AMENDMENTS TO ASSEMBLY BILL NO. 3034

Amendment 1

In the title, strike out lines 1 and 2 and insert:

An act to add Section 28856 to the Public Utilities Code, relating to public transit.

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Section 28856 is added to the Public Utilities Code, to read:

28856. (a) For employees within the supervisory units, including, without limitation, supervisory, professional, and technical employees, of the San Francisco Bay Area Rapid Transit District covered under this chapter, employer-employee relations shall be governed under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code).

(b) Employer-employee relations governed under the Meyers-Milias-Brown Act shall be subject to the exclusive jurisdiction of, and