph. Failure to submit a proposed time schedule to the department or to
11 comply with a time schedule approved by the department may result in the
12 imposition of penalties, restrictions, or liens pursuant to Chapter 8 (commencing
13 with Section 6425). After the department approves maps for the critical appurtenant
14 structures, the dam owner shall submit a new or updated emergency action plan
15 including the approved maps to the Office of Emergency Services within 60 days.

16 (b)(1) The Office of Emergency Services shall review and approve an emergency
17 action plan no later than 60 days after receipt of the plan from the dam owner
18 pursuant to Section 8589.5 of the Government Code. To the extent possible, the
19 Office of Emergency Services shall give priority to a dam with the highest hazard
20 classification as determined by the department pursuant to Section 6160.

21 (2) If the Office of Emergency Services determines a proposed emergency action
22 plan does not meet the requirements of Section 8589.5 of the Government Code, the
23 Office of Emergency Services shall inform the owner of the dam and require the
24 owner of the dam to amend and resubmit the emergency action plan for approval.
25 The Office of Emergency Services shall review and, if the emergency action plan
26 meets the requirements of Section 8589.5 of the Government Code, approve a
27 resubmitted emergency action plan within 30 days of receipt from the owner of the
28 dam.

29 (3) Upon approval by the Office of Emergency Services of an emergency action
30 plan, the Office of Emergency Services shall notify the department and the owner
31 of the dam of the approval. The owner of the dam shall ensure that the approved
32 emergency action plan is disseminated to appropriate public safety and emergency
33 management agencies in potentially affected jurisdictions, to the extent these
34 agencies want to receive approved emergency action plans.

35 (c)(1) The department shall make available to the public an approved inundation
36 map and any schedule submitted pursuant to clause (ii) of subparagraph (B) of
37 paragraph (4) of subdivision (a).

38 (2) ~~Nothing in Chapter 3.5 (commencing with Section 6250) of Division 7~~
39 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
40 Code shall be construed to require disclosure of an emergency action plan.

41 (d)(1) Pursuant to the classification by the department under Section 6160, an
42 owner of a dam shall complete and submit an emergency action plan as follows:

1 (A) On or before January 1, 2018, if the hazard classification of the dam is
2 extremely high.

3 (B) On or before January 1, 2019, if the hazard classification of the dam is high.

4 (C) On or before January 1, 2021, if the hazard classification of the dam is
5 significant.

6 (2) An owner of a dam who has an existing emergency action plan as of March 1,
7 2017, that the department determines has a sufficient inundation map and that the
8 Office of Emergency Services determines has a sufficient emergency action plan
9 pursuant to paragraph (4) of subdivision (a) is not subject to the timelines set forth
10 in paragraph (1).

11 (e) An owner of a dam shall update an emergency action plan, including an
12 inundation map, no less frequently than every 10 years, and sooner under conditions
13 that include, but are not limited to, the following:

14 (1) A significant modification to the dam or a critical appurtenant structure, as
15 determined by the department.

16 (2) A significant change to downstream development that involves people and
17 property.

18 **Comment.** Section 6161 is amended to reflect nonsubstantive recodification of the California
19 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
20 Reports __ (2019).

21 **§ 10730.8 (amended). Effect of chapter**

22 SEC. ____. Section 10730.8 of the Water Code is amended to read:

23 10730.8. (a) Nothing in this chapter shall affect or interfere with the authority of
24 a groundwater sustainability agency to levy and collect taxes, assessments, charges,
25 and tolls as otherwise provided by law.

26 (b) Personal information included in a report or record pursuant to this chapter
27 has the same protection from disclosure as is provided for information concerning
28 utility customers of local agencies pursuant to Section ~~6254.16~~ 7927.410 of the
29 Government Code.

30 **Comment.** Section 10730.8 is amended to reflect nonsubstantive recodification of the California
31 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
32 Reports __ (2019).

33 **§ 81671 (amended). Public records requested by San Francisco Bay Area Regional Water**
34 **System Authority**

35 SEC. ____. Section 81671 of the Water Code is amended to read:

36 81671. San Francisco shall provide the authority with prompt access to any public
37 records requested by the authority unless those records are exempt from disclosure
38 pursuant to Section ~~6254~~ a provision listed in Section 7920.505 of the Government
39 Code. San Francisco may not withhold public records from the authority pursuant
40 to a balancing of the public interest in accordance with Section ~~6255~~ 7922.000 of
41 the Government Code.

1 **Comment.** Section 81671 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 WELFARE AND INSTITUTIONS CODE

5 **§ 827.9 (amended). Juvenile police records**

6 SEC. ____. Section 827.9 of the Welfare and Institutions Code is amended to read:

7 827.9. (a) It is the intent of the Legislature to reaffirm its belief that records or
8 information gathered by law enforcement agencies relating to the taking of a minor
9 into custody, temporary custody, or detention (juvenile police records) should be
10 confidential. Confidentiality is necessary to protect those persons from being denied
11 various opportunities, to further the rehabilitative efforts of the juvenile justice
12 system, and to prevent the lifelong stigma that results from having a juvenile police
13 record. Although these records generally should remain confidential, the Legislature
14 recognizes that certain circumstances require the release of juvenile police records
15 to specified persons and entities. The purpose of this section is to clarify the persons
16 and entities entitled to receive a complete copy of a juvenile police record, to specify
17 the persons or entities entitled to receive copies of juvenile police records with
18 certain identifying information about other minors removed from the record, and to
19 provide procedures for others to request a copy of a juvenile police record. This
20 section does not govern the release of police records involving a minor who is the
21 witness to or victim of a crime who is protected by other laws including, but not
22 limited to, Section 841.5 of the Penal Code, Section 11167 et seq. of the Penal Code,
23 and ~~Section 6254~~ the provisions listed in Section 7920.505 of the Government Code.

24 (b) Except as provided in Sections 389, 781, and 786 of this code or Section
25 1203.45 of the Penal Code, a law enforcement agency shall release, upon request, a
26 complete copy of a juvenile police record, as defined in subdivision (m), without
27 notice or consent from the person who is the subject of the juvenile police record to
28 the following persons or entities:

29 (1) Other law enforcement agencies including the office of the Attorney General
30 of California, any district attorney, the Department of Corrections and
31 Rehabilitation, including the Division of Juvenile Justice, and any peace officer as
32 specified in subdivision (a) of Section 830.1 of the Penal Code.

33 (2) School district police.

34 (3) Child protective agencies as defined in Section 11165.9 of the Penal Code.

35 (4) The attorney representing the juvenile who is the subject of the juvenile police
36 record in a criminal or juvenile proceeding.

37 (5) The Department of Motor Vehicles.

38 (c) Except as provided in Sections 389, 781, and 786 of this code or Section
39 1203.45 of the Penal Code, law enforcement agencies shall release, upon request, a
40 copy of a juvenile police record to the following persons and entities only if

1 identifying information pertaining to any other juvenile, within the meaning of
2 subdivision (n), has been removed from the record:

3 (1) The person who is the subject of the juvenile police record.

4 (2) The parents or guardian of a minor who is the subject of the juvenile police
5 record.

6 (3) An attorney for a parent or guardian of a minor who is the subject of the
7 juvenile police record.

8 (d)(1)(A) If a person or entity listed in subdivision (c) seeks to obtain a complete
9 copy of a juvenile police record that contains identifying information concerning
10 the taking into custody or detention of any other juvenile, within the meaning of
11 subdivision (n), who is not a dependent child or a ward of the juvenile court, that
12 person or entity shall submit a completed Petition to Obtain Report of Law
13 Enforcement Agency, as developed pursuant to subdivision (i), to the appropriate
14 law enforcement agency. The law enforcement agency shall send a notice to the
15 following persons that a Petition to Obtain Report of Law Enforcement Agency has
16 been submitted to the agency:

17 (i) The juvenile about whom information is sought.

18 (ii) The parents or guardian of any minor described in clause (i). The law
19 enforcement agency shall make reasonable efforts to obtain the address of the
20 parents or guardian.

21 (B) For purposes of responding to a request submitted pursuant to this
22 subdivision, a law enforcement agency may check the Juvenile Automated Index or
23 may contact the juvenile court to determine whether a person is a dependent child
24 or a ward of the juvenile court and whether parental rights have been terminated or
25 the juvenile has been emancipated.

26 (C) The notice sent pursuant to this subdivision shall include the following
27 information:

28 (i) The identity of the person or entity requesting a copy of the juvenile police
29 record.

30 (ii) A copy of the completed Petition to Obtain Report of Law Enforcement
31 Agency.

32 (iii) The time period for submitting an objection to the law enforcement agency,
33 which shall be 20 days if notice is provided by mail or confirmed fax, or 15 days if
34 notice is provided by personal service.

35 (iv) The means to submit an objection.

36 A law enforcement agency shall issue notice pursuant to this section within 20
37 days of the request. If no objections are filed, the law enforcement agency shall
38 release the juvenile police record within 15 days of the expiration of the objection
39 period.

40 (D) If any objections to the disclosure of the other juvenile's information are
41 submitted to the law enforcement agency, the law enforcement agency shall send
42 the completed Petition to Obtain Report of Law Enforcement Agency, the
43 objections, and a copy of the requested juvenile police record to the presiding judge

1 of the juvenile court or, in counties with no presiding judge of the juvenile court,
2 the judge of the juvenile court or ~~his or her~~ the judge's designee, to obtain
3 authorization from the court to release a complete copy of the juvenile police record.

4 (2) If a person or entity listed in subdivision (c) seeks to obtain a complete copy
5 of a juvenile police record that contains identifying information concerning the
6 taking into custody or detention of any other juvenile, within the meaning of
7 subdivision (n), who is a dependent child or a ward of the juvenile court, that person
8 or entity shall submit a Petition to Obtain Report of Law Enforcement Agency, as
9 developed pursuant to subdivision (i), to the appropriate law enforcement agency.
10 The law enforcement agency shall send that Petition to Obtain Report of Law
11 Enforcement Agency and a completed petition for authorization to release the
12 information to that person or entity along with a complete copy of the requested
13 juvenile police record to the presiding judge of the juvenile court, or, in counties
14 with no presiding judge of the juvenile court, the judge of the juvenile court or ~~his~~
15 ~~or her~~ the judge's designees. The juvenile court shall provide notice of the petition
16 for authorization to the following persons:

17 (A) If the person who would be identified if the information is released is a minor
18 who is a dependent child of the juvenile court, notice of the petition shall be
19 provided to the following persons:

20 (i) The minor.

21 (ii) The attorney of record for the minor.

22 (iii) The parents or guardian of the minor, unless parental rights have been
23 terminated.

24 (iv) The child protective agency responsible for the minor.

25 (v) The attorney representing the child protective agency responsible for the
26 minor.

27 (B) If the person who would be identified if the information is released is a ward
28 of the juvenile court, notice of the petition shall be provided to the following:

29 (i) The ward.

30 (ii) The attorney of record for the ward.

31 (iii) The parents or guardian of the ward if the ward is under 18 years of age,
32 unless parental rights have been terminated.

33 (iv) The district attorney.

34 (v) The probation department.

35 (e) Except as otherwise provided in this section or in Sections 389, 781, and 786
36 of this code or Section 1203.45 of the Penal Code, law enforcement agencies shall
37 release copies of juvenile police records to any other person designated by court
38 order upon the filing of a Petition to Obtain Report of Law Enforcement Agency
39 with the juvenile court. The petition shall be filed with the presiding judge of the
40 juvenile court, or, in counties with no presiding judge of the juvenile court, the judge
41 of the juvenile court or ~~his or her~~ the judge's designee, in the county where the
42 juvenile police record is maintained.

1 (f)(1) After considering the petition and any objections submitted to the juvenile
2 court pursuant to paragraph (1) or (2) of subdivision (d), the court shall determine
3 whether the law enforcement agency may release a complete copy of the juvenile
4 police record to the person or entity that submitted the request.

5 (2) In determining whether to authorize the release of a juvenile police record, the
6 court shall balance the interests of the juvenile who is the subject of the record, the
7 petitioner, and the public. The juvenile court may issue orders prohibiting or
8 limiting the release of information contained in the juvenile police record. The court
9 may also deny the existence of a juvenile police record where the record is properly
10 sealed or the juvenile who is the subject of the record has properly denied its
11 existence.

12 (3) Prior to authorizing the release of any juvenile police record, the juvenile court
13 shall ensure that notice and an opportunity to file an objection to the release of the
14 record has been provided to the juvenile who is the subject of the record or who
15 would be identified if the information is released, that person's parents or guardian
16 if ~~he or she~~ the person is under 18 years of age, and any additional person or entity
17 described in subdivision (d), as applicable. The period for filing an objection shall
18 be 20 days from the date notice is given if notice is provided by mail or confirmed
19 fax and 15 days from the date notice is given if notice is provided by personal
20 service. If review of the petition is urgent, the petitioner may file a motion with the
21 presiding judge of the juvenile court showing good cause why the objection period
22 should be shortened. The court shall issue a ruling on the completed petition within
23 15 days of the expiration of the objection period.

24 (g) Any out-of-state entity comparable to the California entities listed in
25 paragraphs (1) to (5), inclusive, of subdivision (b) shall file a petition with the
26 presiding judge of the juvenile court in the county where the juvenile police record
27 is maintained in order to receive a copy of a juvenile police record. A petition from
28 that entity may be granted on an ex parte basis.

29 (h) Nothing in this section shall require the release of confidential victim or
30 witness information protected by other laws including, but not limited to, Section
31 841.5 of the Penal Code, Section 11167 et seq. of the Penal Code, and ~~Section 6254~~
32 the provisions listed in Section 7920.505 of the Government Code.

33 (i) The Judicial Council, in consultation with the California Law Enforcement
34 Association of Record Supervisors (CLEARS), shall develop forms for distribution
35 by law enforcement agencies to the public to implement this section. Those forms
36 shall include, but are not limited to, the Petition to Obtain Report of Law
37 Enforcement Agency. The material for the public shall include information about
38 the persons who are entitled to a copy of the juvenile police record and the specific
39 procedures for requesting a copy of the record if a petition is necessary. The Judicial
40 Council shall provide law enforcement agencies with suggested forms for
41 compliance with the notice provisions set forth in subdivision (d).

42 (j) Any information received pursuant to subdivisions (a) to (e), inclusive, and (g)
43 of this section shall be received in confidence for the limited purpose for which it

1 was provided and shall not be further disseminated. An intentional violation of the
2 confidentiality provisions of this section is a misdemeanor, punishable by a fine not
3 to exceed five hundred dollars (\$500).

4 (k) A court shall consider any information relating to the taking of a minor into
5 custody, if the information is not contained in a record that has been sealed, for
6 purposes of determining whether an adjudication of the commission of a crime as a
7 minor warrants a finding that there are circumstances in aggravation pursuant to
8 Section 1170 of the Penal Code or to deny probation.

9 (l) When a law enforcement agency has been notified pursuant to Section 1155
10 that a minor has escaped from a secure detention facility, the law enforcement
11 agency shall release the name of, and any descriptive information about, the minor
12 to a person who specifically requests this information. The law enforcement agency
13 may release the information on the minor without a request to do so if it finds that
14 release of the information would be necessary to assist in recapturing the minor or
15 that it would be necessary to protect the public from substantial physical harm.

16 (m) For purposes of this section, a “juvenile police record” refers to records or
17 information relating to the taking of a minor into custody, temporary custody, or
18 detention.

19 (n) For purposes of this section, with respect to a juvenile police record, “any
20 other juvenile” refers to additional minors who were taken into custody or
21 temporary custody, or detained and who also could be considered a subject of the
22 juvenile police record.

23 (o) An evaluation of the efficacy of the procedures for the release of police records
24 containing information about minors as described in this section shall be conducted
25 by the juvenile court and law enforcement in Los Angeles County and the results of
26 that evaluation shall be reported to the Legislature on or before December 31, 2006.

27 (p) This section shall only apply to Los Angeles County.

28 **Comment.** Section 827.9 is amended to reflect nonsubstantive recodification of the California
29 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
30 Reports __ (2019).

31 The section is also amended to eliminate gendered pronouns.

32 **§ 1764 (amended). Information in possession of Youth Authority**

33 SEC. ____. Section 1764 of the Welfare and Institutions Code is amended to read:

34 1764. (a) Notwithstanding any other provision of law, any of the following
35 information in the possession of the Youth Authority regarding persons 16 years of
36 age or older who were committed to the Youth Authority by a court of criminal
37 jurisdiction, or who were committed to the Department of Corrections and were
38 subsequently transferred to the Youth Authority, shall be disclosed to any member
39 of the public, upon request, by the director or ~~his or her~~ the director’s designee:

40 (a) (1) The name and age of the person.

41 (b) (2) The court of commitment and the offense that was the basis of
42 commitment.

- 1 (ⓔ) (3) The date of commitment.
2 (ⓓ) (4) Any institution where the person is or was confined.
3 (ⓔ) (5) The actions taken by any paroling authority regarding the person, which
4 relate to parole dates.
5 (ⓕ) (6) The date the person is scheduled to be released to the community, including
6 release to a reentry work furlough program.
7 (ⓖ) (7) The date the person was placed on parole.
8 (ⓗ) (8) The date the person was discharged from the jurisdiction of the Youth
9 Authority and the basis for the discharge.
10 (ⓞ) (9) In any case where the person has escaped from any institution under the
11 jurisdiction of the Youth Authority, a physical description of the person and the
12 circumstances of the escape.
13 (b) The provisions of this section shall not be construed to authorize the release
14 of any information ~~which~~ that could place any individual in personal peril; ~~which~~
15 that could threaten Youth Authority security; or ~~which~~ that is exempt from
16 disclosure pursuant to the California Public Records Act (~~Chapter 3.5 (commencing~~
17 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
18 of Title 1 of the Government Code).

19 **Comment.** Section 1764 is amended to reflect nonsubstantive recodification of the California
20 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
21 Reports __ (2019).

22 The section is also amended to make grammatical corrections, eliminate gendered pronouns, and
23 use conventional subdivision and paragraph labels.

24 **§ 4712.5 (amended). Written decision of hearing officer**

25 SEC. ____ . Section 4712.5 of the Welfare and Institutions Code is amended to
26 read:

27 4712.5. (a) Except as provided in subdivision (c), within 10 working days of the
28 concluding day of the state hearing, but not later than 80 days following the date the
29 hearing request form was received, the hearing officer shall render a written decision
30 and shall transmit the decision to each party and to the director of the responsible
31 state agency, along with notification that this is the final administrative decision,
32 that each party shall be bound thereby, and that either party may appeal the decision
33 to a court of competent jurisdiction within 90 days of the receiving notice of the
34 final decision.

35 (b) The hearing officer's decision shall be in ordinary and concise language and
36 shall contain a summary of the facts, a statement of the evidence from the
37 proceedings that was relied upon, a decision on each of the issues presented, and an
38 identification of the statutes, regulations, and policies supporting the decision.

39 (c) Where the decision involves an issue arising from the federal home- and
40 community-based service waiver program, the hearing officer's decision shall be a
41 proposed decision submitted to the Director of Health Services as the single state
42 agency for the medicaid program. Within 90 days following the date the hearing
43 request form is postmarked or received, whichever is earlier, the director may adopt

1 the decision as written or decide the matter on the record. If the Director of Health
2 Services does not act on the proposed decision within 90 days, the decision shall be
3 deemed to be adopted by the Director of Health Services. The final decision shall
4 be immediately transmitted to each party, along with the notice described in
5 subdivision (a). If the decision of the Director of Health Services differs from the
6 proposed decision of the hearing officer, a copy of that proposed decision shall also
7 be served upon each party.

8 (d) The department shall collect and maintain, or cause to be collected and
9 maintained, redacted copies of all administrative hearing decisions issued under this
10 division. Hearing decisions shall be categorized by the type of service or support
11 that was the subject of the hearing and by the year of issuance. The department shall
12 make copies of the decisions available to the public upon request at a cost per page
13 not greater than that which it charges for document requests submitted pursuant to
14 ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
15 (commencing with Section 7920.000) of Title 1 of the Government Code. The
16 department shall use this information in partial fulfillment of its obligation to
17 monitor regional centers and in its evaluation of the contract for the provision of
18 independent hearing officers.

19 **Comment.** Section 4712.5 is amended to reflect nonsubstantive recodification of the California
20 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
21 Reports __ (2019).

22 **§ 11478.1 (amended). Confidentiality of support enforcement and child abduction records**

23 SEC. _____. Section 11478.1 of the Welfare and Institutions Code is amended to
24 read:

25 11478.1. (a) It is the intent of the Legislature to protect individual rights of
26 privacy, and to facilitate and enhance the effectiveness of the child and spousal
27 support enforcement program, by ensuring the confidentiality of support
28 enforcement and child abduction records, and to thereby encourage the full and
29 frank disclosure of information relevant to all of the following:

30 (1) The establishment or maintenance of parent and child relationships and
31 support obligations.

32 (2) The enforcement of the child support liability of absent parents.

33 (3) The enforcement of spousal support liability of the spouse or former spouse to
34 the extent required by the state plan under Section 11475.2 of this code and Part 6
35 (commencing with Section 5700.101) of Division 9 of the Family Code.

36 (4) The location of absent parents.

37 (5) The location of parents and children abducted, concealed, or detained by them.

38 (b)(1) Except as provided in subdivision (c), all files, applications, papers,
39 documents, and records established or maintained by any public entity pursuant to
40 the administration and implementation of the child and spousal support enforcement
41 program established pursuant to Part D (commencing with Section 651) of
42 Subchapter IV of Chapter 7 of Title 42 of the United States Code and this article,

1 shall be confidential, and shall not be open to examination or released for disclosure
2 for any purpose not directly connected with the administration of the child and
3 spousal support enforcement program. No public entity shall disclose any file,
4 application, paper, document, or record, or the information contained therein, except
5 as expressly authorized by this section.

6 (2) In no case shall information be released or the whereabouts of one party or the
7 child disclosed to another party, or to the attorney of any other party, if a protective
8 order has been issued by a court or administrative agency with respect to the former
9 party, a good cause claim under Section 11477.04 has been approved or is pending,
10 or the public agency responsible for establishing paternity or enforcing support has
11 reason to believe that the release of the information may result in physical or
12 emotional harm to the former party or the child.

13 (3) Notwithstanding any other provision of law, a proof of service filed by the
14 district attorney shall not disclose the address where service of process was
15 accomplished. Instead, the district attorney shall keep the address in ~~his or her~~ the
16 district attorney's own records. The proof of service shall specify that the address is
17 on record at the district attorney's office and that the address may be released only
18 upon an order from the court pursuant to paragraph (6) of subdivision (c). The
19 district attorney shall, upon request by a party served, release to that person the
20 address where service was effected.

21 (c) Disclosure of the information described in subdivision (b) is authorized as
22 follows:

23 (1) All files, applications, papers, documents, and records as described in
24 subdivision (b) shall be available and may be used by a public entity for all
25 administrative, civil, or criminal investigations, actions, proceedings, or
26 prosecutions conducted in connection with the administration of the child and
27 spousal support enforcement program approved under Part D (commencing with
28 Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code,
29 and any other plan or program described in Section 303.21 of Title 45 of the Code
30 of Federal Regulations and to the county welfare department responsible for
31 administering a program operated under a state plan pursuant to Subpart 1 or 2 of
32 Part B or Part E of Subchapter IV of Chapter 7 of Title 42 of the United States Code.

33 (2) A document requested by a person who wrote, prepared, or furnished the
34 document may be examined by or disclosed to that person or ~~his or her~~ the person's
35 designee.

36 (3) The payment history of an obligor pursuant to a support order may be
37 examined by or released to the court, the obligor, or the person on whose behalf
38 enforcement actions are being taken or that person's designee.

39 (4) Income and expense information of either parent may be released to the other
40 parent for the purpose of establishing or modifying a support order.

41 (5) Public records subject to disclosure under the California Public Records Act
42 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10

1 (commencing with Section 7920.000) of Title 1 of the Government Code) may be
2 released.

3 (6) After a noticed motion and a finding by the court, in a case in which
4 establishment or enforcement actions are being taken, that release or disclosure to
5 the obligor or obligee is required by due process of law, the court may order a public
6 entity that possesses an application, paper, document, or record as described in
7 subdivision (b) to make that item available to the obligor or obligee for examination
8 or copying, or to disclose to the obligor or obligee the contents of that item. Article
9 9 (commencing with Section 1040) of Chapter 4 of Division 8 of the Evidence Code
10 shall not be applicable to proceedings under this part. At any hearing of a motion
11 filed pursuant to this section, the court shall inquire of the district attorney and the
12 parties appearing at the hearing if there is reason to believe that release of the
13 requested information may result in physical or emotional harm to a party. If the
14 court determines that harm may occur, the court shall issue any protective orders or
15 injunctive orders restricting the use and disclosure of the information as are
16 necessary to protect the individuals.

17 (7) To the extent not prohibited by federal law or regulation, information
18 indicating the existence or imminent threat of a crime against a child; location of a
19 concealed, detained, or abducted child; or the location of the concealing, detaining,
20 or abducting person, may be disclosed to any district attorney, any appropriate law
21 enforcement agency, or to any state or county child protective agency, or may be
22 used in any judicial proceedings to prosecute that crime or to protect the child.

23 (8)(A) The social security number, most recent address, and the place of
24 employment of the absent parent may be released to an authorized person as defined
25 in Section 653(c) of Title 42 of the United States Code, only if the authorized person
26 has filed a request for the information, and only if the information has been provided
27 to the California Parent Locator Service by the federal Parent Locator Service
28 pursuant to Section 653 of Title 42 of the United States Code.

29 (B) The information described in subparagraph (A) may be disclosed to the
30 county child welfare agency and the county probation department responsible for
31 administering a program operated under a state plan pursuant to Subpart 1
32 (commencing with Section 621) or 2 (commencing with Section 629) of Part B of,
33 or pursuant to Part E (commencing with Section 670) of, Subchapter IV of Chapter
34 7 of Title 42 of the United States Code. Information exchanged between the
35 California Parent Locator Service or the California Child Support Automation
36 System, or its replacement, and the county welfare agency shall be through
37 automated processes to the maximum extent feasible.

38 (C) On or before July 1, 2013, the State Department of Social Services and the
39 Department of Child Support Services shall issue an all-county letter or similar
40 instruction explaining that county child welfare and probation agencies are entitled
41 to the information described in paragraph (9) of subdivision (c) of Section 17212
42 and subdivision (c) of Section 17506 of the Family Code.

1 (d)(1) “Administration and implementation of the child and spousal support
2 enforcement program,” as used in this section, means the carrying out of the state
3 and local plans for establishing, modifying, and enforcing child support obligations,
4 enforcing spousal support orders, and determining paternity pursuant to Part D
5 (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the
6 United States Code and this article.

7 (2) For purposes of this section, “obligor” means any person owing a duty of
8 support.

9 (3) As used in this chapter, “putative parent” shall refer to any person reasonably
10 believed to be the parent of a child for whom the local child support agency is
11 attempting to establish paternity or establish, modify, or enforce support pursuant
12 to Section 17400 of the Family Code.

13 (e) Any person who willfully, knowingly, and intentionally violates this section
14 is guilty of a misdemeanor.

15 (f) Nothing in this section shall be construed to compel the disclosure of
16 information relating to a deserting parent who is a recipient of aid under a public
17 assistance program for which federal aid is paid to this state, if that information is
18 required to be kept confidential by the federal law or regulations relating to the
19 program.

20 **Comment.** Section 11478.1 is amended to reflect nonsubstantive recodification of the California
21 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
22 Reports __ (2019).

23 The section is also amended to eliminate gendered pronouns.

24 **§ 13302 (amended). Applicable law**

25 SEC. ____. Section 13302 of the Welfare and Institutions Code is amended to read:
26 13302. Notwithstanding any other law:

27 (a) Contracts or grants awarded pursuant to this chapter shall be exempt from the
28 personal services contracting requirements of Article 4 (commencing with Section
29 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code.

30 (b) Contracts or grants awarded pursuant to this chapter shall be exempt from the
31 Public Contract Code and the State Contracting Manual, and shall not be subject to
32 the approval of the Department of General Services.

33 (c) The client information and records of legal services provided pursuant to this
34 chapter shall be subject to the requirements of Section 10850 and shall be exempt
35 from inspection under the California Public Records Act (~~Chapter 3.5 (commencing~~
36 ~~with Section 6250) of Division 7 of Part 1~~ Division 10 (commencing with Section
37 7920.000) of Title 1 of the Government Code).

38 (d) The state shall be immune from any liability resulting from the
39 implementation of this chapter.

40 (e) Notwithstanding the rulemaking provisions of the Administrative Procedure
41 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title

1 2 of the Government Code), the department may implement, interpret, or make
2 specific this chapter without taking any regulatory action.

3 **Comment.** Section 13302 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act (“CPRA”). See *California Public Records Act Clean-Up*, __ Cal. L. Revision
5 Comm’n Reports __ (2019). By updating the reference to the CPRA, the amendment also
6 eliminates an erroneous reference to “Part 1” (as opposed to “Title 1”).

7 **§ 14005.27 (amended). Transition from Healthy Families Program to Medi-Cal**

8 SEC. _____. Section 14005.27 of the Welfare and Institutions Code is amended to
9 read:

10 14005.27. (a) Individuals enrolled in the Healthy Families Program pursuant to
11 Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code on
12 June 27, 2012, and who are determined eligible to receive benefits pursuant to
13 subdivision (a) of Section 14005.26, or, effective January 1, 2014, subdivision (b)
14 of Section 14005.26, shall be transitioned into Medi-Cal, pursuant to this section.

15 (b) To the extent necessary and for the purposes of carrying out the provisions of
16 this section, in performing initial eligibility determinations for children enrolled in
17 the Healthy Families Program pursuant to Part 6.2 (commencing with Section
18 12693) of Division 2 of the Insurance Code, the department shall adopt the option
19 pursuant to Section 1902(e)(13) of the federal Social Security Act (42 U.S.C. Sec.
20 1396a(e)(13)) to allow the department or county human services departments to rely
21 upon findings made by the Managed Risk Medical Insurance Board (MRMIB)
22 regarding one or more components of eligibility. The department shall seek federal
23 approval of a state plan amendment to implement this subdivision.

24 (c) To the extent necessary, the department shall seek federal approval of a state
25 plan amendment or a waiver to provide presumptive eligibility for the optional
26 targeted low-income category of eligibility pursuant to Section 14005.26 for
27 individuals presumptively eligible for or enrolled in the Healthy Families Program
28 pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the
29 Insurance Code. The presumptive eligibility shall be based upon the most recent
30 information contained in the individual’s Healthy Families Program file. The
31 timeframe for the presumptive eligibility shall begin no sooner than January 1, 2013,
32 and shall continue until a determination of Medi-Cal eligibility is made, which
33 determination shall be performed within one year of the individual’s Healthy
34 Families Program annual review date.

35 (d)(1) The California Health and Human Services Agency, in consultation with
36 the Managed Risk Medical Insurance Board, the State Department of Health Care
37 Services, the Department of Managed Health Care, and diverse stakeholders groups,
38 shall provide the fiscal and policy committees of the Legislature with a strategic
39 plan for the transition of the Healthy Families Program pursuant to this section by
40 no later than October 1, 2012. This strategic plan shall, at a minimum, address all
41 of the following:

1 (A) State, county, and local administrative components ~~which~~ that facilitate a
2 successful subscriber transition such as communication and outreach to subscribers
3 and applicants, eligibility processing, enrollment, communication, and linkage with
4 health plan providers, payments of applicable premiums, and overall systems
5 operation functions.

6 (B) Methods and processes for diverse stakeholder engagement throughout the
7 entire transition, including all phases of the transition.

8 (C) State monitoring of managed care health plans' performance and
9 accountability for provision of services, and initial quality indicators for children
10 and adolescents transitioning to Medi-Cal.

11 (D) Health care and dental delivery system components such as standards for
12 informing and enrollment materials, network adequacy, performance measures and
13 metrics, fiscal solvency, and related factors that ensure timely access to quality
14 health and dental care for children and adolescents transitioning to Medi-Cal.

15 (E) Inclusion of applicable operational steps, timelines, and key milestones.

16 (F) A time certain for the transfer of the Healthy Families Advisory Board, as
17 described in Part 6.2 (commencing with Section 12693) of Division 2 of the
18 Insurance Code, to the State Department of Health Care Services.

19 (2) The intent of this strategic plan is to serve as an overall guide for the
20 development of each plan for each phase of this transition, pursuant to paragraphs
21 (1) to (8), inclusive, of subdivision (e), to ensure clarity and consistency in approach
22 and subscriber continuity of care. This strategic plan may also be updated by the
23 California Health and Human Services Agency as applicable and provided to the
24 Legislature upon completion.

25 (e)(1) The department shall transition individuals from the Healthy Families
26 Program to the Medi-Cal program in four phases, as follows:

27 (A) Phase 1. Individuals enrolled in a Healthy Families Program health plan that
28 is a Medi-Cal managed care health plan shall be enrolled in the same plan no earlier
29 than January 1, 2013, pursuant to the requirements of this section and Section
30 14011.6, and to the extent the individual is otherwise eligible under this chapter and
31 Chapter 8 (commencing with Section 14200).

32 (B) Phase 2. Individuals enrolled in a Healthy Families Program managed care
33 health plan that is a subcontractor of a Medi-Cal managed health care plan, to the
34 extent possible, shall be enrolled into a Medi-Cal managed health care plan that
35 includes the individuals' current plan pursuant to the requirements of this section
36 and Section 14011.6, and to the extent the individuals are otherwise eligible under
37 this chapter and Chapter 8 (commencing with Section 14200). The transition of
38 individuals described in this subparagraph shall begin no earlier than April 1, 2013.

39 (C) Phase 3. Individuals enrolled in a Healthy Families Program plan that is not a
40 Medi-Cal managed care plan and does not contract or subcontract with a Medi-Cal
41 managed care plan shall be enrolled in a Medi-Cal managed care plan in that county.
42 Enrollment shall include consideration of the individuals' primary care providers
43 pursuant to the requirements of this section and Section 14011.6, and to the extent

1 the individuals are otherwise eligible under this chapter and Chapter 8 (commencing
2 with Section 14200). The transition of individuals described in this subparagraph
3 shall begin no earlier than August 1, 2013.

4 (D) Phase 4.

5 (i) Individuals residing in a county that is not a Medi-Cal managed care county
6 shall be provided services under the Medi-Cal fee-for-service delivery system,
7 subject to clause (ii). The transition of individuals described in this subparagraph
8 shall begin no earlier than September 1, 2013.

9 (ii) In the event the department creates a managed health care system in the
10 counties described in clause (i), individuals residing in those counties shall be
11 enrolled in managed health care plans pursuant to this chapter and Chapter 8
12 (commencing with Section 14200).

13 (2) For the transition of individuals pursuant to subparagraphs (A), (B), (C), and
14 (D) of paragraph (1), implementation plans shall be developed to ensure state and
15 county systems readiness, health plan network adequacy, and continuity of care with
16 the goal of ensuring there is no disruption of service and there is continued access
17 to coverage for all transitioning individuals. If an individual is not retained with ~~his~~
18 ~~or her~~ the individual's current primary care provider, the implementation plan shall
19 require the managed care plan to report to the department as to how continuity of
20 care is being provided. Transition of individuals described in subparagraphs (A),
21 (B), (C), and (D) of paragraph (1) shall not occur until 90 days after the department
22 has submitted an implementation plan to the fiscal and policy committees of the
23 Legislature. The implementation plans shall include, but not be limited to,
24 information on health and dental plan network adequacy, continuity of care,
25 eligibility and enrollment requirements, consumer protections, and family
26 notifications.

27 (3) The following requirements shall be in place prior to implementation of Phase
28 1, and shall be required for all phases of the transition:

29 (A) Managed care plan performance measures shall be integrated and coordinated
30 with the Healthy Families Program performance standards including, but not limited
31 to, child-only Healthcare Effectiveness Data and Information Set (HEDIS)
32 measures, and measures indicative of performance in serving children and
33 adolescents. These performance measures shall also be in compliance with all
34 performance requirements under the Knox-Keene Health Care Service Plan Act of
35 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and
36 Safety Code) and existing Medi-Cal managed care performance measurements and
37 standards as set forth in this chapter and Chapter 8 (commencing with Section
38 14200) of Title 22 of the California Code of Regulations, and all-plan letters,
39 including, but not limited to, network adequacy and linguistic services, and shall be
40 met prior to the transition of individuals pursuant to Phase 1.

41 (B) Medi-Cal managed care health plans shall allow enrollees to remain with their
42 current primary care provider. If an individual does not remain with the current

1 primary care provider, the plan shall report to the department as to how continuity
2 of care is being provided.

3 (4)(A) As individuals are transitioned pursuant to subparagraphs (A), (B), (C),
4 and (D) of paragraph (1), for individuals residing in all counties except the Counties
5 of Sacramento and Los Angeles, their dental coverage shall transition to fee-for-
6 service dental coverage and may be provided by their current provider if the
7 provider is a Medi-Cal fee-for-service dental provider.

8 (B) For individuals residing in the County of Sacramento, their dental coverage
9 shall continue to be provided by their current dental managed care plan if their plan
10 is a Medi-Cal dental managed care plan. If their plan is not a Medi-Cal dental
11 managed care plan, they shall select a Medi-Cal dental managed care plan. If they
12 do not choose a Medi-Cal dental managed care plan, they shall be assigned to a plan
13 with preference to a plan with which their current provider is a contracted provider.
14 Any children in the Healthy Families Program transitioned into Medi-Cal dental
15 managed care plans shall also have access to the beneficiary dental exception
16 process, pursuant to Section 14089.09. Further, the Sacramento advisory committee,
17 established pursuant to Section 14089.08, shall be consulted regarding the transition
18 of children in the Healthy Families Program into Medi-Cal dental managed care
19 plans.

20 (C)(i) For individuals residing in the County of Los Angeles, for purposes of
21 continuity of care, their dental coverage shall continue to be provided by their
22 current dental managed care plan if that plan is a Medi-Cal dental managed care
23 plan. If their plan is not a Medi-Cal dental managed care plan, they may select a
24 Medi-Cal dental managed care plan or choose to move into Medi-Cal fee-for-service
25 dental coverage.

26 (ii) It is the intent of the Legislature that children transitioning to Medi-Cal under
27 this section have a choice in dental coverage, as provided under existing law.

28 (5) Dental health plan performance measures and benchmarks shall be in
29 accordance with Section 14459.6.

30 (6) Medi-Cal managed care health and dental plans shall report to the department,
31 as frequently as specified by the department, specified information pertaining to
32 transition implementation, enrollees, and providers, including, but not limited to,
33 grievances related to access to care, continuity of care requests and outcomes, and
34 changes to provider networks, including provider enrollment and disenrollment
35 changes. The plans shall report this information by county, and in the format
36 requested by the department.

37 (7) The department may develop supplemental implementation plans to
38 separately account for the transition of individuals from the Healthy Families
39 Program to specific Medi-Cal delivery systems.

40 (8) The department shall consult with the Legislature and stakeholders, including,
41 but not limited to, consumers, families, consumer advocates, counties, providers,
42 and health and dental plans, in the development of implementation plans described

1 in paragraph (3) for individuals who are transitioned to Medi-Cal in Phase 2, Phase
2 3, and Phase 4, as described in subparagraphs (B), (C), and (D) of paragraph (1).

3 (9)(A) The department shall consult and collaborate with the Department of
4 Managed Health Care in assessing Medi-Cal managed care health plan network
5 adequacy in accordance with the Knox-Keene Health Care Service Plan Act of 1975
6 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and
7 Safety Code) for purposes of the developed transition plans pursuant to paragraph
8 (2) for each of the phases.

9 (B) For purposes of individuals transitioning in Phase 1, as described in
10 subparagraph (A) of paragraph (1), network adequacy shall be assessed as described
11 in this paragraph and findings from this assessment shall be provided to the fiscal
12 and appropriate policy committees of the Legislature 60 days prior to the effective
13 date of implementing this transition.

14 (10) The department shall provide monthly status reports to the fiscal and policy
15 committees of the Legislature on the transition commencing no later than February
16 15, 2013. This monthly status transition report shall include, but not be limited to,
17 information on health plan grievances related to access to care, continuity of care
18 requests and outcomes, changes to provider networks, including provider
19 enrollment and disenrollment changes, and eligibility performance standards
20 pursuant to subdivision (n). A final comprehensive report shall be provided within
21 90 days after completion of the last phase of transition.

22 (f)(1) The department and MRMIB shall work collaboratively in the development
23 of notices for individuals transitioned pursuant to paragraph (1) of subdivision (e).

24 (2) The state shall provide written notice to individuals enrolled in the Healthy
25 Families Program of their transition to the Medi-Cal program at least 60 days prior
26 to the transition of individuals in Phase 1, as described in subparagraph (A) of
27 paragraph (1) of subdivision (e), and at least 90 days prior to transition of individuals
28 in Phases 2, 3, and 4, as described in subparagraphs (B), (C), and (D) of paragraph
29 (1) of subdivision (e).

30 (3) Notices developed pursuant to this subdivision shall ensure individuals are
31 informed regarding the transition, including, but not limited to, how individuals'
32 systems of care may change, when the changes will occur, and whom they can
33 contact for assistance when choosing a Medi-Cal managed care plan, if applicable,
34 including a toll-free telephone number, and with problems they may encounter. The
35 department shall consult with stakeholders regarding notices developed pursuant to
36 this subdivision. These notices shall be developed using plain language, and written
37 translation of the notices shall be available for those who are limited English
38 proficient or non-English speaking in all Medi-Cal threshold languages.

39 (4) The department shall designate department liaisons responsible for the
40 coordination of the Healthy Families Program and may establish a children's-
41 focused section for this purpose and to facilitate the provision of health care services
42 for children enrolled in Medi-Cal.

1 (5) The department shall provide a process for ongoing stakeholder consultation
2 and make information publicly available, including the achievement of benchmarks,
3 enrollment data, utilization data, and quality measures.

4 (g)(1) In order to aid the transition of Healthy Families Program enrollees,
5 MRMIB, on the effective date of the act that added this section and continuing
6 through the completion of the transition of Healthy Families Program enrollees to
7 the Medi-Cal program, shall begin requesting and collecting from health plans
8 contracting with MRMIB pursuant to Part 6.2 (commencing with Section 12693) of
9 Division 2 of the Insurance Code, information about each health plan's provider
10 network, including, but not limited to, the primary care and all specialty care
11 providers assigned to individuals enrolled in the health plan. MRMIB shall obtain
12 this information in a manner that coincides with the transition activities described
13 in subdivision (d), and shall provide all of the collected information to the
14 department within 60 days of the department's request for this information to ensure
15 timely transitions of Healthy Families Program enrollees.

16 (2) The department shall analyze the existing Healthy Families Program delivery
17 system network and the Medi-Cal fee-for-service provider networks, including, but
18 not limited to, Medi-Cal dental providers, to determine overlaps of the provider
19 networks in each county for which there are no Medi-Cal managed care plans or
20 dental managed care plans. To the extent there is a lack of existing Medi-Cal fee-
21 for-service providers available to serve the Healthy Families Program enrollees, the
22 department shall work with the Healthy Families Program provider community to
23 encourage participation of those providers in the Medi-Cal program, and develop a
24 streamlined process to enroll them as Medi-Cal providers.

25 (3)(A) MRMIB, within 60 days of a request by the department, shall provide the
26 department any data, information, or record concerning the Healthy Families
27 Program as is necessary to implement the transition of enrollment required pursuant
28 to this section.

29 (B) Notwithstanding any other law, all of the following shall apply:

30 (i) The term "data, information, or record" shall include, but is not limited to,
31 personal information as defined in Section 1798.3 of the Civil Code.

32 (ii) Any data, information, or record shall be exempt from disclosure under the
33 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of~~
34 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
35 Government Code) and any other law, to the same extent that it was exempt from
36 disclosure or privileged prior to the provision of the data, information, or record to
37 the department.

38 (iii) The provision of ~~any such~~ this data, information, or record to the department
39 shall not constitute a waiver of any evidentiary privilege or exemption from
40 disclosure.

41 (iv) The department shall keep all data, information, or records provided by
42 MRMIB confidential to the full extent permitted by law, including, but not limited
43 to, the California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~

1 ~~of Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
2 Government Code), and consistent with MRMIB's contractual obligations to keep
3 the data, information, or records confidential.

4 (h) This section shall be implemented only to the extent that all necessary federal
5 approvals and waivers have been obtained and the enhanced rate of federal financial
6 participation under Title XXI of the federal Social Security Act (42 U.S.C. Sec.
7 1397aa et seq.) is available for targeted low-income children pursuant to that act.

8 (i)(1)(A) Except as provided in subparagraph (B), the department shall exercise
9 the option pursuant to Section 1916A of the federal Social Security Act (42 U.S.C.
10 Sec. 1396o-1) to impose premiums for individuals described in subdivision (a) of
11 Section 14005.26 whose family income has been determined to be above 150
12 percent and up to and including 200 percent of the federal poverty level, after
13 application of the income disregard pursuant to paragraph (2) of subdivision (a) of
14 Section 14005.26. The department shall not impose premiums under this
15 subdivision for individuals described in subdivision (a) of Section 14005.26 whose
16 family income has been determined to be at or below 150 percent of the federal
17 poverty level, after application of the income disregard pursuant to paragraph (2) of
18 subdivision (a) of Section 14005.26. The department shall obtain federal approval
19 for the implementation of this subdivision.

20 (B) Effective January 1, 2014, the family income range for the imposition of
21 premiums pursuant to subparagraph (A) for individuals described in subdivision (a)
22 or (b) of Section 14005.26 shall be above 160 percent and shall go up to and include
23 261 percent of the federal poverty level as determined, counted, and valued in
24 accordance with the requirements of Section 14005.64. The department shall not
25 impose premiums for eligible individuals whose family income has been determined
26 to be at or below 160 percent of the federal poverty level.

27 (2) All premiums imposed under this section shall equal the family contributions
28 described in paragraph (2) of subdivision (d) of Section 12693.43 of the Insurance
29 Code and shall be reduced in conformity with subdivisions (e) and (f) of Section
30 12693.43 of the Insurance Code.

31 (j) The department shall not enroll targeted low-income children described in this
32 section in the Medi-Cal program until all necessary federal approvals and waivers
33 have been obtained, or no sooner than January 1, 2013.

34 (k)(1)(A) Except as provided in subparagraph (B), to the extent the new budget
35 methodology pursuant to paragraph (6) of subdivision (a) of Section 14154 is not
36 fully operational, for the purposes of implementing this section, for individuals
37 described in subdivision (a) whose family income has been determined to be at or
38 below 150 percent of the federal poverty level, after application of the disregard
39 pursuant to paragraph (2) of subdivision (a) of Section 14005.26, the department
40 shall utilize the budgeting methodology for this population as contained in the
41 November 2011 Medi-Cal Local Assistance Estimate for Medi-Cal county
42 administration costs for eligibility operations.

1 (B) Effective January 1, 2014, the federal poverty level percentage used under
2 subparagraph (A) for individuals described in subdivision (a) shall equal 160
3 percent of the federal poverty level as determined, counted, and valued in
4 accordance with the requirements of Section 14005.64.

5 (2)(A) Except as provided in subparagraph (B), for purposes of implementing this
6 section, the department shall include in the Medi-Cal Local Assistance Estimate an
7 amount for Medi-Cal eligibility operations associated with the transfer of Healthy
8 Families Program enrollees eligible pursuant to subdivision (a) of Section 14005.26
9 and whose family income is determined to be above 150 percent and up to and
10 including 200 percent of the federal poverty level, after application of the income
11 disregard pursuant to paragraph (2) of subdivision (a) of Section 14005.26. In
12 developing an estimate for this activity, the department shall consider the projected
13 number of final eligibility determinations each county will process and projected
14 county costs. Within 60 days of the passage of the annual Budget Act, the
15 department shall notify each county of their allocation for this activity based upon
16 the amount allotted in the annual Budget Act for this purpose.

17 (B) Effective January 1, 2014, for purposes of implementing this section, the
18 department shall include in the Medi-Cal Local Assistance Estimate an amount for
19 Medi-Cal eligibility operations associated with the transfer of Healthy Families
20 Program enrollees eligible pursuant to subdivision (a) or (b) of Section 14005.26
21 and whose family income is determined to be above 160 percent and up to and
22 including 261 percent of the federal poverty level.

23 (l) When the new budget methodology pursuant to paragraph (6) of subdivision
24 (a) of Section 14154 is fully operational, the new budget methodology shall be
25 utilized to reimburse counties for eligibility determinations made for individuals
26 pursuant to this section.

27 (m) Except as provided in subdivision (b), eligibility determinations and annual
28 redeterminations made pursuant to this section shall be performed by county
29 eligibility workers.

30 (n) In conducting the eligibility determinations for individuals pursuant to this
31 section and Section 14005.26, the following reporting and performance standards
32 shall apply to all counties:

33 (1) Counties shall report to the department, in a manner and for a time period
34 determined by the department, in consultation with the County Welfare Directors
35 Association, the number of applications processed on a monthly basis, a breakout
36 of the applications based on income using the federal percentage of poverty levels,
37 the final disposition of each application, including information on the approved
38 Medi-Cal program, if applicable, and the average number of days it took to make
39 the final eligibility determination for applications submitted directly to the county
40 and from the single point of entry (SPE).

41 (2) Notwithstanding any other law, the following performance standards shall be
42 applied to counties for eligibility determinations for individuals eligible pursuant to
43 this section:

1 (A) For children whose applications are received by the county human services
2 department from the SPE, the following standards shall apply:

3 (i) Applications for children who are granted accelerated enrollment by the SPE
4 shall be processed according to the timeframes specified in subdivision (d) of
5 Section 14154.

6 (ii) Applications for children who are not granted accelerated enrollment by the
7 SPE due to the existence of an already active Medi-Cal case shall be processed
8 according to the timeframes specified in subdivision (d) of Section 14154.

9 (iii) For applications for children who are not described in clause (i) or (ii), 90
10 percent shall be processed within 10 working days of being received, complete and
11 without client errors.

12 (iv) If an application described in this section also contains adults, and the adult
13 applicants are required to submit additional information beyond the information
14 provided for the children, the county shall process the eligibility for the child or
15 children without delay, consistent with this section while gathering the necessary
16 information to process eligibility for the adults.

17 (B) The department, in consultation with the County Welfare Directors
18 Association, shall develop reporting requirements for the counties to provide regular
19 data to the state regarding the timeliness and outcomes of applications processed by
20 the counties that are received from the SPE.

21 (C) Performance thresholds and corrective action standards as set forth in Section
22 14154 shall apply.

23 (D) For applications received directly by the county, these applications shall be
24 processed by the counties in accordance with the performance standards established
25 under subdivision (d) of Section 14154.

26 (3) This subdivision shall be implemented no sooner than January 1, 2013.

27 (4) Twelve months after implementation of this section pursuant to subdivision
28 (e), the department shall provide enrollment information regarding individuals
29 determined eligible pursuant to subdivision (a) to the fiscal and appropriate policy
30 committees of the Legislature.

31 (o)(1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1
32 of Division 3 of Title 2 of the Government Code, for purposes of this transition, the
33 department, without taking any further regulatory action, shall implement, interpret,
34 or make specific this section by means of all-county letters, plan letters, plan or
35 provider bulletins, or similar instructions until the time regulations are adopted. It is
36 the intent of the Legislature that the department be allowed temporary authority as
37 necessary to implement program changes until completion of the regulatory process.

38 (2) To the extent otherwise required by Chapter 3.5 (commencing with Section
39 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department
40 shall adopt emergency regulations implementing this section no later than July 1,
41 2014. The department may thereafter readopt the emergency regulations pursuant
42 to that chapter. The adoption and readoption, by the department, of regulations
43 implementing this section shall be deemed to be an emergency and necessary to

1 avoid serious harm to the public peace, health, safety, or general welfare for
2 purposes of Sections 11346.1 and 11349.6 of the Government Code, and the
3 department is hereby exempted from the requirement that it describe facts showing
4 the need for immediate action and from review by the Office of Administrative Law.

5 (p) To implement this section, the department may enter into and continue
6 contracts with the Healthy Families Program administrative vendor, for the purposes
7 of implementing and maintaining the necessary systems and activities for providing
8 health care coverage to optional targeted low-income children in the Medi-Cal
9 program for purposes of accelerated enrollment application processing by single
10 point of entry, noneligibility-related case maintenance and premium collection,
11 maintenance of the Health-E-App Web portal, call center staffing and operations,
12 certified application assistant services, and reporting capabilities. To further
13 implement this section, the department may also enter into a contract with the Health
14 Care Options Broker of the department for purposes of managed care enrollment
15 activities. The contracts entered into or amended under this section may initially be
16 completed on a noncompetitive bid basis and are exempt from the Public Contract
17 Code. Contracts thereafter shall be entered into or amended on a competitive bid
18 basis and shall be subject to the Public Contract Code.

19 (q)(1) If at any time the director determines that this section or any part of this
20 section may jeopardize the state's ability to receive federal financial participation
21 under the federal Patient Protection and Affordable Care Act (Public Law 111-148),
22 or any amendment or extension of that act, or any additional federal funds that the
23 director, in consultation with the Department of Finance, determines would be
24 advantageous to the state, the director shall give notice to the fiscal and policy
25 committees of the Legislature and to the Department of Finance. After giving notice,
26 this section or any part of this section shall become inoperative on the date that the
27 director executes a declaration stating that the department has determined, in
28 consultation with the Department of Finance, that it is necessary to cease to
29 implement this section or a part or parts thereof in order to receive federal financial
30 participation, any increase in the federal medical assistance percentage available on
31 or after October 1, 2008, or any additional federal funds that the director, in
32 consultation with the Department of Finance, has determined would be
33 advantageous to the state.

34 (2) The director shall retain the declaration described in paragraph (1), shall
35 provide a copy of the declaration to the Secretary of State, the Secretary of the
36 Senate, the Chief Clerk of the Assembly, and the Legislative Counsel, and shall post
37 the declaration on the department's Internet Web site.

38 (3) In the event that the director makes a determination under paragraph (1) and
39 this section ceases to be implemented, the children shall be enrolled back into the
40 Healthy Families Program.

41 **Comment.** Section 14005.27 is amended to reflect nonsubstantive recodification of the
42 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
43 Comm'n Reports __ (2019).

1 The section is also amended to eliminate gendered pronouns and make a grammatical correction.

2 **§ 14087.5 (amended). Contract negotiations, regulations, federal waivers, and disclosure**
3 **requirements**

4 SEC. _____. Section 14087.5 of the Welfare and Institutions Code is amended to
5 read:

6 14087.5. (a) The California Medical Assistance Commission may negotiate
7 exclusive contracts with any county ~~which~~ that seeks to provide, or arrange for the
8 provision ~~of~~ of, the health care services provided under this chapter. The California
9 Medical Assistance Commission shall establish regulations concerning the time for
10 submittal of proposed plans for a contract by a county, and for the time by which
11 the California Medical Assistance Commission shall decide whether or not to accept
12 the county’s proposal.

13 (b) The department shall seek all federal waivers necessary to allow for federal
14 financial participation in expenditures under this article. This article shall not be
15 implemented until all necessary waivers have been approved by the federal
16 government.

17 (c)(1) Notwithstanding subdivision (a) or any other provision of law, on and after
18 the effective date of the act adding this subdivision, the department shall have
19 exclusive authority to negotiate the rates, terms, and conditions of county organized
20 health systems contracts and contract amendments under this article or under Article
21 7 (commencing with Section 14490) of Chapter 8. As of that date, all references in
22 this article to the negotiator or the California Medical Assistance Commission shall
23 mean the department.

24 (2) For contracts executed pursuant to this article, the department shall disclose,
25 upon request, each negotiated contract or contract amendment executed by both
26 parties after July 1, 2007, which shall be considered public records for the purposes
27 of the California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~
28 ~~of Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
29 Government Code), including contracts that reveal the department’s rates of
30 payment for health care services, the rates themselves, and rate manuals.

31 **Comment.** Section 14087.5 is amended to reflect nonsubstantive recodification of the California
32 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
33 Reports __ (2019).

34 The section is also amended to make grammatical corrections.

35 **§ 14087.36 (amended). Health authority in City and County of San Francisco**

36 SEC. _____. Section 14087.36 of the Welfare and Institutions Code is amended to
37 read:

38 14087.36. (a) The following definitions shall apply for purposes of this section:

39 (1) “County” means the City and County of San Francisco.

40 (2) “Board” means the Board of Supervisors of the City and County of San
41 Francisco.

42 (3) “Department” means the State Department of Health Care Services.

1 (4) “Governing body” means the governing body of the health authority.

2 (5) “Health authority” means the separate public agency established by the board
3 of supervisors to operate a health care system in the county and to engage in the
4 other activities authorized by this section.

5 (b) The Legislature finds and declares that it is necessary that a health authority
6 be established in the county to arrange for the provision of health care services in
7 order to meet the problems of the delivery of publicly assisted medical care in the
8 county, to enter into a contract with the department under Article 2.97 (commencing
9 with Section 14093), or to contract with a health care service plan on terms and
10 conditions acceptable to the department, and to demonstrate ways of promoting
11 quality care and cost efficiency.

12 (c) The county may, by resolution or ordinance, establish a health authority to act
13 as and be the local initiative component of the Medi-Cal state plan pursuant to
14 regulations adopted by the department. If the board elects to establish a health
15 authority, all rights, powers, duties, privileges, and immunities vested in a county
16 under Article 2.8 (commencing with Section 14087.5) and Article 2.97
17 (commencing with Section 14093) shall be vested in the health authority. The health
18 authority shall have all power necessary and appropriate to operate programs
19 involving health care services, including, but not limited to, the power to acquire,
20 possess, and dispose of real or personal property, to employ personnel and contract
21 for services required to meet its obligations, to sue or be sued, to take all actions and
22 engage in all public and private business activities, subject to any applicable
23 licensure, as permitted a health care service plan pursuant to Chapter 2.2
24 (commencing with Section 1340) of Division 2 of the Health and Safety Code, and
25 to enter into agreements under Chapter 5 (commencing with Section 6500) of
26 Division 7 of Title 1 of the Government Code.

27 (d)(1)(A) The health authority shall be considered a public entity for purposes of
28 Division 3.6 (commencing with Section 810) of Title 1 of the Government Code,
29 separate and distinct from the county, and shall file the statement required by
30 Section 53051 of the Government Code. The health authority shall have primary
31 responsibility to provide the defense and indemnification required under Division
32 3.6 (commencing with Section 810) of Title 1 of the Government Code for
33 employees of the health authority who are employees of the county. The health
34 authority shall provide insurance under terms and conditions required by the county
35 in order to satisfy its obligations under this section.

36 (B) For purposes of this paragraph, “employee” shall have the same meaning as
37 set forth in Section 810.2 of the Government Code.

38 (2) The health authority shall not be considered to be an agency, division,
39 department, or instrumentality of the county and shall not be subject to the
40 personnel, procurement, or other operational rules of the county.

41 (3) Notwithstanding any other provision of law, any obligations of the health
42 authority, statutory, contractual, or otherwise, shall be the obligations solely of the

1 health authority and shall not be the obligations of the county, unless expressly
2 provided for in a contract between the authority and the county, nor of the state.

3 (4) Except as agreed to by contract with the county, no liability of the health
4 authority shall become an obligation of the county upon either termination of the
5 health authority or the liquidation or disposition of the health authority's remaining
6 assets.

7 (e)(1) To the full extent permitted by federal law, the department and the health
8 authority may enter into contracts to provide or arrange for health care services for
9 any or all persons who are eligible to receive benefits under the Medi-Cal program.
10 The contracts may be on an exclusive or nonexclusive basis, and shall include
11 payment provisions on any basis negotiated between the department and the health
12 authority. The health authority may also enter into contracts for the provision of
13 health care services to individuals including, but not limited to, those covered under
14 Subchapter XVIII (commencing with Section 1395) of Chapter 7 of Title 42 of the
15 United States Code, individuals employed by public agencies and private
16 businesses, and uninsured or indigent individuals.

17 (2) Notwithstanding paragraph (1), or subdivision (f), the health authority may
18 not operate health plans or programs for individuals covered under Subchapter
19 XVIII (commencing with Section 1395) of Chapter 7 of Title 42 of the United States
20 Code, or for private businesses, until the health authority is in full compliance with
21 all of the requirements of the Knox-Keene Health Care Service Plan Act of 1975
22 under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and
23 Safety Code, including tangible net equity requirements applicable to a licensed
24 health care service plan. This limitation shall not preclude the health authority from
25 enrolling persons pursuant to the county's obligations under Section 17000, or from
26 enrolling county employees.

27 (f) The board of supervisors may transfer responsibility for administration of
28 county-provided health care services to the health authority for the purpose of
29 service of populations including uninsured and indigent persons, subject to the
30 provisions of any ordinances or resolutions passed by the county board of
31 supervisors. The transfer of administrative responsibility for those health care
32 services shall not relieve the county of its responsibility for indigent care pursuant
33 to Section 17000. The health authority may also enter into contracts for the
34 provision of health care services to individuals including, but not limited to, those
35 covered under Subchapter XVIII (commencing with Section 1395) of Chapter 7 of
36 Title 42 of the United States Code, and individuals employed by public agencies
37 and private businesses.

38 (g) Upon creation, the health authority may borrow from the county and the
39 county may lend the authority funds, or issue revenue anticipation notes to obtain
40 those funds necessary to commence operations or perform the activities of the health
41 authority. Notwithstanding any other provision of law, both the county and the
42 health authority shall be eligible to receive funding under subdivision (p) of Section
43 14163.

1 (h) The county may terminate the health authority, but only by an ordinance
2 approved by a two-thirds affirmative vote of the full board.

3 (i) Prior to the termination of the health authority, the county shall notify the
4 department of its intent to terminate the health authority. The department shall
5 conduct an audit of the health authority's records within 30 days of notification to
6 determine the liabilities and assets of the health authority. The department shall
7 report its findings to the county and to the Department of Managed Health Care
8 within 10 days of completion of the audit. The county shall prepare a plan to
9 liquidate or otherwise dispose of the assets of the health authority and to pay the
10 liabilities of the health authority to the extent of the health authority's assets, and
11 present the plan to the department and the Department of Managed Health Care
12 within 30 days upon receipt of these findings.

13 (j) Any assets of the health authority derived from the contract entered into
14 between the state and the authority pursuant to Article 2.97 (commencing with
15 Section 14093), after payment of the liabilities of the health authority, shall be
16 disposed of pursuant to the contract.

17 (k)(1) The governing body shall consist of 18 voting members, 14 of whom shall
18 be appointed by resolution or ordinance of the board as follows:

19 (A) One member shall be a member of the board or any other person designated
20 by the board.

21 (B) One member shall be a person who is employed in the senior management of
22 a hospital not operated by the county or the University of California and who is
23 nominated by the San Francisco Section of the West Bay Hospital Conference or
24 any successor organization, or if there is no successor organization, a person who
25 shall be nominated by the Hospital Council of Northern and Central California.

26 (C) Two members, one of whom shall be a person employed in the senior
27 management of San Francisco General Hospital and one of whom shall be a person
28 employed in the senior management of St. Luke's Hospital (San Francisco). If San
29 Francisco General Hospital or St. Luke's Hospital, at the end of the term of the
30 person appointed from its senior management, is not designated as a
31 disproportionate share hospital, and if the governing body, after providing an
32 opportunity for comment by the West Bay Hospital Conference, or any successor
33 organization, determines that the hospital no longer serves an equivalent patient
34 population, the governing body may, by a two-thirds vote of the full governing
35 body, select an alternative hospital to nominate a person employed in its senior
36 management to serve on the governing body. Alternatively, the governing body may
37 approve a reduction in the number of positions on the governing body as set forth
38 in subdivision (p).

39 (D) Two members shall be employees in the senior management of either private
40 nonprofit community clinics or a community clinic consortium, nominated by the
41 San Francisco Community Clinic Consortium, or any successor organization.

42 (E) Two members shall be physicians, nominated by the San Francisco Medical
43 Society, or any successor organization.

1 (F) One member shall be nominated by the San Francisco Labor Council, or any
2 successor organization.

3 (G) Two members shall be persons nominated by the member advisory committee
4 of the health authority. Nominees of the member advisory committee shall be
5 enrolled in any of the health insurance or health care coverage programs operated
6 by the health authority or be the parent or legal guardian of an enrollee in any of the
7 health insurance or health care coverage programs operated by the health authority.

8 (H) Two members shall be persons knowledgeable in matters relating to either
9 traditional safety net providers, health care organizations, the Medi-Cal program, or
10 the activities of the health authority, nominated by the program committee of the
11 health authority.

12 (I) One member shall be a person nominated by the San Francisco Pharmacy
13 Leadership Group, or any successor organization.

14 (2) One member, selected to fulfill the appointments specified in subparagraph
15 (A), (G), or (H) shall, in addition to representing ~~his or her~~ the member's specified
16 organization or employer, represent the discipline of nursing, and shall possess or
17 be qualified to possess a registered nursing license.

18 (3) The initial members appointed by the board under the subdivision shall be, to
19 the extent those individuals meet the qualifications set forth in this subdivision and
20 are willing to serve, those persons who are members of the steering committee
21 created by the county to develop the local initiative component of the Medi-Cal state
22 plan in San Francisco. Following the initial staggering of terms, each of those
23 members shall be appointed to a term of three years, except the member appointed
24 pursuant to subparagraph (A) of paragraph (1), who shall serve at the pleasure of
25 the board. At the first meeting of the governing body, the members appointed
26 pursuant to this subdivision shall draw lots to determine seven members whose
27 initial terms shall be for two years. Each member shall remain in office at the
28 conclusion of that member's term until a successor member has been nominated and
29 appointed.

30 (l) In addition to the requirements of subdivision (k), one member of the
31 governing body shall be appointed by the Mayor of the City of San Francisco to
32 serve at the pleasure of the mayor, one member shall be the county's director of
33 public health or designee, who shall serve at the pleasure of that director, one
34 member shall be the Chancellor of the University of California at San Francisco or
35 ~~his or her~~ the chancellor's designee, who shall serve at the pleasure of the chancellor,
36 and one member shall be the county director of mental health or ~~his or her~~ the
37 director's designee, who shall serve at the pleasure of that director.

38 (m) There shall be one nonvoting member of the governing body who shall be
39 appointed by, and serve at the pleasure of, the health commission of the county.

40 (n) Each person appointed to the governing body shall, throughout the member's
41 term, either be a resident of the county or be employed within the geographic
42 boundaries of the county.

1 (o)(1) The composition of the governing body and nomination process for
2 appointment of its members shall be subject to alteration upon a two-thirds vote of
3 the full membership of the governing body. This action shall be concurred in by a
4 resolution or ordinance of the county.

5 (2) Notwithstanding paragraph (1), no alteration described in that paragraph shall
6 cause the removal of a member prior to the expiration of that member's term.

7 (p) A majority of the members of the governing body shall constitute a quorum
8 for the transaction of business, and all official acts of the governing body shall
9 require the affirmative vote of a majority of the members present and voting.
10 However, no official shall be approved with less than the affirmative vote of six
11 members of the governing body, unless the number of members prohibited from
12 voting because of conflicts of interest precludes adequate participation in the vote.
13 The governing body may, by a two-thirds vote adopt, amend, or repeal rules and
14 procedures for the governing body. Those rules and procedures may require that
15 certain decisions be made by a vote that is greater than a majority vote.

16 (q) For purposes of Section 87103 of the Government Code, members appointed
17 pursuant to subparagraphs (B) to (E), inclusive, of paragraph (1) of subdivision (k)
18 represent, and are appointed to represent, respectively, the hospitals, private
19 nonprofit community clinics, and physicians that contract with the health authority,
20 or the health care service plan with which the health authority contracts, to provide
21 health care services to the enrollees of the health authority or the health care service
22 plan. Members appointed pursuant to subparagraphs (F) and (G) of paragraph (1) of
23 subdivision (k) represent, and are appointed to represent, respectively, the health
24 care workers and enrollees served by the health authority or its contracted health
25 care service plan, and traditional safety net and ancillary providers and other
26 organizations concerned with the activities of the health authority.

27 (r) A member of the governing body may be removed from office by the board by
28 resolution or ordinance, only upon the recommendation of the health authority, and
29 for any of the following reasons:

30 (1) Failure to retain the qualifications for appointment specified in subdivisions
31 (k) and (n).

32 (2) Death or a disability that substantially interferes with the member's ability to
33 carry out the duties of office.

34 (3) Conviction of any felony or a crime involving corruption.

35 (4) Failure of the member to discharge legal obligations as a member of a public
36 agency.

37 (5) Substantial failure to perform the duties of office, including, but not limited
38 to, unreasonable absence from meetings. The failure to attend three meetings in a
39 row of the governing body, or a majority of the meetings in the most recent calendar
40 year, may be deemed to be unreasonable absence.

41 (s) Any vacancy on the governing body, however created, shall be filled for the
42 unexpired term by the board by resolution or ordinance. Each vacancy shall be filled

1 by an individual having the qualifications of his or her predecessor, nominated as
2 set forth in subdivision (k).

3 (t) The chair of the authority shall be selected by, and serve at the pleasure of, the
4 governing body.

5 (u) The health authority shall establish all of the following:

6 (1) A member advisory committee to advise the health authority on issues of
7 concern to the recipients of services.

8 (2) A program committee to advise the health authority on matters relating to
9 traditional safety net providers, ancillary providers, and other organizations
10 concerned with the activities of the health authority.

11 (3) Any other committees determined to be advisable by the health authority.

12 (v)(1) Notwithstanding any provision of state or local law, including, but not
13 limited to, the county charter, a member of the health authority shall not be deemed
14 to be interested in a contract entered into by the authority within the meaning of
15 Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of
16 the Government Code, or within the meaning of conflict-of-interest restrictions in
17 the county charter, if all of the following apply:

18 (A) The member does not influence or attempt to influence the health authority or
19 another member of the health authority to enter into the contract in which the
20 member is interested.

21 (B) The member discloses the interest to the health authority and abstains from
22 voting on the contract.

23 (C) The health authority notes the member's disclosure and abstention in its
24 official records and authorizes the contract in good faith by a vote of its membership
25 sufficient for the purpose without counting the vote of the interested member.

26 (D) The member has an interest in or was appointed to represent the interests of
27 physicians, health care practitioners, hospitals, pharmacies, or other health care
28 organizations.

29 (E) The contract authorizes the member or the organization the member has an
30 interest in or represents to provide services to beneficiaries under the authority's
31 program or administrative services to the authority.

32 (2) In addition, no person serving as a member of the governing body shall, by
33 virtue of that membership, be deemed to be engaged in activities that are
34 inconsistent, incompatible, or in conflict with their duties as an officer or employee
35 of the county or the University of California, or as an officer or an employee of any
36 private hospital, clinic, or other health care organization. The membership shall not
37 be deemed to be in violation of Section 1126 of the Government Code.

38 (w) Notwithstanding any other provision of law, those records of the health
39 authority and of the county that reveal the authority's rates of payment for health
40 care services or the health authority's deliberative processes, discussions,
41 communications, or any other portion of the negotiations with providers of health
42 care services for rates of payment, or the health authority's peer review proceedings
43 shall not be required to be disclosed pursuant to the California Public Records Act

1 ~~(Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
2 (commencing with Section 7920.000) of Title 1 of the Government Code), or any
3 similar local law requiring the disclosure of public records. However, three years
4 after a contract or amendment to a contract is fully executed, the portion of the
5 contract or amendment containing the rates of payment shall be open to inspection.

6 (x) Notwithstanding any other provision of law, the health authority may meet in
7 closed session to consider and take action on peer review proceedings and on
8 matters pertaining to contracts and contract negotiations by the health authority's
9 staff with providers of health care services concerning all matters relating to rates
10 of payment. However, a decision as to whether to enter into, amend the services
11 provisions of, or terminate, other than for reasons based upon peer review, a contract
12 with a provider of health care services, shall be made in open session.

13 (y)(1)(A) Notwithstanding the Ralph M. Brown Act (Chapter 9 (commencing
14 with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), the
15 governing board of the health authority may meet in closed session for the purpose
16 of discussion of, or taking action on matters involving, health authority trade secrets.

17 (B) The requirement that the authority make a public report of actions taken in
18 closed session and the vote or abstention of every member present may be limited
19 to a brief general description of the action taken and the vote so as to prevent the
20 disclosure of a trade secret.

21 (C) For purposes of this subdivision, "health authority trade secret" means a trade
22 secret, as defined in subdivision (d) of Section 3426.1 of the Civil Code, that also
23 meets both of the following criteria:

24 (i) The secrecy of the information is necessary for the health authority to initiate
25 a new service, program, marketing strategy, business plan, or technology, or to add
26 a benefit or product.

27 (ii) Premature disclosure of the trade secret would create a substantial probability
28 of depriving the health authority of a substantial economic benefit or opportunity.

29 (2) Those records of the health authority that reveal the health authority's trade
30 secrets are exempt from disclosure pursuant to the California Public Records Act
31 ~~(Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
32 (commencing with Section 7920.000) of Title 1 of the Government Code), or any
33 similar local law requiring the disclosure of public records. This exemption shall
34 apply for a period of two years after the service, program, marketing strategy,
35 business plan, technology, benefit, or product that is the subject of the trade secret
36 is formally adopted by the governing body of the health authority, provided that the
37 service, program, marketing strategy, business plan, technology, benefit, or product
38 continues to be a trade secret. The governing board may delete the portion or
39 portions containing trade secrets from any documents that were finally approved in
40 the closed session held pursuant to this subdivision that are provided to persons who
41 have made the timely or standing request.

42 (z) The health authority shall be deemed to be a public agency for purposes of all
43 grant programs and other funding and loan guarantee programs.

1 (aa) Contracts under this article between the State Department of Health Services
2 and the health authority shall be on a nonbid basis and shall be exempt from Chapter
3 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract
4 Code.

5 (ab)(1) The county controller or ~~his or her~~ the controller's designee, at intervals
6 the county controller deems appropriate, shall conduct a review of the fiscal
7 condition of the health authority, shall report the findings to the health authority and
8 the board, and shall provide a copy of the findings to any public agency upon
9 request.

10 (2) Upon the written request of the county controller, the health authority shall
11 provide full access to the county controller all health authority records and
12 documents as necessary to allow the county controller or ~~his or her~~ the controller's
13 designee to perform the activities authorized by this subdivision.

14 (ac) A Medi-Cal recipient receiving services through the health authority shall be
15 deemed to be a subscriber or enrollee for purposes of Section 1379 of the Health
16 and Safety Code.

17 **Comment.** Section 14087.36 is amended to reflect nonsubstantive recodification of the
18 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
19 Comm'n Reports __ (2019).

20 The section is also amended to eliminate gendered pronouns.

21 **§ 14087.58 (amended). Records of special commission**

22 SEC. _____. Section 14087.58 of the Welfare and Institutions Code is amended to
23 read:

24 14087.58. (a) Notwithstanding any other provision of law, those records of a
25 special commission formed pursuant to this article that reveal the commission's
26 rates of payment for health care services or the commission's deliberative processes,
27 discussions, communications, or any other portion of the negotiations with
28 providers of health care services for rates of payment, shall not be required to be
29 disclosed pursuant to the California Public Records Act, ~~Chapter 5 (commencing~~
30 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
31 of Title 1 of the Government Code, or any similar local law requiring the disclosure
32 of public records. However, three years after a contract or contract amendment has
33 been executed, the portion of the contract or contract amendment relating to the
34 rates of payment shall be open to inspection under ~~Chapter 3.5 (commencing with~~
35 ~~Section 6250) of Division 7 of Title 1~~ Division 10 (commencing with Section
36 7920.000) of Title 1 of the Government Code.

37 (b) Notwithstanding the California Public Records Act, or Article 9 (commencing
38 with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, and Chapter
39 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of, the
40 Government Code, or any other provision of state or local law requiring disclosure
41 of public records, those health care peer review and quality assessment records of a
42 special commission authorized by this article, or a committee thereof, shall not be

1 subject to disclosure. These records and proceedings of ~~any such~~ the commission or
2 committee and individual members of the commission or committee thereof shall
3 be afforded all immunities, privileges, and protections available to “peer review
4 bodies” as defined under Section 805 of the Business and Professions Code,
5 including the protections of Section 1157 of the Evidence Code.

6 **Comment.** Section 14087.58 is amended to reflect nonsubstantive recodification of the
7 California Public Records Act (“CPRA”). See *California Public Records Act Clean-Up*, __ Cal. L.
8 Revision Comm’n Reports __ (2019). By updating the references to the CPRA, the amendment
9 also eliminates an erroneous reference to “Chapter 5” (as opposed to “Chapter 3.5”) and an
10 erroneous reference to “Title I” (as opposed to “Title 1”).

11 The section is also amended to make a technical change.

12 **§ 14087.98 (amended). Comprehensive program of managed health care plan services for**
13 **Medi-Cal recipients in specified counties**

14 SEC. ____. Section 14087.98 of the Welfare and Institutions Code is amended to
15 read:

16 14087.98. (a) The purpose of this article is to provide a comprehensive program
17 of managed health care plan services to Medi-Cal recipients residing in the
18 following counties that currently receive Medi-Cal services on a fee-for-service
19 basis: Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn,
20 Humboldt, Imperial, Inyo, Lake, Lassen, Mariposa, Modoc, Nevada, Mono, Placer,
21 Plumas, San Benito, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Tuolumne,
22 and Yuba.

23 (b) The director may enter into exclusive or nonexclusive contracts on a bid or
24 negotiated basis with one or more managed health care plans to provide a
25 comprehensive program of managed health care plan services to Medi-Cal
26 recipients residing in the counties described in subdivision (a). The director shall
27 give special consideration to managed health care plans that meet all of the
28 following:

29 (1) Have demonstrated experience in effectively serving Medi-Cal beneficiaries,
30 including diverse populations.

31 (2) Have demonstrated experience in effectively partnering with public and
32 traditional safety net health care providers.

33 (3) Have demonstrated experience in working with local stakeholders, including
34 consumers, providers, advocates, and county officials, in plan oversight and in
35 delivery of care.

36 (4) Have the lowest administrative costs.

37 (5) Show support from local county officials as demonstrated by an action of the
38 county board of supervisors.

39 (6) Show recent successful experience with expansion of managed care to a rural
40 area.

41 (7) Offer a quality improvement program for primary care providers.

42 (c) Contracts entered into or amended pursuant to this section shall be exempt
43 from the provisions of Chapter 2 (commencing with Section 10290) of Part 2 of

1 Division 2 of the Public Contract Code and Chapter 6 (commencing with Section
2 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code.

3 (d) The managed health care plans that the department contracts with under this
4 article shall comply with the requirements of Section 14087.48 and meet all of the
5 following:

6 (1) Have Medi-Cal managed health care plan contract experience, or evidence of
7 the ability to meet these contracting requirements.

8 (2) Be in good financial standing and meet licensure requirements under the
9 Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with
10 Section 1340) of Division 2 of the Health and Safety Code), if applicable.

11 (3) Meet quality measures, which may include Medi-Cal and Medicare Healthcare
12 Effectiveness Data and Information Set measures and other quality measures
13 determined or developed by the department and the federal Centers for Medicare
14 and Medicaid Services.

15 (e) The managed health care plans that the department contracts with under this
16 article shall provide Medi-Cal beneficiaries with information about enrollment
17 rights and options, plan benefits and rules, and care plan elements so that
18 beneficiaries have the ability to make informed choices. This information shall be
19 delivered in a format and language accessible to beneficiaries. The managed health
20 care plans shall provide access to providers in compliance with applicable state and
21 federal laws, including, but not limited to, physical accessibility and the provision
22 of health plan information in alternative formats.

23 (f) The department shall conduct a stakeholder process including relevant
24 stakeholders to ensure that beneficiaries, health care providers, and managed health
25 care plans have an opportunity to provide input into the delivery model for these
26 counties and to help ensure smooth care transitions for beneficiaries.

27 (g) Enrollment in a Medi-Cal managed health care plan or plans under this article
28 shall be mandatory in order to receive services under Medi-Cal, except as otherwise
29 provided by law.

30 (h) Each beneficiary or eligible applicant shall be informed that ~~he or she~~ the
31 beneficiary or applicant may choose to continue an established patient-provider
32 relationship if ~~his or her~~ the person's treating provider is a primary care provider or
33 clinic contracting with the managed health care plan, has the available capacity, and
34 agrees to continue to treat that beneficiary or eligible applicant. The managed health
35 care plans shall comply with continuity of care requirements in Section 1373.96 of
36 the Health and Safety Code.

37 (i)(1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1
38 of Division 3 of Title 2 of the Government Code, the department may implement,
39 interpret, or make specific this section and amend regulations and orders adopted
40 by the department by means of plan letters, plan or provider bulletins, or similar
41 instructions, without taking regulatory action, until the time regulations are adopted.
42 It is the intent of the Legislature that the department have temporary authority as
43 necessary to implement program changes until completion of the regulatory process.

1 (2) The department shall adopt emergency regulations no later than July 1, 2014.
2 The department may readopt any emergency regulation authorized by this section
3 that is the same as or substantially equivalent to an emergency regulation previously
4 adopted pursuant to this section. The initial adoption of emergency regulations
5 implementing this section shall be deemed an emergency and necessary for the
6 immediate preservation of the public peace, health, safety, or general welfare. Initial
7 emergency regulations and the one readoption of emergency regulations authorized
8 by this section shall be exempt from review by the Office of Administrative Law.

9 (3) The initial emergency regulations and the one readoption of emergency
10 regulations authorized by this section shall be submitted to the Office of
11 Administrative Law for filing with the Secretary of State and each shall remain in
12 effect for no more than 180 days, by which time final regulations may be adopted.

13 (j) The cost of any program established under this section shall not exceed the
14 total amount that the department estimates it would pay for all services and
15 requirements within the same geographic area under the fee-for-service Medi-Cal
16 program.

17 (k) The department shall have exclusive authority to set the rates, terms, and
18 conditions of managed health care plan contracts and contract amendments under
19 this article. The director may include in the contract a provision for quality
20 assurance withholding from the plan payment, to be paid only if quality measures
21 identified in the plan contract are met.

22 (l) The department shall provide the fiscal and appropriate policy committees of
23 the Legislature with quarterly updates, commencing January 1, 2014, and ending
24 January 1, 2016, regarding the expansion of Medi-Cal managed care into the new
25 counties authorized pursuant to this section. These updates shall include, but not be
26 limited to, continuity of care requests, grievance and appeal rates, and utilization
27 reports for the new counties.

28 (m) The department shall seek all necessary federal approvals to allow for federal
29 financial participation in expenditures under this article. This article shall not be
30 implemented until all necessary federal approvals have been obtained.

31 (n) This section shall be implemented only to the extent federal financial
32 participation or funding is available.

33 (o) Notwithstanding ~~subdivision (q) of Section 6254~~ Section 7926.220 of the
34 Government Code, a contract or contract amendments executed by both parties after
35 the effective date of the act adding this subdivision shall be considered a public
36 record for purposes of the California Public Records Act (~~Chapter 3.5 (commencing~~
37 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
38 of Title 1 of the Government Code) and shall be disclosed upon request. This
39 subdivision applies to contracts that reveal the department's rates of payment for
40 health care services, the rates themselves, and rate manuals.

41 (p) To implement this section, the department may contract with public or private
42 entities. Contracts or amendments entered into under this section may be on an

1 exclusive or nonexclusive basis and a noncompetitive bid basis and shall be exempt
2 from the following:

3 (1) Part 2 (commencing with Section 10100) of Division 2 of the Public Contract
4 Code and any policies, procedures, or regulations authorized by that part.

5 (2) Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division
6 5 of Title 2 of the Government Code.

7 (3) Review or approval of contracts by the Department of General Services.

8 **Comment.** Section 14087.98 is amended to reflect nonsubstantive recodification of the
9 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
10 Comm'n Reports __ (2019).

11 The section is also amended to eliminate gendered pronouns.

12 **§ 14089 (amended). Comprehensive program of managed health care plan services for**
13 **Medi-Cal recipients in defined geographic areas**

14 SEC. ____. Section 14089 of the Welfare and Institutions Code is amended to read:

15 14089. (a) The purpose of this article is to provide a comprehensive program of
16 managed health care plan services to Medi-Cal recipients residing in clearly defined
17 geographical areas. It is, further, the purpose of this article to create maximum
18 accessibility to health care services by permitting Medi-Cal recipients the option of
19 choosing from among two or more managed health care plans or fee-for-service
20 managed case arrangements, including, but not limited to, health maintenance
21 organizations, prepaid health plans, and primary care case management plans.
22 Independent practice associations, health insurance carriers, private foundations,
23 and university medical centers systems, not-for-profit clinics, and other primary
24 care providers, may be offered as choices to Medi-Cal recipients under this article
25 if they are organized and operated as managed care plans, for the provision of
26 preventive managed health care plan services.

27 (b) The department may seek proposals and then shall enter into contracts based
28 on relative costs, extent of coverage offered, quality of health services to be
29 provided, financial stability of the health care plan or carrier, recipient access to
30 services, cost-containment strategies, peer and community participation in quality
31 control, emphasis on preventive and managed health care services and the ability of
32 the health plan to meet all requirements for both of the following:

33 (1) Certification, where legally required, by the Director of the Department of
34 Managed Health Care and the Insurance Commissioner.

35 (2) Compliance with all of the following:

36 (A) The health plan shall satisfy all applicable state and federal legal requirements
37 for participation as a Medi-Cal managed care contractor.

38 (B) The health plan shall meet any standards established by the department for the
39 implementation of this article.

40 (C) The health plan receives the approval of the department to participate in the
41 pilot project under this article.

1 (c)(1)(A) The proposals shall be for the provision of preventive and managed
2 health care services to specified eligible populations on a capitated, prepaid, or
3 postpayment basis.

4 (B) Enrollment in a Medi-Cal managed health care plan under this article shall be
5 voluntary for beneficiaries eligible for the federal Supplemental Security Income
6 for the Aged, Blind, and Disabled Program (Subchapter 16 (commencing with
7 Section 1381) of Chapter 7 of Title 42 of the United States Code).

8 (2) The cost of each program established under this section shall not exceed the
9 total amount that the department estimates it would pay for all services and
10 requirements within the same geographic area under the fee-for-service Medi-Cal
11 program.

12 (d)(1) An eligible beneficiary shall be entitled to enroll in any health care plan
13 contracted for pursuant to this article that is in effect for the geographic area in
14 which ~~he or she~~ the beneficiary resides. The department shall make available to
15 recipients information summarizing the benefits and limitations of each health care
16 plan available pursuant to this section in the geographic area in which the recipient
17 resides. A Medi-Cal or CalWORKs applicant or beneficiary shall be informed of
18 the health care options available regarding methods of receiving Medi-Cal benefits.
19 The county shall ensure that each beneficiary is informed of these options and
20 informed that a health care options presentation is available.

21 (2) No later than 30 days following the date a Medi-Cal or CalWORKs recipient
22 is informed of the health care options described in paragraph (1), the recipient shall
23 indicate ~~his or her~~ the recipient's choice, in writing, of one of the available health
24 care plans and ~~his or her~~ the recipient's choice of primary care provider or clinic
25 contracting with the selected health care plan. Notwithstanding the 30-day deadline
26 set forth in this paragraph, if a beneficiary requests a directory for the entire service
27 area within 30 days of the date of receiving an enrollment form, the deadline for
28 choosing a plan shall be extended an additional 30 days from the date of that request.

29 (3) The health care options information described in this subdivision shall include
30 the following elements:

31 (A) Each beneficiary or eligible applicant shall be provided, at a minimum, with
32 the name, address, telephone number, and specialty, if any, of each primary care
33 provider, by specialty or clinic participating in each managed health care plan option
34 through a personalized provider directory for that beneficiary or applicant. This
35 information shall be presented under the geographic area designations by the name
36 of the primary care provider and clinic, and shall be updated based on information
37 electronically provided monthly by the health care plans to the department, setting
38 forth changes in the health care plan provider network. The geographic areas shall
39 be based on the applicant's residence address, the minor applicant's school address,
40 the applicant's work address, or any other factor deemed appropriate by the
41 department, in consultation with health plan representatives, legislative staff, and
42 consumer stakeholders. In addition, directories of the entire service area, including,
43 but not limited to, the name, address, and telephone number of each primary care

1 provider and hospital, of all Geographic Managed Care health plan provider
2 networks shall be made available to beneficiaries or applicants who request them
3 from the health care options contractor. Each personalized provider directory shall
4 include information regarding the availability of a directory of the entire service
5 area, provide telephone numbers for the beneficiary to request a directory of the
6 entire service area, and include a postage-paid mail card to send for a directory of
7 the entire service area. The personalized provider directory shall be implemented as
8 a pilot project in Sacramento County pursuant to this article, and in Los Angeles
9 County (Two-Plan Model) pursuant to Article 2.7 (commencing with Section
10 14087.305). The content, form, and geographic areas used shall be determined by
11 the department in consultation with a workgroup to include health plan
12 representatives, legislative staff, and consumer stakeholders, with an emphasis on
13 the inclusion of stakeholders from Los Angeles and Sacramento Counties. The
14 personalized provider directories may include a section for each health plan. Prior
15 to implementation of the pilot project, the department, in consultation with
16 consumer stakeholders, legislative staff, and health plans, shall determine the
17 parameters, methodology, and evaluation process of the pilot project. The pilot
18 project shall thereafter be in effect for a minimum of two years. Following two years
19 of operation as a pilot project in two counties, the department, in consultation with
20 consumer stakeholders, legislative staff, and health plans, shall determine whether
21 to implement personalized provider directories as a permanent program statewide.
22 If necessary, the pilot project shall continue beyond the initial two-year period until
23 this determination is made. This pilot project shall only be implemented to the extent
24 that it is budget neutral to the department.

25 (B) Each beneficiary or eligible applicant shall be informed that ~~he or she~~ the
26 beneficiary or applicant may choose to continue an established patient-provider
27 relationship in a managed care option, if ~~his or her~~ the treating provider is a primary
28 care provider or clinic contracting with any of the health plans available and has the
29 available capacity and agrees to continue to treat that beneficiary or eligible
30 applicant.

31 (C) Each beneficiary or eligible applicant shall be informed that if ~~he or she~~ the
32 beneficiary or applicant fails to make a choice, ~~he or she~~ the beneficiary or applicant
33 shall be assigned to, and enrolled in, a health care plan.

34 (4) At the time the beneficiary or eligible applicant selects a health care plan, the
35 department shall, when applicable, encourage the beneficiary or eligible applicant
36 to also indicate, in writing, ~~his or her~~ that person's choice of primary care provider
37 or clinic contracting with the selected health care plan.

38 (5) Commencing with the implementation of a geographic managed care project
39 in a designated county, a Medi-Cal or CalWORKs beneficiary who does not make
40 a choice of health care plans in accordance with paragraph (2), shall be assigned to
41 and enrolled in an appropriate health care plan providing service within the area in
42 which the beneficiary resides.

1 (6) If a beneficiary or eligible applicant does not choose a primary care provider
2 or clinic, or does not select a primary care provider who is available, the health care
3 plan selected by or assigned to the beneficiary shall ensure that the beneficiary
4 selects a primary care provider or clinic within 30 days after enrollment or is
5 assigned to a primary care provider within 40 days after enrollment.

6 (7) A Medi-Cal or CalWORKs beneficiary dissatisfied with the primary care
7 provider or health care plan shall be allowed to select or be assigned to another
8 primary care provider within the same health care plan. In addition, the beneficiary
9 shall be allowed to select or be assigned to another health care plan contracted for
10 pursuant to this article that is in effect for the geographic area in which ~~he or she~~ the
11 beneficiary resides in accordance with Section 1903(m)(2)(F)(ii) of the Social
12 Security Act.

13 (8) The department or its contractor shall notify a health care plan when it has
14 been selected by or assigned to a beneficiary. The health care plan that has been
15 selected or assigned by a beneficiary shall notify the primary care provider that has
16 been selected or assigned. The health care plan shall also notify the beneficiary of
17 the health care plan and primary care provider selected or assigned.

18 (9) This section shall be implemented in a manner consistent with any federal
19 waiver that is required to be obtained by the department to implement this section.

20 (e) A participating county may include within the plan or plans providing
21 coverage pursuant to this section, employees of county government, and others who
22 reside in the geographic area and who depend upon county funds for all or part of
23 their health care costs.

24 (f) Funds may be provided to prospective contractors to assist in the design,
25 development, and installation of appropriate programs. The award of these funds
26 shall be based on criteria established by the department.

27 (g) In implementing this article, the department may enter into contracts for the
28 provision of essential administrative and other services. Contracts entered into under
29 this subdivision may be on a noncompetitive bid basis and shall be exempt from
30 Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public
31 Contract Code.

32 (h) Notwithstanding any other provision of law, on and after the effective date of
33 the act adding this subdivision, the department shall have exclusive authority to set
34 the rates, terms, and conditions of geographic managed care contracts and contract
35 amendments under this article. As of that date, all references to this article to the
36 negotiator or to the California Medical Assistance Commission shall be deemed to
37 mean the department.

38 (i) Notwithstanding ~~subdivision (q) of Section 6254~~ Section 7926.220 of the
39 Government Code, a contract or contract amendments executed by both parties after
40 the effective date of the act adding this subdivision shall be considered a public
41 record for purposes of the California Public Records Act (~~Chapter 3.5 (commencing~~
42 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
43 of Title 1 of the Government Code) and shall be disclosed upon request. This

1 subdivision includes contracts that reveal the department's rates of payment for
2 health care services, the rates themselves, and rate manuals.

3 **Comment.** Section 14089 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
5 Reports __ (2019).

6 The section is also amended to eliminate gendered pronouns.

7 **§ 14089.07 (amended). Stakeholder advisory committee**

8 SEC. ____. Section 14089.07 of the Welfare and Institutions Code is amended to
9 read:

10 14089.07. (a) The Sacramento County Department of Health and Human Services
11 may establish a stakeholder advisory committee to provide input on the delivery of
12 health care services provided in the county pursuant to this article, Section 14182,
13 and Part 3.6 (commencing with Section 15909). The advisory committee shall
14 include, but not be limited to, Medi-Cal beneficiaries, patient representatives, health
15 care providers, and representatives of Medi-Cal managed care health plans.

16 (b) The advisory committee may submit written input to the State Department of
17 Health Care Services regarding policies that improve coordination with traditional
18 and safety net providers, enhance the capacity of the county's health care delivery
19 system, and improve health care services and health outcomes.

20 (c) The advisory committee may request, in writing, and receive final reports
21 submitted to the department by any managed care health plan operating in
22 Sacramento County as long as the report is not exempt from disclosure pursuant to
23 ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
24 (commencing with Section 7920.000) of Title 1 of the Government Code, or any
25 other contractual, statutory, or legal exemption, or privilege. The advisory
26 committee may review and provide written comments to the department on these
27 reports, that may include issues such as evaluation of access, quality, and consumer
28 protections.

29 (d) No state General Fund moneys shall be used to fund advisory committee costs,
30 nor to fund any related administrative costs incurred by the county.

31 **Comment.** Section 14089.07 is amended to reflect nonsubstantive recodification of the
32 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
33 Comm'n Reports __ (2019).

34 **§ 14105.8 (amended). Contracts for enteral nutrition products**

35 SEC. ____. Section 14105.8 of the Welfare and Institutions Code is amended to
36 read:

37 14105.8. (a) The department may enter into contracts with manufacturers of
38 enteral nutrition products that can be used as a therapeutic regimen to prevent
39 serious disability or death in patients with medically diagnosed conditions that
40 preclude the full use of regular food, on a bid or nonbid basis. The department shall
41 maintain a list of those products for which contracts have been executed. For those

1 contracts that generate rebates, those rebates shall be managed through the
2 department's drug rebate accounting system.

3 (b)(1) To ensure that the health needs of Medi-Cal beneficiaries are met, the
4 department shall, when evaluating a decision to execute a contract, and when
5 evaluating enteral nutrition products for retention on, addition to, or deletion from,
6 the list of enteral nutrition products, consider all of the following criteria:

7 (A) The safety of the product.

8 (B) The effectiveness of the product.

9 (C) The essential need for the product.

10 (D) The potential for misuse of the product.

11 (E) The immediate or long-term cost effectiveness of the product.

12 (2) The deficiency of a product when measured by one of the criteria specified in
13 paragraph (1) may be sufficient to support a decision that the product should be
14 deleted from, should not be added to, or should not be retained on, the list of medical
15 supplies. However, the superiority of a product under one criterion may be sufficient
16 to warrant the addition or retention of the product, notwithstanding a deficiency in
17 another criterion.

18 (c) In order that Medi-Cal beneficiaries may have access to a comprehensive
19 range of enteral nutrition products pursuant to subdivision (a), the department shall
20 ensure that there is representation on the list of both general use and specialized use
21 enteral nutrition products. The department deems all products designed to meet the
22 normal needs of infants, and all products that are an incomplete source of nutrition,
23 including modular products, and all products intended for use in weight loss, are not
24 benefits of the Medi-Cal program. The department may deem an incomplete product
25 a benefit for patients with diagnoses, including, but not limited to, malabsorption
26 and inborn errors of metabolism, when the product either appropriately lacks only
27 an offending nutrient, or has been shown to not be investigational nor experimental
28 when used as part of a therapeutic regimen to prevent serious disability or death, or
29 when both conditions apply.

30 (d) In order to achieve maximum cost savings, the Legislature declares that an
31 expedited process for contracts under this section is necessary. Therefore, contracts
32 entered into on a nonbid basis shall be exempt from Chapter 2 (commencing with
33 Section 10290) of Part 2 of Division 2 of the Public Contract Code.

34 (e) Deletions made to the list of enteral nutrition products shall become effective
35 no sooner than 30 days after publication of the changes in provider bulletins.

36 (f) Changes made to the list of enteral nutrition products under this or any other
37 section are exempt from the requirements of the Administrative Procedure Act
38 (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with
39 Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of
40 Division 3 of Title 2 of the Government Code), and shall not be subject to the review
41 and approval of the Office of Administrative Law.

42 (g) The department may provide beneficiaries continuing care for products
43 deleted from the list of enteral nutrition products. The department shall assess the

1 need for continuing care based on the criteria in subdivision (b) and the potential
2 impact on beneficiary access to appropriate therapy. To be eligible for continuing
3 care status under this subdivision, a beneficiary must be taking the enteral nutrition
4 product when the product is deleted. Additionally, the department shall have
5 received a claim for the enteral nutrition product with a date of service that is within
6 100 days prior to the date the product was deleted. A beneficiary shall remain
7 eligible for continuing care status provided that a claim is submitted for the enteral
8 nutrition product in question at least every 100 days and the date of service of the
9 claim is within 100 days of the date of service of the last claim submitted for the
10 same enteral nutrition product.

11 (h) The department shall provide individual notice to Medi-Cal beneficiaries at
12 least 60 calendar days prior to the effective date of the deletion of any enteral
13 nutrition product from the list of enteral nutrition products. The notice shall include
14 a description of the beneficiary's right to a fair hearing and shall encourage the
15 beneficiary to consult a physician to determine if an appropriate substitute enteral
16 nutrition product is available from Medi-Cal.

17 (i) Enteral nutrition products authorized pursuant to subdivision (a) shall be
18 available only through prior authorization. The department may designate those
19 enteral nutrition products that are without a contract as not being a benefit of the
20 Medi-Cal program, except in the case of continuing care as described in subdivision
21 (h) of this section.

22 (j) Contracts executed pursuant to this section shall be confidential and shall be
23 exempt from disclosure under the California Public Records Act (~~Chapter 3.5~~
24 ~~(commencing with Section 6250)~~ of Division 7 Division 10 (commencing with
25 Section 7920.000) of Title 1 of the Government Code).

26 (k)(1) Manufacturers shall calculate and pay interest on late or unpaid rebates.

27 (2) Interest pursuant to paragraph (1) shall begin accruing 38 calendar days from
28 the date of mailing of the quarterly invoice, including supporting utilization data
29 sent to the manufacturer. Interest shall continue to accrue until the date of mailing
30 of the manufacturer's payment.

31 (3) Interest rates and calculations pursuant to paragraph (1) shall be identical and
32 shall be equal to the drug rebate interest rates as determined by the federal Centers
33 for Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or
34 regulations.

35 (4) If the date of mailing of a state rebate payment is 69 days or more from the
36 date of mailing of the invoice, including supporting utilization data sent to the
37 manufacturer, the interest rate shall be as specified in paragraph (3), however the
38 interest rate shall be increased by 10 percentage points.

39 (l) The department may adopt emergency regulations to implement this section in
40 accordance with the rulemaking provisions of the Administrative Procedure Act
41 (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of
42 the Government Code).

1 **Comment.** Section 14105.8 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 **§ 14105.22 (amended). Reimbursement for clinical laboratory or laboratory services**

5 SEC. ____. Section 14105.22 of the Welfare and Institutions Code is amended to
6 read:

7 14105.22. (a)(1) Reimbursement for clinical laboratory or laboratory services, as
8 defined in Section 51137.2 of Title 22 of the California Code of Regulations, shall
9 not exceed 80 percent of the lowest maximum allowance established by the federal
10 Medicare Program for the same or similar services.

11 (2) This subdivision shall be implemented only until the new rate methodology
12 under subdivision (b) is approved by the federal Centers for Medicare and Medicaid
13 Services (CMS).

14 (b)(1) It is the intent of the Legislature that the department develop reimbursement
15 rates for clinical laboratory or laboratory services that are comparable to the
16 payment amounts received from other payers for clinical laboratory or laboratory
17 services. Development of these rates will enable the department to reimburse
18 clinical laboratory or laboratory service providers in compliance with state and
19 federal law.

20 (2)(A) The provisions of Section 51501(a) of Title 22 of the California Code of
21 Regulations shall not apply to laboratory providers reimbursed under the new rate
22 methodology developed for clinical laboratories or laboratory services pursuant to
23 this subdivision.

24 (B) In addition to subparagraph (A), laboratory providers reimbursed under any
25 payment reductions implemented pursuant to this section shall not be subject to the
26 provisions of Section 51501(a) of Title 22 of the California Code of Regulations
27 until July 1, 2015.

28 (3) Reimbursement to providers for clinical laboratory or laboratory services shall
29 not exceed the lowest of the following:

30 (A) The amount billed.

31 (B) The charge to the general public.

32 (C) Eighty percent of the lowest maximum allowance established by the federal
33 Medicare Program for the same or similar services.

34 (D) A reimbursement rate based on an average of the lowest amount that other
35 payers and other state Medicaid programs are paying for similar clinical laboratory
36 or laboratory services.

37 (4)(A) In addition to the payment reductions implemented pursuant to Section
38 14105.192, payments shall be reduced by up to 10 percent for clinical laboratory or
39 laboratory services, as defined in Section 51137.2 of Title 22 of the California Code
40 of Regulations, for dates of service on and after July 1, 2012. The payment
41 reductions pursuant to this paragraph shall continue until the new rate methodology
42 under this subdivision has been approved by CMS.

1 (B) Notwithstanding subparagraph (A), the Family Planning, Access, Care, and
2 Treatment (Family PACT) Program pursuant to subdivision (aa) of Section 14132
3 shall be exempt from the payment reduction specified in this section.

4 (5)(A) For purposes of establishing reimbursement rates for clinical laboratory or
5 laboratory services pursuant to subparagraph (D) of paragraph (3), laboratory
6 service providers shall submit data reports according to the following schedule:

7 (i) The data initially provided shall be for the 2018 calendar year. For each
8 subsequent reporting year the data shall be based on the previous calendar year.

9 (ii) For purposes of clause (i), “reporting year” means 2019 and every third year
10 thereafter.

11 (B) A data report submitted pursuant to subparagraph (A) shall specify the
12 provider’s lowest amounts other payers are paying, including other state Medicaid
13 programs and private insurance, minus discounts and rebates. The specific data
14 required for submission under this subparagraph and the format for the data
15 submission shall be determined and specified by the department after receiving
16 stakeholder input pursuant to paragraph (7).

17 (C) The data submitted pursuant to subparagraph (A) may be used to determine
18 reimbursement rates by procedure code based on an average of the lowest amount
19 other payers are paying providers for similar clinical laboratory or laboratory
20 services, excluding significant deviations of cost or volume factors and with
21 consideration to geographical areas. The department shall have the discretion to
22 determine the specific methodology and factors used in the development of the
23 lowest average amount under this subparagraph to ensure compliance with federal
24 Medicaid law and regulations as specified in paragraph (10).

25 (D) For purposes of subparagraph (C), the department may contract with a vendor
26 for the purposes of collecting payment data reports from clinical laboratories,
27 analyzing payment information, and calculating a proposed rate.

28 (E) The proposed rates calculated by the vendor described in subparagraph (D)
29 may be used in determining the lowest reimbursement rate for clinical laboratories
30 or laboratory services in accordance with paragraph (3).

31 (F) Data reports submitted to the department shall be certified by the provider’s
32 certified financial officer or an authorized individual.

33 (G) Clinical laboratory providers that fail to submit data reports within 30
34 working days from the time requested by the department shall be subject to the
35 suspension provisions of subdivisions (a) and (c) of Section 14123.

36 (6) Data reports provided to the department pursuant to this section shall be
37 confidential and shall be exempt from disclosure under the California Public
38 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
39 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

40 (7) The department shall seek stakeholder input on the ratesetting methodology.

41 (8)(A) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1
42 of Division 3 of Title 2 of the Government Code, the department shall, without
43 taking any further regulatory action, implement, interpret, or make specific this

1 section by means of provider bulletins or similar instructions until regulations are
2 adopted. It is the intent of the Legislature that the department have temporary
3 authority as necessary to implement program changes until completion of the
4 regulatory process.

5 (B) The department shall adopt emergency regulations no later than June 30,
6 2016. The department may readopt any emergency regulation authorized by this
7 section that is the same as or substantially equivalent to an emergency regulation
8 previously adopted pursuant to this section. The initial adoption of emergency
9 regulations implementing the amendments to this section and the one readoption of
10 emergency regulations authorized by this section shall be deemed an emergency and
11 necessary for the immediate preservation of the public peace, health, safety, or
12 general welfare. Initial emergency regulations and the one readoption of emergency
13 regulations authorized by this section shall be exempt from review by the Office of
14 Administrative Law.

15 (C) The initial emergency regulations and the one readoption of emergency
16 regulations authorized by this section shall be submitted to the Office of
17 Administrative Law for filing with the Secretary of State and each shall remain in
18 effect for no more than 180 days, by which time final regulations may be adopted.

19 (9) To the extent that the director determines that the new methodology or
20 payment reductions are not consistent with the requirements of Section
21 1396a(a)(30)(A) of Title 42 of the United States Code, the department may revert
22 to the methodology under subdivision (a) to ensure access to care is not
23 compromised.

24 (10)(A) The department shall implement this section in a manner that is consistent
25 with federal Medicaid law and regulations. The director shall seek any necessary
26 federal approvals for the implementation of this section. This section shall be
27 implemented only to the extent that federal approval is obtained.

28 (B) In determining whether federal financial participation is available, the director
29 shall determine whether the rates and payments comply with applicable federal
30 Medicaid requirements, including those set forth in Section 1396a(a)(30)(A) of Title
31 42 of the United States Code.

32 (C) To the extent that the director determines that the rates and payments do not
33 comply with applicable federal Medicaid requirements or that federal financial
34 participation is not available with respect to any reimbursement rate, the director
35 retains the discretion not to implement that rate or payment and may revise the rate
36 or payment as necessary to comply with federal Medicaid requirements. The
37 department shall notify the Joint Legislative Budget Committee 10 days prior to
38 revising the rate or payment to comply with federal Medicaid requirements.

39 (c) Reimbursement rates developed pursuant to subparagraph (D) of paragraph
40 (3) of subdivision (b) and the changes made by the act that added this subdivision
41 shall be effective beginning on July 1, 2020, and on July 1 of every third year
42 thereafter.

1 **Comment.** Section 14105.22 is amended to reflect nonsubstantive recodification of the
2 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
3 Comm'n Reports __ (2019).

4 **§ 14105.33 (amended). Drug contracts with manufacturers**

5 SEC. ____. Section 14105.33 of the Welfare and Institutions Code is amended to
6 read:

7 14105.33. (a) The department may enter into contracts with manufacturers of
8 single-source and multiple-source drugs, on a bid or nonbid basis, for drugs from
9 each major therapeutic category, and shall maintain a list of those drugs for which
10 contracts have been executed.

11 (b)(1) Contracts executed pursuant to this section shall be for the manufacturer's
12 best price, as defined in Section 14105.31, which shall be specified in the contract,
13 and subject to agreed-upon price escalators, as defined in that section. The contracts
14 shall provide for a state rebate, as defined in Section 14105.31, to be remitted to the
15 department quarterly. The department shall submit an invoice to each manufacturer
16 for the state rebate, including supporting utilization data from the department's
17 prescription drug paid claims tapes within 30 days of receipt of the federal Centers
18 for Medicare and Medicaid Services' file of manufacturer rebate information. In
19 lieu of paying the entire invoiced amount, a manufacturer may contest the invoiced
20 amount pursuant to procedures established by the federal Centers for Medicare and
21 Medicaid Services' Medicaid Drug Rebate Program Releases or regulations by
22 mailing a notice, that shall set forth its grounds for contesting the invoiced amount,
23 to the department within 38 days of the department's mailing of the state invoice
24 and supporting utilization data. For purposes of state accounting practices only, the
25 contested balance shall not be considered an accounts receivable amount until final
26 resolution of the dispute pursuant to procedures established by the federal Centers
27 for Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or
28 regulations that results in a finding of an underpayment by the manufacturer.
29 Manufacturers may request, and the department shall timely provide, at cost, Medi-
30 Cal provider level drug utilization data, and other Medi-Cal utilization data
31 necessary to resolve a contested department-invoiced rebate amount.

32 (2) The department shall provide for an annual audit of utilization data used to
33 calculate the state rebate to verify the accuracy of that data. The findings of the audit
34 shall be documented in a written audit report to be made available to manufacturers
35 within 90 days of receipt of the report from the auditor. Any manufacturer may
36 receive a copy of the audit report upon written request. Contracts between the
37 department and manufacturers shall provide for any equalization payment
38 adjustments determined necessary pursuant to an audit.

39 (3)(A) Utilization data used to determine the state rebate shall exclude data from
40 both of the following:

1 (i) Health maintenance organizations, as defined in Section 300e(a) of Title 42 of
2 the United States Code, including those organizations that contract under Section
3 1396b(m) of Title 42 of the United States Code.

4 (ii) Capitated plans that include a prescription drug benefit in the capitated rate,
5 and that have negotiated contracts for rebates or discounts with manufacturers.

6 (B) This paragraph shall become inoperative on July 1, 2014.

7 (4) Commencing July 1, 2014, utilization data used to determine the state rebate
8 shall include data from all programs, including, but not limited to, fee-for-service
9 Medi-Cal, and utilization data, as limited in paragraph (5), from health plans
10 contracting with the department to provide services to beneficiaries pursuant to this
11 chapter, Chapter 8 (commencing with Section 14200), or Chapter 8.75
12 (commencing with Section 14591), that qualify for federal drug rebates pursuant to
13 Section 1927 of the federal Social Security Act (42 U.S.C. Sec. 1396r-8) or that
14 otherwise qualify for federal funds under Title XIX of the federal Social Security
15 Act (42 U.S.C. Sec. 1396 et seq.) pursuant to the Medicaid state plan or waivers.

16 (5) Health plan utilization data shall be limited to those drugs for which a health
17 plan is authorizing a prescription drug described in subparagraph (A), and pursuant
18 to the coverage policies established in subparagraph (B):

19 (A) A prescription drug for which the department reimburses the health plan
20 through a separate capitated payment or other supplemental payment. Payment shall
21 not be withheld for decisions determined pursuant to Section 1374.34 of the Health
22 and Safety Code.

23 (B) The department shall develop coverage policies, consistent with the criteria
24 set forth in paragraph (1) of subdivision (c) of Section 14105.39 and in consultation
25 with clinical experts, Medi-Cal managed care plans, and other stakeholders, for
26 prescription drugs described in subparagraph (A). These coverage policies shall
27 apply to the entire Medi-Cal program, including fee-for-service and Medi-Cal
28 managed care, through the Medi-Cal List of Contract Drugs or through provider
29 bulletins, all plan letters, or similar instructions. Coverage policies developed
30 pursuant to this section shall be revised on a semiannual basis or upon approval by
31 the Food and Drug Administration of a new drug subject to subparagraph (A). For
32 the purposes of this section, “coverage policies” include, but are not limited to,
33 clinical guidelines and treatment and utilization policies.

34 (6) For prescription drugs not subject to the requirements of paragraph (5),
35 utilization data used to determine the state rebate shall include all data from health
36 plans, except for health maintenance organizations, as defined in Section 300e(a) of
37 Title 42 of the United States Code, including those organizations that contract
38 pursuant to Section 1396b(m) of Title 42 of the United States Code.

39 (7) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of
40 Division 3 of Title 2 of the Government Code, the department, without taking any
41 further regulatory action, shall implement, interpret, or make specific paragraph (5)
42 by means of all-county letters, plan letters, plan or provider bulletins, or similar
43 instructions, until the time regulations are adopted. The department shall adopt

1 regulations by October 1, 2017, in accordance with the requirements of Chapter 3.5
2 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the
3 Government Code. Notwithstanding Section 10231.5 of the Government Code,
4 beginning six months after the effective date of this section, the department shall
5 provide a status report to the Legislature on a semiannual basis, in compliance with
6 Section 9795 of the Government Code, until regulations have been adopted.

7 (c) In order that Medi-Cal beneficiaries may have access to a comprehensive
8 range of therapeutic agents, the department shall ensure that there is representation
9 on the list of contract drugs in all major therapeutic categories. Except as provided
10 in subdivision (a) of Section 14105.35, the department shall not be required to
11 contract with all manufacturers who negotiate for a contract in a particular category.
12 The department shall ensure that there is sufficient representation of single-source
13 and multiple-source drugs, as appropriate, in each major therapeutic category.

14 (d) The department shall select the therapeutic categories to be included on the
15 list of contract drugs, and the order in which it seeks contracts for those categories.
16 The department may establish different contracting schedules for single-source and
17 multiple-source drugs within a given therapeutic category.

18 (e)(1) In order to fully implement subdivision (d), the department shall, to the
19 extent necessary, negotiate or renegotiate contracts to ensure there are as many
20 single-source drugs within each therapeutic category or subcategory as the
21 department determines necessary to meet the health needs of the Medi-Cal
22 population. The department may determine in selected therapeutic categories or
23 subcategories that no single-source drugs are necessary because there are currently
24 sufficient multiple-source drugs in the therapeutic category or subcategory on the
25 list of contract drugs to meet the health needs of the Medi-Cal population. However,
26 in no event shall a beneficiary be denied continued use of a drug ~~which~~ that is part
27 of a prescribed therapy in effect as of September 2, 1992, until the prescribed
28 therapy is no longer prescribed.

29 (2) In the development of decisions by the department on the required number of
30 single-source drugs in a therapeutic category or subcategory, and the relative
31 therapeutic merits of each drug in a therapeutic category or subcategory, the
32 department shall consult with the Medi-Cal Contract Drug Advisory Committee.
33 The committee members shall communicate their comments and recommendations
34 to the department within 30 business days of a request for consultation, and shall
35 disclose any associations with pharmaceutical manufacturers or any remuneration
36 from pharmaceutical manufacturers.

37 (f) In order to achieve maximum cost savings, the Legislature declares that an
38 expedited process for contracts under this section is necessary. Therefore, contracts
39 entered into on a nonbid basis shall be exempt from Chapter 2 (commencing with
40 Section 10290) of Part 2 of Division 2 of the Public Contract Code.

41 (g) In no event shall a beneficiary be denied continued use of a drug that is part
42 of a prescribed therapy in effect as of September 2, 1992, until the prescribed
43 therapy is no longer prescribed.

1 (h) Contracts executed pursuant to this section shall be confidential and shall be
2 exempt from disclosure under the California Public Records Act (~~Chapter 3.5~~
3 ~~(commencing with Section 6250)~~ of ~~Division 7~~ Division 10 (commencing with
4 Section 7920.000) of Title 1 of the Government Code).

5 (i) The department shall provide individual notice to Medi-Cal beneficiaries at
6 least 60 calendar days prior to the effective date of the deletion or suspension of any
7 drug from the list of contract drugs. The notice shall include a description of the
8 beneficiary's right to a fair hearing and shall encourage the beneficiary to consult a
9 physician to determine if an appropriate substitute medication is available from
10 Medi-Cal.

11 (j) In carrying out the provisions of this section, the department may contract
12 either directly, or through the fiscal intermediary, for pharmacy consultant staff
13 necessary to initially accomplish the treatment authorization request reviews.

14 (k)(1) Manufacturers shall calculate and pay interest on late or unpaid rebates.
15 The interest shall not apply to any prior period adjustments of unit rebate amounts
16 or department utilization adjustments.

17 (2) For state rebate payments, manufacturers shall calculate and pay interest on
18 late or unpaid rebates for quarters that begin on or after the effective date of the act
19 that added this subdivision.

20 (3) Following final resolution of any dispute pursuant to procedures established
21 by the federal Centers for Medicare and Medicaid Services' Medicaid Drug Rebate
22 Program Releases or regulations regarding the amount of a rebate, any
23 underpayment by a manufacturer shall be paid with interest calculated pursuant to
24 subdivisions (m) and (n), and any overpayment, together with interest at the rate
25 calculated pursuant to subdivisions (m) and (n), shall be credited by the department
26 against future rebates due.

27 (l) Interest pursuant to subdivision (k) shall begin accruing 38 calendar days from
28 the date of mailing of the invoice, including supporting utilization data sent to the
29 manufacturer. Interest shall continue to accrue until the date of mailing of the
30 manufacturer's payment.

31 (m) Except as specified in subdivision (n), interest rates and calculations pursuant
32 to subdivision (k) for Medicaid rebates and state rebates shall be identical and shall
33 be determined by the federal Centers for Medicare and Medicaid Services' Medicaid
34 Drug Rebate Program Releases or regulations.

35 (n) If the date of mailing of a state rebate payment is 69 days or more from the
36 date of mailing of the invoice, including supporting utilization data sent to the
37 manufacturer, the interest rate and calculations pursuant to subdivision (k) shall be
38 as specified in subdivision (m), however the interest rate shall be increased by 10
39 percentage points. This subdivision shall apply to payments for amounts invoiced
40 for any quarters that begin on or after the effective date of the act that added this
41 subdivision.

42 (o) If the rebate payment is not received, the department shall send overdue
43 notices to the manufacturer at 38, 68, and 98 days after the date of mailing of the

1 invoice, and supporting utilization data. If the department has not received a rebate
2 payment, including interest, within 180 days of the date of mailing of the invoice,
3 including supporting utilization data, the manufacturer's contract with the
4 department shall be deemed to be in default and the contract may be terminated in
5 accordance with the terms of the contract. For all other manufacturers, if the
6 department has not received a rebate payment, including interest, within 180 days
7 of the date of mailing of the invoice, including supporting utilization data, all of the
8 drug products of those manufacturers shall be made available only through prior
9 authorization effective 270 days after the date of mailing of the invoice, including
10 utilization data sent to manufacturers.

11 (p) If the manufacturer provides payment or evidence of payment to the
12 department at least 40 days prior to the proposed date the drug is to be made
13 available only through prior authorization pursuant to subdivision (o), the
14 department shall terminate its actions to place the manufacturers' drug products on
15 prior authorization.

16 (q) The department shall direct the state's fiscal intermediary to remove prior
17 authorization requirements imposed pursuant to subdivision (o) and notify providers
18 within 60 days after payment by the manufacturer of the rebate, including interest.
19 If a contract was in place at the time the manufacturers' drugs were placed on prior
20 authorization, removal of prior authorization requirements shall be contingent upon
21 good faith negotiations and a signed contract with the department.

22 (r) A beneficiary may obtain drugs placed on prior authorization pursuant to
23 subdivision (o) if the beneficiary qualifies for continuing care status. To be eligible
24 for continuing care status, a beneficiary must be taking the drug when its
25 manufacturer is placed on prior authorization status. Additionally, the department
26 shall have received a claim for the drug with a date of service that is within 100 days
27 prior to the date the manufacturer was placed on prior authorization.

28 (s) A beneficiary may remain eligible for continuing care status, provided that a
29 claim is submitted for the drug in question at least every 100 days and the date of
30 service of the claim is within 100 days of the date of service of the last claim
31 submitted for the same drug.

32 (t) Drugs covered pursuant to Sections 14105.43 and 14133.2 shall not be subject
33 to prior authorization pursuant to subdivision (o), and any other drug may be
34 exempted from prior authorization by the department if the director determines that
35 an essential need exists for that drug, and there are no other drugs currently available
36 without prior authorization that meet that need.

37 (u) It is the intent of the Legislature in enacting subdivisions (k) to (t), inclusive,
38 that the department and manufacturers shall cooperate and make every effort to
39 resolve rebate payment disputes within 90 days of notification by the manufacturer
40 to the department of a dispute in the calculation of rebate payments.

41 **Comment.** Section 14105.33 is amended to reflect nonsubstantive recodification of the
42 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
43 Comm'n Reports __ (2019).

1 The section is also amended to make a grammatical correction.

2 **§ 14105.45 (amended). Fees, costs, prices, rates, reimbursement, and related matters**

3 SEC. ____ . Section 14105.45 of the Welfare and Institutions Code is amended to
4 read:

5 14105.45. (a) For purposes of this section, the following definitions shall apply:

6 (1) “Actual acquisition cost” has the same meaning as that term is defined in
7 Section 447.502 of Title 42 of the Code of Federal Regulations. The actual
8 acquisition cost shall not be considered confidential and shall be subject to
9 disclosure pursuant to the California Public Records Act (~~Chapter 3.5 (commencing~~
10 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)
11 of Title 1 of the Government Code).

12 (2) “Average manufacturers price” means the price reported to the department by
13 the federal Centers for Medicare and Medicaid Services pursuant to Section 1927
14 of the Social Security Act (42 U.S.C. Sec. 1396r-8).

15 (3) “Average wholesale price” means the price for a drug product listed as the
16 average wholesale price in the department’s primary price reference source.

17 (4) “Blood factors” has the same meaning as that term is defined in Section
18 14105.86.

19 (5) “Federal upper limit” means the maximum per unit reimbursement when
20 established by the federal Centers for Medicare and Medicaid Services.

21 (6) “Generically equivalent drugs” means drug products with the same active
22 chemical ingredients of the same strength and dosage form, and of the same generic
23 drug name, as determined by the United States Adopted Names (USAN) Council
24 and accepted by the federal Food and Drug Administration (FDA), as those drug
25 products having the same chemical ingredients.

26 (7) “Legend drug” means any drug whose labeling states “Caution: Federal law
27 prohibits dispensing without prescription,” “Rx only,” or words of similar import.

28 (8) “Maximum allowable ingredient cost” (MAIC) means the maximum amount
29 the department will reimburse Medi-Cal pharmacy providers for generically
30 equivalent drugs.

31 (9) “Innovator multiple source drug,” “noninnovator multiple source drug,” and
32 “single source drug” have the same meaning as those terms are defined in Section
33 1396r-8(k)(7) of Title 42 of the United States Code.

34 (10) “Nonlegend drug” means any drug whose labeling does not contain the
35 statement referenced in paragraph (7).

36 (11) “Pharmacy warehouse” means a physical location licensed as a wholesaler
37 for prescription drugs that acts as a central warehouse and performs intracompany
38 sales or transfers of those drugs to a group of pharmacies under common ownership
39 and control.

40 (12) “Professional dispensing fee” has the same meaning as that term is defined
41 in Section 447.502 of Title 42 of the Code of Federal Regulations.

1 (13) “Specialty drugs” means drugs determined by the department pursuant to
2 subdivision (f) of Section 14105.3 to generally require special handling, complex
3 dosing regimens, specialized self-administration at home by a beneficiary or
4 caregiver, or specialized nursing facility services, or may include extended patient
5 education, counseling, monitoring, or clinical support.

6 (14) “Volume weighted average” means the aggregated average volume for a
7 group of legend or nonlegend drugs, weighted by each drug’s percentage of the
8 group’s total volume in the Medi-Cal fee-for-service program during the previous
9 six months. For purposes of this paragraph, volume is based on the standard billing
10 unit used for the legend or nonlegend drugs.

11 (15) “Wholesaler” has the same meaning as that term is defined in Section 4043
12 of the Business and Professions Code.

13 (16) “Wholesaler acquisition cost” means the price for a drug product listed as the
14 wholesaler acquisition cost in the department’s primary price reference source.

15 (b)(1) Reimbursement to Medi-Cal pharmacy providers for legend and nonlegend
16 drugs shall not exceed the lowest of either of the following:

17 (A) The drug ingredient cost plus a professional dispensing fee.

18 (B) The pharmacy’s usual and customary charge as defined in Section 14105.455.

19 (2)(A) Effective for dates of service on or before March 31, 2017, the professional
20 dispensing fee shall be seven dollars and twenty-five cents (\$7.25) per dispensed
21 prescription, and the professional dispensing fee for legend drugs dispensed to a
22 beneficiary residing in a skilled nursing facility or intermediate care facility shall be
23 eight dollars (\$8) per dispensed prescription. For purposes of this paragraph,
24 “skilled nursing facility” and “intermediate care facility” have the same meaning as
25 those terms are defined in Division 5 (commencing with Section 70001) of Title 22
26 of the California Code of Regulations.

27 (B) Effective for dates of service on or after April 1, 2017, the professional
28 dispensing fee shall be based upon a pharmacy’s total, both Medicaid and non-
29 Medicaid, annual claim volume of the previous year as follows:

30 (i) Less than 90,000 claims per year, the professional dispensing fee shall be
31 thirteen dollars and twenty cents (\$13.20).

32 (ii) Ninety thousand or more claims per year, the professional dispensing fee shall
33 be ten dollars and five cents (\$10.05).

34 (C) If the department determines that a change in the amount of the professional
35 dispensing fee is necessary pursuant to this section in order to meet federal Medicaid
36 requirements, the department shall establish a new professional dispensing fee
37 through the state budget process.

38 (i) When establishing the new professional dispensing fee or fees, the department
39 shall establish the professional dispensing fee or fees consistent with Section
40 447.518(d) of Title 42 of the Code of Federal Regulations.

41 (ii) The department shall consult with interested parties and appropriate
42 stakeholders in implementing this subparagraph.

1 (3) The department shall establish the drug ingredient cost of legend and
2 nonlegend drugs as follows:

3 (A) Effective for dates of service on or before March 31, 2017, the drug ingredient
4 cost shall be equal to the lowest of the average wholesale price minus 17 percent,
5 the actual acquisition cost, the federal upper limit, or the MAIC.

6 (B) Effective for dates of service on or after April 1, 2017, the drug ingredient
7 cost shall be equal to the lowest of the actual acquisition cost, the federal upper
8 limit, or the MAIC.

9 (C) For blood factors, the drug ingredient cost shall be established pursuant to
10 Section 14105.86.

11 (D) Average wholesale price shall not be used to establish the drug ingredient cost
12 once the department has determined that the actual acquisition cost methodology
13 has been fully implemented.

14 (4) For purposes of paragraph (3), the department may establish a list of MAICs
15 for generically equivalent drugs. If the department establishes a list of MAICs for
16 generically equivalent drugs, the department shall update the list of MAICs and
17 establish additional MAICs in accordance with all of the following:

18 (A) The department shall establish a MAIC only when three or more generically
19 equivalent drugs are available for purchase and dispensing by retail pharmacies in
20 California.

21 (B) The department shall base the MAIC on the mean of the average
22 manufacturer's price of drugs generically equivalent to the particular innovator drug
23 plus a percent markup determined by the department to be necessary for the MAIC
24 to represent the average purchase price paid by retail pharmacies in California.

25 (C) If average manufacturer prices are unavailable, the department shall establish
26 the MAIC in one of the following ways:

27 (i) Based on the volume weighted average of wholesaler acquisition costs of drugs
28 generically equivalent to the particular innovator drug plus a percent markup
29 determined by the department to be necessary for the MAIC to represent the average
30 purchase price paid by retail pharmacies in California.

31 (ii) Pursuant to a contract with a vendor for the purpose of surveying drug price
32 information, collecting data, and calculating a proposed MAIC.

33 (iii) Based on the volume weighted actual acquisition cost of drugs generically
34 equivalent to the particular innovator drug adjusted by the department to represent
35 the average purchase price paid by Medi-Cal pharmacy providers.

36 (D) The department shall publish the list of MAICs in pharmacy provider
37 bulletins and manuals, update the MAICs at least annually, and notify Medi-Cal
38 providers at least 30 days prior to the effective date of a MAIC.

39 (E) The department shall establish a process for providers to seek a change to a
40 specific MAIC when the providers believe the MAIC does not reflect current
41 available market prices. If the department determines a MAIC change is warranted,
42 the department may update a specific MAIC prior to notifying providers.

1 (F) In determining the average purchase price, the department shall consider the
2 provider-related costs of the products that include, but are not limited to, shipping,
3 handling, and storage. Costs of the provider that are included in the costs of the
4 dispensing shall not be used to determine the average purchase price.

5 (5)(A) The department may establish the actual acquisition cost in one of the
6 following ways:

7 (i) Based on the volume weighted actual acquisition cost adjusted by the
8 department to verify that the actual acquisition cost represents the average purchase
9 price paid by retail pharmacies in California.

10 (ii) Based on the proposed actual acquisition cost as calculated by the vendor
11 pursuant to subparagraph (B).

12 (iii) Based on a national pricing benchmark obtained from the federal Centers for
13 Medicare and Medicaid Services or on a similar benchmark listed in the
14 department's primary price reference source adjusted by the department to verify
15 that the actual acquisition cost represents the average purchase price paid by retail
16 pharmacies in California.

17 (B) For the purposes of paragraph (3), the department may contract with a vendor
18 for the purposes of surveying drug price information, collecting data from providers,
19 wholesalers, or drug manufacturers, and calculating a proposed actual acquisition
20 cost.

21 (C)(i) Medi-Cal pharmacy providers shall submit drug price information to the
22 department or a vendor designated by the department for the purposes of
23 establishing the actual acquisition cost. The information submitted by pharmacy
24 providers shall include, but not be limited to, invoice prices and all discounts,
25 rebates, and refunds known to the provider that would apply to the acquisition cost
26 of the drug products purchased during the calendar quarter. Pharmacy warehouses
27 shall be exempt from the survey process, but shall provide drug cost information
28 upon audit by the department for the purposes of validating individual pharmacy
29 provider acquisition costs.

30 (ii) Pharmacy providers that fail to submit drug price information to the
31 department or the vendor as required by this subparagraph shall receive notice that
32 if they do not provide the required information within five working days, they shall
33 be subject to suspension under subdivisions (a) and (c) of Section 14123.

34 (D)(i) For new drugs or new formulations of existing drugs, if drug price
35 information is unavailable pursuant to clause (i) of subparagraph (C), drug
36 manufacturers and wholesalers shall submit drug price information to the
37 department or a vendor designated by the department for the purposes of
38 establishing the actual acquisition cost. Drug price information shall include, but
39 not be limited to, net unit sales of a drug product sold to retail pharmacies in
40 California divided by the total number of units of the drug sold by the manufacturer
41 or wholesaler in a specified period of time determined by the department.

42 (ii) Drug products from manufacturers and wholesalers that fail to submit drug
43 price information to the department or the vendor as required by this subparagraph

1 shall not be a reimbursable benefit of the Medi-Cal program for those manufacturers
2 and wholesalers until the department has established the actual acquisition cost for
3 those drug products.

4 (E) Drug pricing information provided to the department or a vendor designated
5 by the department for the purposes of establishing the actual acquisition cost
6 pursuant to this section shall be confidential and shall be exempt from disclosure
7 under the California Public Records Act (~~Chapter 3.5 (commencing with Section~~
8 ~~6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of
9 the Government Code).

10 (F) Prior to the implementation of an actual acquisition cost methodology, the
11 department shall collect data through a survey of pharmacy providers for purposes
12 of establishing a professional dispensing fee or fees in compliance with federal
13 Medicaid requirements.

14 (i) The department shall seek stakeholder input on the retail pharmacy factors and
15 elements used for the pharmacy survey relative to both actual acquisition costs and
16 professional dispensing costs.

17 (ii) For drug products provided by pharmacy providers pursuant to subdivision (f)
18 of Section 14105.3, a differential professional fee or payment for services to provide
19 specialized care may be considered as part of the contracts established pursuant to
20 that section.

21 (G) When the department implements the actual acquisition cost methodology,
22 the department shall update the Medi-Cal claims processing system to reflect the
23 actual acquisition cost of drugs not later than 30 days after the department has
24 established actual acquisition cost pursuant to subparagraph (A).

25 (H) Notwithstanding any other law, if the department implements actual
26 acquisition cost pursuant to clause (i) or (ii) of subparagraph (A), the department
27 shall update actual acquisition costs at least every three months and notify Medi-
28 Cal providers at least 30 days prior to the effective date of any change in an actual
29 acquisition cost.

30 (I) The department shall make available a process for providers to seek a change
31 to a specific actual acquisition cost when the providers believe the actual acquisition
32 cost does not reflect current available market prices. If the department determines
33 an actual acquisition cost change is warranted, the department may update a specific
34 actual acquisition cost prior to notifying providers.

35 (c) The director shall implement this section in a manner that is consistent with
36 federal Medicaid law and regulations. The director shall seek any necessary federal
37 approvals for the implementation of this section. This section shall be implemented
38 only to the extent that federal approval is obtained.

39 (d) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of
40 Division 3 of Title 2 of the Government Code, the department may implement,
41 interpret, or make specific this section by means of a provider bulletin or notice,
42 policy letter, or other similar instructions, without taking regulatory action.

1 (e) The department may enter into contracts with a vendor for the purposes of
2 implementing this section on a bid or nonbid basis. In order to achieve maximum
3 cost savings, the Legislature declares that an expedited process for contracts under
4 this section is necessary. Therefore, contracts entered into to implement this section,
5 and all contract amendments and change orders, shall be exempt from Chapter 2
6 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract
7 Code.

8 (f)(1) The rates provided for in this section shall be implemented only if the
9 director determines that the rates will comply with applicable federal Medicaid
10 requirements and that federal financial participation will be available.

11 (2) In determining whether federal financial participation is available, the director
12 shall determine whether the rates comply with applicable federal Medicaid
13 requirements, including those set forth in Section 1396a(a)(30)(A) of Title 42 of the
14 United States Code.

15 (3) To the extent that the director determines that the rates do not comply with
16 applicable federal Medicaid requirements or that federal financial participation is
17 not available with respect to any rate of reimbursement described in this section, the
18 director retains the discretion not to implement that rate and may revise the rate as
19 necessary to comply with federal Medicaid requirements.

20 (g) The director shall seek any necessary federal approvals for the implementation
21 of this section.

22 (h) This section shall not be construed to require the department to collect cost
23 data, to conduct cost studies, or to set or adjust a rate of reimbursement based on
24 cost data that has been collected.

25 (i) Effective for dates of service on or after April 1, 2017, adjustments to
26 pharmacy drug product payments pursuant to Section 14105.192 shall no longer
27 apply.

28 (j) Prior to implementation of this section, the department shall provide the
29 appropriate fiscal and policy committees of the Legislature with information on the
30 department's plan for implementation of the actual acquisition cost methodology
31 pursuant to this section.

32 **Comment.** Section 14105.45 is amended to reflect nonsubstantive recodification of the
33 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
34 Comm'n Reports __ (2019).

35 **§ 14107.11 (amended). Credible allegation of fraud against provider**

36 SEC. ____. Section 14107.11 of the Welfare and Institutions Code is amended to
37 read:

38 14107.11. (a) Upon receipt of a credible allegation of fraud as defined in
39 subdivision (d) and for which an investigation is pending under the Medi-Cal
40 program against a provider as defined in Section 14043.1, or the commencement of
41 a suspension under Section 14123, the provider shall be temporarily placed under
42 payment suspension, unless it is determined there is a good cause exception, as

1 defined in subdivision (g), not to suspend the payments or to suspend them only in
2 part, and the department may do any of the following:

3 (1) Collect any Medi-Cal program overpayment identified through an audit or
4 examination, or any portion thereof from any provider. Notwithstanding Section
5 100171 of the Health and Safety Code, a provider may appeal the collection of
6 overpayments under this section pursuant to procedures established in Article 5.3
7 (commencing with Section 14170). Overpayments collected under this section shall
8 not be returned to the provider during the pendency of any appeal and may be offset
9 to satisfy audit or appeal findings if the findings are against the provider.
10 Overpayments will be returned to a provider with interest if findings are in favor of
11 the provider.

12 (2) Give notification of the payment suspension for any goods, services, supplies,
13 or merchandise, or any portion thereof. The department shall notify the provider
14 within five days of any payment suspension under this section. The department may
15 delay notification to the provider by 30 days if it is requested to do so in writing by
16 any law enforcement agency, which may be renewed in writing up to two times and
17 in no event may exceed 90 days. The notice to the provider shall do all of the
18 following:

19 (A) State that the payment suspension is being imposed in accordance with this
20 subdivision and that the payment suspension is for a temporary period and will not
21 continue if it is determined that no credible allegation of fraud remains against the
22 provider or when legal proceedings relating to the allegation are complete.

23 (B) Cite the circumstances under which the payment suspension will be
24 terminated.

25 (C) Specify, when appropriate, the type or types of claims for which payment is
26 being suspended.

27 (D) Inform the provider of the right to submit written evidence that would be
28 admissible under the administrative adjudication provisions of Chapter 5
29 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
30 Government Code, for consideration by the department.

31 (b) Notwithstanding Section 100171 of the Health and Safety Code, a provider
32 may appeal a payment suspension pursuant to Section 14043.65. Payments
33 suspended under this section shall not be returned to the provider during the
34 pendency of any appeal and may be offset to satisfy audit or appeal findings.

35 (c) A payment suspension may be lifted when a resolution of an investigation for
36 fraud or abuse occurs as defined in subdivision (p) of Section 14043.1.

37 (d) An allegation of fraud shall be considered credible if it exhibits indicia of
38 reliability as recognized by state or federal courts or by other law sufficient to meet
39 the constitutional prerequisite to a law enforcement search or seizure of comparable
40 business assets. The department shall carefully consider the allegations, facts, data,
41 and evidence with the same thoroughness as a state or federal court would use in
42 approving a warrant for a search or seizure.

1 (e)(1) On a quarterly basis, the Department of Justice, and any other law
2 enforcement agency that has accepted referrals for investigation from the
3 department, shall submit a report to the department listing each referral and stating
4 whether the referral continues to be under investigation and whether it involves a
5 credible allegation of fraud. If the Department of Justice or a law enforcement
6 agency fails to submit a report under this subdivision, the department may request
7 the report from the Department of Justice or the law enforcement agency on no more
8 than a quarterly basis. The Department of Justice or the law enforcement agency, as
9 applicable, shall provide the report within 30 days of the request.

10 (2) Notwithstanding paragraph (1), no quarterly report shall be required from a
11 law enforcement agency, unless that law enforcement agency has either received a
12 referral from the department or reported an open case to the department and has not
13 yet reported rejection or closure of that referral or open case.

14 (f) A report, request, or notification submitted under this section shall be exempt
15 from the California Public Records Act (~~Chapter 3.5 (commencing with Section~~
16 ~~6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of
17 the Government Code). These records may be disclosed to law enforcement
18 agencies or other government entities that execute an agreement conforming to
19 ~~subdivision (e) of Section 6254.5~~ paragraph (5) of subdivision (c) of Section
20 7921.505 of the Government Code.

21 (g) For purposes of this section, all of the following apply:

22 (1) “Provider” has the same meaning as that term is defined in Section 14043.1.

23 (2) “Good cause exception” means a reason determined by the department that
24 falls under Section 455.23(e) or (f) of Title 42 of the Code of Federal Regulations.

25 (3) “Law enforcement agency” includes any agency employing peace officers, as
26 defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the
27 Penal Code.

28 (h) The director may, in consultation with interested parties, adopt regulations to
29 implement this section as necessary. These regulations may be adopted as
30 emergency regulations in accordance with the Administrative Procedure Act
31 (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of
32 the Government Code) and the adoption of the regulations shall be deemed to be an
33 emergency and necessary for the immediate preservation of the public peace, health
34 and safety, or general welfare. The director shall transmit these emergency
35 regulations directly to the Secretary of State for filing and the regulations shall
36 become effective immediately upon filing. Upon completion of the formal
37 regulation adoption process and prior to the expiration of the 120-day duration
38 period of emergency regulations, the director shall transmit directly to the Secretary
39 of State the adopted regulations, the rulemaking file, and the certification of
40 compliance as required by subdivision (e) of Section 11346.1 of the Government
41 Code.

1 **Comment.** Section 14107.11 is amended to reflect nonsubstantive recodification of the
2 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
3 Comm’n Reports __ (2019).

4 **§ 14124 (amended). Contracts for purposes of undertaking administrative activities by**
5 **Mental Health and Substance Use Disorder Services Division**

6 SEC. ____. Section 14124 of the Welfare and Institutions Code is amended to read:

7 14124. (a) The department may enter into contracts for the purposes of
8 undertaking administrative activities by the department’s Mental Health and
9 Substance Use Disorder Services Division concerning Parts 431, 433, 438, 440, 457,
10 and 495 of Title 42 of the Code of Federal Regulations, as amended May 6, 2016,
11 as published in the Federal Register (81 Fed. Reg. 27498), and any associated
12 federal policy guidance issued by the federal Centers for Medicare and Medicaid
13 Services.

14 (b) Contracts entered into or amended pursuant to subdivision (a) shall be exempt
15 from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title
16 2 of the Government Code, Section 19130 of the Government Code, and Part 2
17 (commencing with Section 10100) of Division 2 of the Public Contract Code and
18 shall be exempt from the review or approval of any division of the Department of
19 General Services.

20 (c) Contracts entered into pursuant to this section shall be publicly available
21 pursuant to the California Public Records Act (~~Chapter 3.5 (commencing with~~
22 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
23 Title 1 of the Government Code).

24 (d) This section shall remain in effect only until January 1, 2020, and as of that
25 date is repealed, unless a later enacted statute, that is enacted before January 1, 2020,
26 deletes or extends that date.

27 **Comment.** Section 14124 is amended to reflect nonsubstantive recodification of the California
28 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n
29 Reports __ (2019).

30 **§ 14124.24 (amended). Drug Medi-Cal reimbursable services**

31 SEC. ____. Section 14124.24 of the Welfare and Institutions Code is amended to
32 read:

33 14124.24. (a) For purposes of this section, “Drug Medi-Cal reimbursable
34 services” means the substance use disorder services described in the California
35 Medicaid State Plan and includes, but is not limited to, all of the following services,
36 administered by the department, and to the extent consistent with state and federal
37 law:

38 (1) Narcotic treatment program services, as set forth in Section 14021.51.

39 (2) Day care rehabilitative services.

40 (3) Perinatal residential services for pregnant women and women in the
41 postpartum period.

42 (4) Naltrexone services.

1 (5) Outpatient drug-free services.

2 (6) Other services upon approval of a federal Medicaid state plan amendment or
3 waiver authorizing federal financial participation.

4 (b)(1) While seeking federal approval for any federal Medicaid state plan
5 amendment or waiver associated with Drug Medi-Cal services, the department shall
6 consult with the counties and stakeholders in the development of the state plan
7 amendment or waiver.

8 (2) Upon federal approval of a federal Medicaid state plan amendment authorizing
9 federal financial participation in the following services, and subject to appropriation
10 of funds, “Drug Medi-Cal reimbursable services” shall also include the following
11 services, administered by the department, and to the extent consistent with state and
12 federal law:

13 (A) Notwithstanding subdivision (a) of Section 14132.90, day care habilitative
14 services, which, for purposes of this paragraph, are outpatient counseling and
15 rehabilitation services provided to persons with substance use disorder diagnoses.

16 (B) Case management services, including supportive services to assist persons
17 with substance use disorder diagnoses in gaining access to medical, social,
18 educational, and other needed services.

19 (C) Aftercare services.

20 (c)(1) The nonfederal share for Drug Medi-Cal services shall be funded through
21 a county’s Behavioral Health Subaccount of the Support Services Account of the
22 Local Revenue Fund 2011, and any other available county funds eligible under
23 federal law for federal Medicaid reimbursement. The funds contained in each
24 county’s Behavioral Health Subaccount of the Support Services Account of the
25 Local Revenue Fund 2011 shall be considered state funds distributed by the
26 principal state agency for the purposes of receipt of the federal block grant funds for
27 prevention and treatment of substance abuse found at Subchapter XVII of Chapter
28 6A of Title 42 of the United States Code. Pursuant to applicable federal Medicaid
29 law and regulations including Section 433.51 of Title 42 of the Code of Federal
30 Regulations, counties may claim allowable Medicaid federal financial participation
31 for Drug Medi-Cal services based on the counties certifying their actual total funds
32 expenditures for eligible Drug Medi-Cal services to the department.

33 (2)(A) If the director determines that a county’s provision of Drug Medi-Cal
34 treatment services are disallowed by the federal government or by state or federal
35 audit or review, the impacted county shall be responsible for repayment of all
36 disallowed federal funds. In addition to any other recovery methods available,
37 including, but not limited to, offset of Medicaid federal financial participation funds
38 owed to the impacted county, the director may offset these amounts in accordance
39 with Section 12419.5 of the Government Code.

40 (B) A county subject to an action by the director pursuant to subparagraph (A)
41 may challenge that action by requesting a hearing in writing no later than 30 days
42 from receipt of notice of the department’s action. The proceeding shall be conducted
43 in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of

1 Division 3 of Title 2 of the Government Code, and the director has all the powers
2 granted therein. Upon a county's timely request for hearing, the county's obligation
3 to make payment as determined by the director shall be stayed pending the county's
4 exhaustion of administrative remedies provided herein but no longer than will
5 ensure the department's compliance with Section 1903(d)(2)(C) of the federal
6 Social Security Act (42 U.S.C. Sec. 1396b).

7 (d) Drug Medi-Cal services are only reimbursable to Drug Medi-Cal providers
8 with an approved Drug Medi-Cal contract.

9 (e) Counties shall negotiate contracts only with providers certified to provide
10 Drug Medi-Cal services.

11 (f) The department shall develop methods to ensure timely payment of Drug
12 Medi-Cal claims.

13 (g)(1) A county or a contracted provider, except for a provider to whom
14 subdivision (h) applies, shall submit accurate and complete cost reports for the
15 previous fiscal year by November 1, following the end of the fiscal year. The
16 department may settle Drug Medi-Cal reimbursable services, based on the cost
17 report as the final amendment to the approved county Drug Medi-Cal contract.

18 (2) Amounts paid for services provided to Drug Medi-Cal beneficiaries shall be
19 audited by the department in the manner and form described in Section 14170.

20 (3) Administrative appeals to review grievances or complaints arising from the
21 findings of an audit or examination made pursuant to this section shall be subject to
22 Section 14171.

23 (h) Certified narcotic treatment program providers that are exclusively billing the
24 state or the county for services rendered to persons subject to Section 1210.1 or
25 3063.1 of the Penal Code or Section 14021.52 of this code shall submit accurate and
26 complete performance reports for the previous state fiscal year by November 1
27 following the end of that fiscal year. A provider to which this subdivision applies
28 shall estimate its budgets using the uniform state daily reimbursement rate. The
29 format and content of the performance reports shall be mutually agreed to by the
30 department, the County Behavioral Health Directors Association of California, and
31 representatives of the treatment providers.

32 (i) Contracts entered into pursuant to this section shall be exempt from the
33 requirements of Chapter 1 (commencing with Section 10100) and Chapter 2
34 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract
35 Code.

36 (j) Annually, the department shall publish procedures for contracting for Drug
37 Medi-Cal services with certified providers and for claiming payments, including
38 procedures and specifications for electronic data submission for services rendered.

39 (k) If the department commences a preliminary criminal investigation of a
40 certified provider, the department shall promptly notify each county that currently
41 contracts with the provider for Drug Medi-Cal services that a preliminary criminal
42 investigation has commenced. If the department concludes a preliminary criminal
43 investigation of a certified provider, the department shall promptly notify each

1 county that currently contracts with the provider for Drug Medi-Cal services that a
2 preliminary criminal investigation has concluded.

3 (1) Notice of the commencement and conclusion of a preliminary criminal
4 investigation pursuant to this section shall be made to the county behavioral health
5 director or his or her equivalent.

6 (2) Communication between the department and a county specific to the
7 commencement or conclusion of a preliminary criminal investigation pursuant to
8 this section shall be deemed confidential and shall not be subject to any disclosure
9 request, including, but not limited to, the Information Practices Act of 1977 (Chapter
10 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil
11 Code), the California Public Records Act (~~Chapter 3.5 (commencing with Section
12 6250) of Division 7~~ Division 10 (commencing with Section 7920.000)) of Title 1 of
13 the Government Code), requests pursuant to a subpoena, or for any other public
14 purpose, including, but not limited to, court testimony.

15 (3) Information shared by the department with a county regarding a preliminary
16 criminal investigation shall be maintained in a manner to ensure protection of the
17 confidentiality of the criminal investigation.

18 (4) The information provided to a county pursuant to this section shall only
19 include the provider name, national provider identifier (NPI) number, address, and
20 the notice that an investigation has commenced or concluded.

21 (5) A county shall not take any adverse action against a provider based solely
22 upon the preliminary criminal investigation information disclosed to the county
23 pursuant to this section.

24 (6) In the event of a preliminary criminal investigation of a county owned or
25 operated program, the department has the option to, but is not required to, notify the
26 county pursuant to this section when the department commences or concludes a
27 preliminary criminal investigation.

28 (7) This section shall not limit the voluntary or otherwise legally mandated or
29 contractually mandated sharing of information between the department and a county
30 of information regarding audits and investigations of Drug Medi-Cal providers.

31 (8) “Commenced” means the time at which a complaint or allegation is assigned
32 to an investigator for a field investigation.

33 (9) “Preliminary criminal investigation” means an investigation to gather
34 information to determine if criminal law or statutes have been violated.

35 **Comment.** Section 14124.24 is amended to reflect nonsubstantive recodification of the
36 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
37 Comm’n Reports __ (2019).

38 **§ 14129.2 (amended). Quality assurance fee for emergency medical transport**

39 SEC. ____. Section 14129.2 of the Welfare and Institutions Code is amended to
40 read:

41 14129.2. (a)(1) Commencing with the state fiscal quarter beginning on July 1,
42 2018, and continuing each state fiscal quarter thereafter for which this article is

1 implemented, there shall be imposed a quality assurance fee for each emergency
2 medical transport provided by each emergency medical transport provider subject
3 to the fee in accordance with this section.

4 (2) The director shall ensure that the quality assurance fee per emergency medical
5 transport imposed pursuant to this article is collected.

6 (b)(1) On or before June 15, 2018, and continuing each June 15 thereafter for
7 which this article is implemented, the director shall calculate the annual quality
8 assurance fee rate applicable to the following state fiscal year based on the most
9 recently collected data from emergency medical transport providers pursuant to
10 Section 14129.1. The director may correct any identified material or significant
11 errors in the data collected from emergency medical transport providers pursuant to
12 Section 14129.1 for the purposes of calculating the annual quality assurance fee rate.
13 The director's determination whether to exercise ~~his or her~~ the director's discretion
14 to correct any data pursuant to this paragraph shall not be subject to judicial review,
15 except that an emergency medical transport provider may bring a writ of mandate
16 under Section 1085 of the Code of Civil Procedure to rectify an abuse of discretion
17 by the director in correcting that emergency medical transport provider's data when
18 that correction results in a greater fee amount for that provider pursuant to this
19 section.

20 (A) For the state fiscal year beginning on July 1, 2018, the annual quality
21 assurance fee rate shall be calculated by multiplying the projected total annual gross
22 receipts for all emergency medical transport providers subject to the fee by 5.1
23 percent, which resulting product shall be divided by the projected total annual
24 emergency medical transports by all emergency medical transport providers subject
25 to the fee for the state fiscal year.

26 (B) For state fiscal years beginning July 1, 2019, and continuing each state fiscal
27 year thereafter, the annual quality assurance fee rate shall be calculated by a ratio,
28 the numerator of which shall be the sum of: (i) the product of the projected aggregate
29 fee schedule amount and the effective state medical assistance percentage and (ii)
30 the amount described in subparagraph (A) of paragraph (2) of subdivision (f) for the
31 state fiscal year, and the denominator of which shall be 90 percent of the projected
32 total annual emergency medical transports by all emergency medical transport
33 providers subject to the fee for the state fiscal year.

34 (2) On or before June 15, 2018, and continuing each June 15 thereafter for which
35 this article is implemented, the director shall publish the annual quality assurance
36 fee rate on its Internet Web site.

37 (3) In no case shall the fees calculated pursuant to this subdivision and collected
38 pursuant to this article exceed the amounts allowable under federal law. If, on or
39 before June 15 of each year, the director makes a determination that the fees
40 collected pursuant to this subdivision exceed the amounts allowable under federal
41 law, the director may reduce the add-on increase to the fee-for-service payment
42 schedule described in Section 14129.3 only to the extent necessary to reflect the
43 amount of fees allowable under federal law in an applicable state fiscal year.

1 (4) If, during a state fiscal year for which this article is operative, the actual or
2 projected available fee amount exceeds or is less than the actual or projected
3 aggregate fee schedule amount by more than 1 percent, the director shall adjust the
4 annual quality assurance fee rate so that the available fee amount for the state fiscal
5 year will approximately equal the aggregate fee schedule amount for the state fiscal
6 year. The available fee amount for a state fiscal year shall be considered to equal
7 the aggregate fee schedule amount for the state fiscal year if the difference between
8 the available fee amount for the state fiscal year and the aggregate fee schedule
9 amount for the state fiscal year constitutes less than 1 percent of the aggregate fee
10 schedule amount for the state fiscal year.

11 (c)(1) Each emergency medical transport provider subject to the fee shall remit to
12 the department an amount equal to the annual quality assurance fee rate for the
13 2018–19 state fiscal year multiplied by the number of transports reported or that
14 should have been reported by the emergency medical transport provider pursuant to
15 subdivision (b) of Section 14129.1 in the quarter beginning on April 1, 2018, based
16 on a schedule established by the director. The schedule established by the director
17 for the fee payment described in this paragraph shall require remittance of the fee
18 payment according to the following guidelines:

19 (A) The director shall require an emergency medical transport provider that
20 rendered 35,000 or more Medi-Cal fee-for-service emergency medical transports
21 during the 2016–17 state fiscal year to remit the fee payment described in this
22 paragraph on or after July 1, 2018.

23 (B) The director shall require an emergency medical transport provider that
24 rendered fewer than 35,000 Medi-Cal fee-for-service emergency medical transports
25 during the 2016–17 state fiscal year to remit 50 percent or less of the fee payment
26 described in this paragraph on or after August 1, 2018.

27 (C) The director shall require an emergency medical transport provider that
28 rendered fewer than 35,000 Medi-Cal fee-for-service emergency medical transports
29 during the 2016–17 state fiscal year to remit any remaining fee payment amount
30 described in this paragraph on or after August 15, 2018.

31 (2) Commencing with the state fiscal quarter beginning on October 1, 2018, and
32 continuing each state fiscal quarter thereafter, on or before the first day of each state
33 fiscal quarter, each emergency medical transport provider subject to the fee shall
34 remit to the department an amount equal to the annual quality assurance fee rate for
35 the applicable state fiscal year multiplied by the number of transports reported or
36 that should have been reported by the emergency medical transport provider
37 pursuant to subdivision (b) of Section 14129.1 in the immediately preceding quarter.

38 (d)(1) Interest shall be assessed on quality assurance fees not paid on the date due
39 at the greater of 10 percent per annum or the rate at which the department assesses
40 interest on Medi-Cal program overpayments pursuant to subdivision (h) of Section
41 14171. Interest shall begin to accrue the day after the date the payment was due and
42 shall be deposited in the Medi-Cal Emergency Medical Transport Fund established
43 in subdivision (f).

1 (2) In the event that any fee payment is more than 60 days overdue, the department
2 may deduct the unpaid fee and interest owed from any Medi-Cal reimbursement
3 payments owed to the emergency medical transport provider until the full amount
4 of the fee, interest, and any penalties assessed under this article are recovered. Any
5 deduction made pursuant to this subdivision shall be made only after the department
6 gives the emergency medical transport provider written notification. Any deduction
7 made pursuant to this subdivision may be deducted over a period of time that takes
8 into account the financial condition of the emergency medical transport provider.

9 (3) In the event that any fee payment is more than 60 days overdue, a penalty
10 equal to the interest charge described in paragraph (1) shall be assessed and due for
11 each month for which the payment is not received after 60 days. Any funds resulting
12 from a penalty imposed pursuant to this paragraph shall be deposited into the Medi-
13 Cal Emergency Medical Transport Fund created pursuant to subdivision (f).

14 (4) The director may waive a portion or all of either the interest or penalties, or
15 both, assessed under this article in the event the director determines, in ~~his or her~~
16 the director's sole discretion, that the emergency medical transport provider has
17 demonstrated that imposition of the full amount of the quality assurance fee
18 pursuant to the timelines applicable under this article has a high likelihood of
19 creating an undue financial hardship for the provider. Waiver of some or all of the
20 interest or penalties pursuant to this paragraph shall be conditioned on the
21 emergency medical transport provider's agreement to make fee payments on an
22 alternative schedule developed by the department.

23 (e) The department shall accept an emergency medical transport provider's
24 payment even if the payment is submitted in a rate year subsequent to the rate year
25 in which the fee was assessed.

26 (f)(1) The director shall deposit the quality assurance fees collected pursuant to
27 this section in the Medi-Cal Emergency Medical Transport Fund, which is hereby
28 created in the State Treasury and, notwithstanding Section 13340 of the Government
29 Code, is continuously appropriated without regard to fiscal years to the department
30 for the purposes specified in this article. Notwithstanding Section 16305.7 of the
31 Government Code, the fund shall also include interest and dividends earned on
32 moneys in the fund.

33 (2) The moneys in the Medi-Cal Emergency Medical Transport Fund, including
34 any interest and dividends earned on money in the fund, shall be available
35 exclusively to enhance federal financial participation for ambulance services under
36 the Medi-Cal program and to provide additional reimbursement to, and to support
37 quality improvement efforts of, emergency medical transport providers, and to pay
38 for the state's administrative costs and to provide funding for health care coverage
39 for Californians, in the following order of priority:

40 (A) To pay for the department's staffing and administrative costs directly
41 attributable to implementing this article, not to exceed the following amounts:

42 (i) For the 2018–19 state fiscal year, one million three thousand dollars
43 (\$1,003,000), exclusive of any federal matching funds.

1 (ii) For the 2019–20 state fiscal year and each state fiscal year thereafter, three
2 hundred seventy-four thousand dollars (\$374,000), exclusive of any federal
3 matching funds.

4 (B) To pay for the health care coverage in each applicable state fiscal year in the
5 amount of 10 percent of the annual quality assurance fee collection amount,
6 exclusive of any federal matching funds.

7 (C) To make increased payments to emergency medical transport providers
8 pursuant to this article.

9 (g) In the event of a merger, acquisition, or similar transaction involving an
10 emergency medical transport provider that has outstanding quality assurance fee
11 payment obligations pursuant to this article, including any interest and penalty
12 amounts owed, the resultant or successor emergency medical transport provider
13 shall be responsible for paying to the department the full amount of outstanding
14 quality assurance fee payments, including any applicable interest and penalties,
15 attributable to the emergency medical transport provider for which it was assessed,
16 upon the effective date of ~~such~~ the transaction. An entity considering a merger,
17 acquisition, or similar transaction involving an emergency medical transport
18 provider may submit a request pursuant to ~~Chapter 3.5 (commencing with Section~~
19 ~~6250)~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
20 Government Code to ascertain the outstanding quality assurance fee payment
21 obligations of the emergency medical transport provider pursuant to this article as
22 of the date of the department’s response to that request.

23 **Comment.** Section 14129.2 is amended to reflect nonsubstantive recodification of the California
24 Public Records Act (“CPRA”). See *California Public Records Act Clean-Up*, __ Cal. L. Revision
25 Comm’n Reports __ (2019). By updating the cross-reference to the CPRA, the amendment also
26 remedies an omission in that cross-reference (before recodification, the cross-reference should have
27 been to “Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government
28 Code”).

29 The section is also amended to eliminate gendered pronouns and make another technical change.

30 **§ 14167.37 (amended). Public documentation used to administer and audit program**

31 SEC. _____. Section 14167.37 of the Welfare and Institutions Code is amended to
32 read:

33 14167.37. (a)(1) The department shall make available all public documentation it
34 uses to administer and audit the program authorized under Article 5.230
35 (commencing with Section 14169.50) pursuant to the California Public Records Act
36 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
37 (commencing with Section 7920.000) of Title 1 of the Government Code).

38 (2) In addition, upon request from a hospital, the department shall require Medi-
39 Cal managed care plans to furnish hospitals with the amounts the plan intends to
40 pay to the hospital pursuant to Article 5.230 (commencing with Section 14169.50).
41 Nothing in this paragraph shall require the department to reconcile payments made
42 to individual hospitals from Medi-Cal managed care plans.

1 (b) Notwithstanding subdivision (a), the department shall post all of the following
2 on the department’s Internet Web site:

3 (1) Within 10 business days after receipt of approval of the hospital quality
4 assurance fee program under Article 5.230 (commencing with Section 14169.50)
5 from the federal Centers for Medicare and Medicaid Services (CMS), the hospital
6 quality assurance fee final model and upper payment limit calculations.

7 (2) Quarterly updates on payments, fee schedules, and model updates when
8 applicable.

9 (3) Within 10 business days after receipt, information on managed care rate
10 approvals.

11 (c) For purposes of this section, the following definitions shall apply:

12 (1) “Fee schedules” mean the dates on which the hospital quality assurance fee
13 will be due from the hospitals and the dates on which the department will submit
14 fee-for-service payments to the hospitals. “Fee schedules” also include the dates on
15 which the department is expected to submit payments to managed care plans.

16 (2) “Hospital quality assurance fee final model” means the spreadsheet
17 calculating the supplemental amounts based on the upper payment limit calculation
18 from claims and hospital data sources of days and hospital services once CMS
19 approves the program under Article 5.230 (commencing with Section 14169.50).

20 (3) “Upper payment limit calculation” means the determination of the federal
21 upper payment limit on the amount of the Medicaid payment for which federal
22 financial participation is available for a class of service and a class of health care
23 providers, as specified in Part 447 of Title 42 of the Code of Federal Regulations,
24 and that has been approved by CMS.

25 **Comment.** Section 14167.37 is amended to reflect nonsubstantive recodification of the
26 California Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision
27 Comm’n Reports __ (2019).

28 **§ 14301.1 (amended). Capitation rates**

29 SEC. _____. Section 14301.1 of the Welfare and Institutions Code is amended to
30 read:

31 14301.1. (a) For rates established on or after August 1, 2007, the department shall
32 pay capitation rates to health plans participating in the Medi-Cal managed care
33 program using actuarial methods and may establish health-plan- and county-specific
34 rates. Notwithstanding any other law, this section shall apply to any managed care
35 organization, licensed under the Knox-Keene Health Care Service Plan Act of 1975
36 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and
37 Safety Code), that has contracted with the department as a primary care case
38 management plan pursuant to Article 2.9 (commencing with Section 14088) of
39 Chapter 7 to provide services to beneficiaries who are HIV positive or who have
40 been diagnosed with AIDS for rates established on or after July 1, 2012. The
41 department shall utilize a county- and model-specific rate methodology to develop
42 Medi-Cal managed care capitation rates for contracts entered into between the

1 department and any entity pursuant to Article 2.7 (commencing with Section
2 14087.3), Article 2.8 (commencing with Section 14087.5), and Article 2.91
3 (commencing with Section 14089) of Chapter 7 that includes, but is not limited to,
4 all of the following:

5 (1) Health-plan-specific encounter and claims data.

6 (2) Supplemental utilization and cost data submitted by the health plans.

7 (3) Fee-for-service data for the underlying county of operation or other
8 appropriate counties as deemed necessary by the department.

9 (4) Department of Managed Health Care financial statement data specific to
10 Medi-Cal operations.

11 (5) Other demographic factors, such as age, gender, or diagnostic-based risk
12 adjustments, as the department deems appropriate.

13 (b) To the extent that the department is unable to obtain sufficient actual plan data,
14 it may substitute plan model, similar plan, or county-specific fee-for-service data.

15 (c) The department shall develop rates that include administrative costs, and may
16 apply different administrative costs with respect to separate aid code groups.

17 (d) The department shall develop rates that shall include, but are not limited to,
18 assumptions for underwriting, return on investment, risk, contingencies, changes in
19 policy, and a detailed review of health plan financial statements to validate and
20 reconcile costs for use in developing rates.

21 (e) The department may develop rates that pay plans based on performance
22 incentives, including quality indicators, access to care, and data submission.

23 (f) The department may develop and adopt condition-specific payment rates for
24 health conditions, including, but not limited to, childbirth delivery.

25 (g)(1) Prior to finalizing Medi-Cal managed care capitation rates, the department
26 shall provide health plans with information on how the rates were developed,
27 including rate sheets for that specific health plan, and provide the plans with the
28 opportunity to provide additional supplemental information.

29 (2) For contracts entered into between the department and any entity pursuant to
30 Article 2.8 (commencing with Section 14087.5) of Chapter 7, the department, by
31 June 30 of each year, or, if the budget has not passed by that date, no later than five
32 working days after the budget is signed, shall provide preliminary rates for the
33 upcoming fiscal year.

34 (h) For the purposes of developing capitation rates through implementation of this
35 ratesetting methodology, Medi-Cal managed care health plans shall provide the
36 department with financial and utilization data in a form and substance as deemed
37 necessary by the department to establish rates. This data shall be considered
38 proprietary and shall be exempt from disclosure as official information pursuant to
39 ~~subdivision (k) of Section 6254~~ Section 7927.705 of the Government Code as
40 contained in the California Public Records Act (~~Division 7 (commencing with~~
41 ~~Section 6250)~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
42 Government Code).

1 (i) Notwithstanding any other law, on and after the effective date of the act adding
2 this subdivision, the department may apply this section to the capitation rates it pays
3 under any managed care health plan contract.

4 (j) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of
5 Division 3 of Title 2 of the Government Code, the department may set and
6 implement managed care capitation rates, and interpret or make specific this section
7 and any applicable federal waivers and state plan amendments by means of plan
8 letters, plan or provider bulletins, or similar instructions, without taking regulatory
9 action.

10 (k) The department shall report, upon request, to the fiscal and policy committees
11 of the respective houses of the Legislature regarding implementation of this section.

12 (l) Prior to October 1, 2011, the risk-adjusted countywide capitation rate shall
13 comprise no more than 20 percent of the total capitation rate paid to each Medi-Cal
14 managed care plan.

15 (m)(1) It is the intent of the Legislature to preserve the policy goal to support and
16 strengthen traditional safety net providers who treat high volumes of uninsured and
17 Medi-Cal patients when Medi-Cal enrollees are defaulted into Medi-Cal managed
18 care plans.

19 (2) As the department adds additional factors, such as managed care plan costs, to
20 the Medi-Cal managed care plan default assignment algorithm, it shall consult with
21 the Auto Assignment Performance Incentive Program stakeholder workgroup to
22 develop cost factor disregards related to intergovernmental transfers and required
23 wraparound payments that support safety net providers.

24 (n)(1) The department shall develop and pay capitation rates to entities contracted
25 pursuant to Chapter 8.75 (commencing with Section 14591), using actuarial
26 methods and in a manner consistent with this section, except as provided in this
27 subdivision.

28 (2) The department may develop capitation rates using a standardized rate
29 methodology across managed care plan models for comparable populations. The
30 specific rate methodology applied to PACE organizations shall address features of
31 PACE that distinguishes it from other managed care plan models.

32 (3) The department may develop statewide rates and apply geographic
33 adjustments, using available data sources deemed appropriate by the department.
34 Consistent with actuarial methods, the primary source of data used to develop rates
35 for each PACE organization shall be its Medi-Cal cost and utilization data or other
36 data sources as deemed necessary by the department.

37 (4) Rates developed pursuant to this subdivision shall reflect the level of care
38 associated with the specific populations served under the contract.

39 (5) The rate methodology developed pursuant to this subdivision shall contain a
40 mechanism to account for the costs of high-cost drugs and treatments.

41 (6) Rates developed pursuant to this subdivision shall be actuarially certified prior
42 to implementation.

1 (7) The department shall consult with those entities contracted pursuant to
2 Chapter 8.75 (commencing with Section 14591) in developing a rate methodology
3 according to this subdivision.

4 (8) Consistent with the requirements of federal law, the department shall calculate
5 an upper payment limit for payments to PACE organizations. In calculating the
6 upper payment limit, the department shall correct the applicable data as necessary
7 and shall consider the risk of nursing home placement for the comparable population
8 when estimating the level of care and risk of PACE participants.

9 (9) During the first three rate years in which the methodology developed pursuant
10 to this subdivision is used by the department to set rates for entities contracted
11 pursuant to Chapter 8.75 (commencing with Section 14591), the department shall
12 pay the entity at a rate within the certified actuarially sound rate range developed
13 with respect to that entity, to the extent consistent with federal requirements and
14 subject to paragraph (11), as necessary to mitigate the impact to the entity during
15 the transition to the methodology developed pursuant to this subdivision.

16 (10) During the first two years in which a new PACE organization or existing
17 PACE organization enters a previously unserved area, the department shall pay at a
18 rate within the certified actuarially sound rate range developed with respect to that
19 entity, to the extent consistent with federal requirements and subject to paragraph
20 (11).

21 (11) This subdivision shall be implemented only to the extent that any necessary
22 federal approvals are obtained and federal financial participation is available.

23 (12) This subdivision shall apply for rates implemented no earlier than January 1,
24 2017.

25 **Comment.** Section 14301.1 is amended to reflect nonsubstantive recodification of the California
26 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
27 Reports __ (2019).

28 **§ 14456.3 (amended). Sharing of information with Department of Managed Health Care**

29 SEC. _____. Section 14456.3 of the Welfare and Institutions Code is amended to
30 read:

31 14456.3. (a) The department shall share with the Department of Managed Health
32 Care its findings from medical audits and monthly provider files of a Medi-Cal
33 managed care plan that provides services to Medi-Cal beneficiaries pursuant to
34 Chapter 7 (commencing with Section 14000) or this chapter and is subject to
35 Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety
36 Code.

37 (b) To the extent that the department communicates its preliminary investigative
38 audit findings to the Department of Managed Health Care under subdivision (a),
39 those communications shall be exempt from disclosure under the California Public
40 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
41 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

1 **Comment.** Section 14456.3 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
3 Reports __ (2019).

4 **§ 14499.6 (amended). Agreements between Santa Barbara Regional Health Authority and**
5 **out-of-county Selective Provider Contracting Program hospitals**

6 SEC. ____. Section 14499.6 of the Welfare and Institutions Code is amended to
7 read:

8 14499.6. (a) The Santa Barbara Regional Health Authority may arrange with out-
9 of-county Selective Provider Contracting Program hospitals that have negotiated
10 hospital contracts and per diem rates under Article 5.1 (commencing with Section
11 14165) of Chapter 7, to provide medically justified emergency services or to provide
12 specialized hospital services not available within Santa Barbara County to Medi-
13 Cal beneficiaries who reside in Santa Barbara County. The authority may arrange
14 medically justified inpatient hospital services with out-of-county program hospitals
15 for those beneficiaries whose county of residence for purposes of eligibility
16 determination is Santa Barbara, but who for medical or legal reasons physically
17 reside in a county other than Santa Barbara.

18 (b) The out-of-county program hospitals shall not charge the authority more than
19 their program negotiated rates when providing hospital services to authority patients
20 under this section, except as provided in subdivision (c).

21 (c) In cases where an out-of-county program hospital can demonstrate that the
22 cost of the services it is rendering to authority patients was not contemplated in the
23 case mix and acuity assumptions on which the program rates are based, the program
24 hospital and the authority shall negotiate in good faith equitable rates for payment
25 for the provision of hospital services to authority patients. The established program
26 rate shall serve as the base for those negotiations.

27 (d)(1) Notwithstanding any other provision of law, any records maintained by the
28 authority ~~which~~ that would enable a determination to be made regarding rates
29 negotiated pursuant to Article 5.1 (commencing with Section 14165) of Chapter 7,
30 shall be exempt from the California Public Records Act (Chapter 3.5 (commencing
31 with Section 6250) of Division 7 Division 10 (commencing with Section 7920.000)
32 of Title 1 of the Government Code).

33 (2) The authority shall establish guidelines to ensure that these rates are
34 maintained as confidential records and that access to these records is restricted.

35 (3) The authority shall submit the established guidelines to the department for
36 approval.

37 **Comment.** Section 14499.6 is amended to reflect nonsubstantive recodification of the California
38 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
39 Reports __ (2019).

40 The section is also amended to make a grammatical correction.

1 § 15805 (amended). Transitional matters relating to books, documents, files, property, data,
2 information, and records

3 SEC. _____. Section 15805 of the Welfare and Institutions Code is amended to read:
4 15805. (a)(1) The Managed Risk Medical Insurance Board shall provide the State
5 Department of Health Care Services any data, information, or record concerning the
6 Healthy Families Program or the Access for Infants and Mothers Program as are
7 necessary to implement this part and clause (ii) of subparagraph (A) of paragraph
8 (6) of subdivision (a) of Section 12693.70 of the Insurance Code.

9 (2) All books, documents, files, property, data, information, or record in
10 possession of the Managed Risk Medical Insurance Board, except for personnel
11 records related to staff transferred to the California Health Benefits Exchange
12 pursuant to Section 12739.61 or 12739.78 of the Insurance Code, shall be
13 transferred to the State Department of Health Care Services on July 1, 2014.

14 (3) Until the transition of duties from the Managed Risk Medical Insurance Board
15 to the State Department of Health Care Services required under subdivision (a) of
16 Section 15800 is complete, any book, document, file, property, data, information,
17 or record in the possession of the Managed Risk Medical Insurance Board pertaining
18 to functions, programs, and subscribers to be transferred to the State Department of
19 Health Care Services pursuant to subdivision (a) of Section 15800 shall immediately
20 be made available to the State Department of Health Care Services upon request for
21 review, inspection, and copying, including electronic transmittal, including records
22 otherwise not subject to disclosure under ~~Chapter 3.5 (commencing with~~
23 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
24 Title 1 of the Government Code.

25 (b) Notwithstanding any other law, all of the following shall apply:

26 (1) The term “book, document, file, property, data, information, or record” shall
27 include, but is not limited to, personal information as defined in Section 1798.3 of
28 the Civil Code.

29 (2) Any book, document, file, property, data, information, or record shall be
30 exempt from disclosure under the California Public Records Act (~~Chapter 3.5~~
31 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
32 Section 7920.000) of Title 1 of the Government Code) and any other law, to the
33 same extent that it was exempt from disclosure or privileged prior to the provision
34 of the book, document, file, property, data, information, or record to the department.

35 (3) The provision of any book, document, file, property, data, information, or
36 record to the department shall not constitute a waiver of any evidentiary privilege
37 or exemption from disclosure.

38 (4) The department shall keep all books, documents, files, property, data,
39 information, or records provided by the Managed Risk Medical Insurance Board
40 confidential to the full extent permitted by law, including, but not limited to, the
41 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of~~
42 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
43 Government Code), and consistent with the Managed Risk Medical Insurance

1 Board’s contractual obligations to keep books, documents, files, property, data,
2 information, or records confidential.

3 **Comment.** Section 15805 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act (“CPRA”). See *California Public Records Act Clean-Up*, __ Cal. L. Revision
5 Comm’n Reports __ (2019). By updating the references to the CPRA in paragraphs (b)(2) and
6 (b)(4), the amendment also remedies an omission in those cross-references (before recodification,
7 the cross-references should have been to “Chapter 3.5 (commencing with Section 6250) of Division
8 7 of Title 1 of the Government Code”).

9 **§ 16809.4 (amended). County Medical Services Program Governing Board**

10 SEC. ____. Section 16809.4 of the Welfare and Institutions Code is amended to
11 read:

12 16809.4. (a) Counties voluntarily participating in the County Medical Services
13 Program pursuant to Section 16809 may establish the County Medical Services
14 Program Governing Board pursuant to procedures contained in this section. The
15 governing board shall govern the County Medical Services Program.

16 (b) The membership of the governing board shall be comprised of all of the
17 following:

18 (1) Three members who shall each be a member of a county board of supervisors.

19 (2) Three members who shall be county administrative officers.

20 (3) Two members who shall be county welfare directors.

21 (4) Two members who shall be county health officials.

22 (5) One member who shall be the Secretary of the Health and Welfare Agency, or
23 ~~his or her~~ the secretary’s designee, and who shall serve as an ex officio, nonvoting
24 member.

25 (c) The governing board may establish its own bylaws and operating procedures.

26 (d) The voting membership of the governing board shall meet all of the following
27 requirements:

28 (1) All of the members shall hold office or employment in counties that participate
29 in the County Medical Services Program.

30 (A) The three county supervisor members shall be elected by the boards of
31 supervisors of the CMSP counties, with each county having one vote and convened
32 at the call of the chair of the governing board.

33 (B) The three county administrative officers shall be elected by the administrative
34 officers of the CMSP counties convened at the call of the chair of the governing
35 board.

36 (C) The two county health officials shall be selected by the health officials of the
37 CMSP counties convened at the call of the chair of the governing board.

38 (D) The two county welfare directors shall be elected by the welfare directors of
39 the CMSP counties convened at the call of the chair of the governing board.

40 (2) Governing board members shall serve three-year terms.

41 (3) No two persons from the same county may serve as members of the governing
42 board at the same time.

43 (4) The governing board may elect a permanent chair.

1 (e)(1) The governing board is hereby established with the following powers:

2 (A) Determine program eligibility and benefit levels.

3 (B) Establish reserves and participation fees.

4 (C) Establish procedures for the entry into, and disenrollment of counties from the
5 County Medical Services Program. Disenrollment procedures shall be fair and
6 equitable.

7 (D) Establish cost containment and case management procedures, including, but
8 not limited to, alternative methods for delivery of care and alternative methods and
9 rates from those used by the department.

10 (E) Sue and be sued in the name of the governing board.

11 (F) Apportion jurisdictional risk to each county.

12 (G) Utilize procurement policies and procedures of any of the participating
13 counties as selected by the governing board.

14 (H) Make rules and regulations.

15 (I) Make and enter into contracts or stipulations of any nature with a public agency
16 or person for the purposes of governing or administering the County Medical
17 Services Program.

18 (J) Purchase supplies, equipment, materials, property, or services.

19 (K) Appoint and employ staff to assist the governing board.

20 (L) Establish rules for its proceedings.

21 (M) Accept gifts, contributions, grants, or loans from any public agency or person
22 for the purposes of this program.

23 (N) Negotiate and set rates, charges, or fees with service providers, including
24 alternative methods of payment to those used by the department.

25 (O) Establish methods of payment that are compatible with the administrative
26 requirements of the department's fiscal intermediary during the term of any contract
27 with the department for the administration of the County Medical Services Program.

28 (P) Use generally accepted accounting procedures.

29 (Q) Develop and implement procedures and processes to monitor and enforce the
30 appropriate billing and payment of rates, charges, and fees.

31 (R) Investigate and pursue repayment of fees billed and paid through improper
32 means, including, but not limited to, fraudulent billing and collection practices by
33 providers.

34 (S) Pursue third-party recoveries and estate recoveries for services provided under
35 the County Medical Services Program, including the filing and perfecting of liens
36 to secure reimbursement for the reasonable value of benefits provided.

37 (T) Establish and maintain pilot projects to identify or test alternative approaches
38 for determining eligibility or for providing or paying for services.

39 (U) Establish provisions for payment to participating counties for making
40 eligibility determinations, as determined by the governing board.

41 (V) Develop and implement alternative products with varying levels of eligibility
42 criteria and benefits outside of the County Medical Services Program for counties
43 contracting with the governing board for those products, provided that any such

1 alternative products shall be funded separately from the County Medical Services
2 Program and shall not impair the financial stability of that program.

3 (2) The Legislature finds and declares that the amendment of subparagraph (N) of
4 paragraph (1) in 1995, and the addition of subparagraphs (Q), (R), (S), (T), and (U)
5 in 2006, are declaratory of existing law.

6 (f)(1) The governing board shall be considered a “public entity” for purposes of
7 Division 3.6 (commencing with Section 810) of Title 1 of the Government Code,
8 and a “local public entity” for purposes of Part 3 (commencing with Section 900) of
9 Division 3.6 of Title 1 of the Government Code, but shall not be considered a “state
10 agency” for purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of
11 Division 3 of Title 2 of the Government Code and shall be exempt from that chapter.
12 No participating county shall have any liability for civil judgments awarded against
13 the County Medical Services Program or the governing board. Nothing in this
14 paragraph shall be construed to expand the liability of the state with respect to the
15 County Medical Services Program beyond that set forth in Section 16809. Nothing
16 in this paragraph shall be construed to relieve any county of the obligation to provide
17 health care to indigent persons pursuant to Section 17000, or the obligation of any
18 county to pay its participation fees and share of apportioned and allocated risk.

19 (2) Before initiating any proceeding to challenge rates of payment, charges, or
20 fees set by the governing board, to seek reimbursement or release of any funds from
21 the County Medical Services Program, or to challenge any other action by the
22 governing board, any prospective claimant shall first notify the governing board, in
23 writing, of the nature and basis of the challenge and the amount claimed. The
24 governing board shall consider the matter within 60 days after receiving the notice
25 and shall promptly thereafter provide written notice of the governing board’s
26 decision. If the governing board contracts with the department for administration of
27 the program in accordance with Section 16809, this paragraph shall have no
28 application to provider audit appeals conducted pursuant to Article 1.5
29 (commencing with Section 51016) of Chapter 3 of Division 3 of Title 22 of the
30 California Code of Regulations and shall apply to all claims not reviewed pursuant
31 to Section 51003 or 51015 of Title 22 of the California Code of Regulations.

32 (3) All regulations adopted by the governing board shall clearly specify by
33 reference the statute, court decision, or other provision of law that the governing
34 board is seeking to implement, interpret, or make specific by adopting, amending,
35 or repealing the regulation.

36 (4) No regulation adopted by the governing board is valid and effective unless the
37 regulation meets the standards of necessity, authority, clarity, consistency, and
38 nonduplication, as defined in paragraph (5).

39 (5) The following definitions govern the interpretation of this subdivision:

40 (A) “Necessity” means the record of the regulatory proceeding that demonstrates
41 by substantial evidence the need for the regulation. For purposes of this standard,
42 evidence includes, but is not limited to, facts, studies, and expert opinion.

1 (B) “Authority” means the provision of law that permits or obligates the CMSP
2 Governing Board to adopt, amend, or repeal a regulation.

3 (C) “Clarity” means that the regulation is written or displayed so that the meaning
4 of the regulation can be easily understood by those persons directly affected by it.

5 (D) “Consistency” means being in harmony with, and not in conflict with, or
6 contradictory to, existing statutes, court decisions, or other provisions of law.

7 (E) “Nonduplication” means that a regulation does not serve the same purpose as
8 a state or federal statute or another regulation. This standard requires that the
9 governing board identify any state or federal statute or regulation that is overlapped
10 or duplicated by the proposed regulation and justify any overlap or duplication. This
11 standard is not intended to prohibit the governing board from printing relevant
12 portions of enabling legislation in regulations when the duplication is necessary to
13 satisfy the clarity standard in subparagraph (C). This standard is intended to prevent
14 the indiscriminate incorporation of statutory language in a regulation.

15 (g) The requirements of the Ralph M. Brown Act (Chapter 9 (commencing with
16 Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) shall
17 apply to the meetings of the governing board, including meetings held pursuant to
18 subdivision (i), except the board may meet in closed session to consider and take
19 action on matters pertaining to contracts and contract negotiations with providers of
20 health care services.

21 (h)(1) The governing board shall comply with the following procedures for public
22 meetings held to eliminate or reduce the level of services, restrict eligibility for
23 services, or adopt regulations:

24 (A) Provide prior public notice of those meetings.

25 (B) Provide that notice not less than 30 days prior to those meetings.

26 (C) Publish that notice in a newspaper of general circulation in each participating
27 CMSP county.

28 (D) Include in the notice, at a minimum, the amount and type of each proposed
29 change, the expected savings, and the number of persons affected.

30 (E) Either hold those meetings in the county seats of at least four regionally
31 distributed CMSP participating counties, or, alternatively, hold two meetings in
32 Sacramento County.

33 (2) For meetings held outside Sacramento County, the requirements for public
34 meetings pursuant to this subdivision to eliminate or reduce the level of services, or
35 to restrict the eligibility for services or hear testimony regarding regulations to
36 implement any of these service charges, are satisfied if at least three voting members
37 of the governing board hold the meetings as required and report the testimony from
38 those meetings to the full governing board at its next regular meeting. No action
39 shall be taken at any meeting held outside Sacramento County pursuant to this
40 paragraph.

41 (i) Records of the County Medical Services Program and of the governing board
42 that relate to rates of payment or to the board’s negotiations with providers of health
43 care services or to the governing board’s deliberative processes regarding either

1 shall not be subject to disclosure pursuant to the California Public Records Act
2 (~~Chapter 5 (commencing with Section 6250) of Division 7~~ Division 10
3 (commencing with Section 7920.000) of Title 1 of the Government Code).

4 (j) The following definitions shall govern the construction of this part, unless the
5 context requires otherwise:

6 (1) “CMSP” or “program” means the County Medical Services Program, which
7 is the program by which health care services are provided to eligible persons in those
8 counties electing to participate in the CMSP pursuant to Section 16809.

9 (2) “CMSP county” means a county that has elected to participate pursuant to
10 Section 16809 in the CMSP.

11 (3) “Governing Board” means the County Medical Services Program Governing
12 Board established pursuant to this section.

13 **Comment.** Section 16809.4 is amended to reflect nonsubstantive recodification of the California
14 Public Records Act (“CPRA”). See *California Public Records Act Clean-Up*, __ Cal. L. Revision
15 Comm’n Reports __ (2019). By updating the reference to the CPRA, the amendment also
16 eliminates an erroneous reference to “Chapter 5” (as opposed to “Chapter 3.5”).

17 The section is also amended to make technical changes.

18 **§ 17852 (amended). Collection and disclosure of information**

19 SEC. _____. Section 17852 of the Welfare and Institutions Code is amended to read:

20 17852. (a) The state, a city, county, city and county, or hospital district may
21 collect information for the purposes of this part only as required to assess eligibility
22 for, or to administer, public services or programs. This shall include coordinating
23 services or programs across state and local agencies, ensuring that public services
24 or programs adequately service individuals and diverse communities, enforcing
25 civil rights protections, and providing access to services, programs, or benefits for
26 which an individual may be eligible or that address needs for health, social, or other
27 services. This section shall include third parties under contract with a public officer
28 or agency.

29 (b) All types of information, whether written or oral, concerning a person made
30 or kept by any public officer or agency for the purpose of assessing eligibility for,
31 or administering the services authorized by, this part are exempt from disclosure
32 under the California Public Records Act (~~Chapter 3.5 (commencing with Section~~
33 ~~6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of
34 the Government Code), are confidential, and shall not be disclosed except as
35 required to administer the services or as required by law, as required by a federal or
36 state court order, or to the state or local public health officer to carry out the duties
37 of investigation, control, surveillance of disease, as determined by the state or local
38 public health agency.

39 (c) This section shall not prohibit the sharing of data as long as it is disclosed in a
40 manner that could not be used to determine the identities of the persons to whom
41 the data pertains, alone, or in combination with other data.

1 (d) This section shall not prohibit the sharing of personal information when the
2 subject of that information has provided signed, written consent allowing the
3 information to be provided to the person requesting the information.

4 **Comment.** Section 17852 is amended to reflect nonsubstantive recodification of the California
5 Public Records Act. See *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n
6 Reports __ (2019).
7

8 UNCODIFIED

9 **Contingent operation**

10 SEC. ____. This act shall only become operative if [the CPRA recodification bill]
11 is enacted and becomes operative on July 1, 2021, and that bill would reorganize
12 and make other nonsubstantive changes to the California Public Records Act, in
13 which case this act shall also become operative on July 1, 2021.

14 **Subordination clause**

15 SEC. ____. Any section of any act enacted by the Legislature during the 2020
16 calendar year, other than a section of the annual maintenance of the codes bill or
17 another bill with a subordination clause, that takes effect on or before July 1, 2021,
18 and that amends, amends and renumbers, amends and repeals, adds, repeals and
19 adds, or repeals a section that is amended, amended and renumbered, amended and
20 repealed, added, repealed and added, or repealed by this act, shall prevail over this
21 act, whether that act is chaptered before or after this act.

22
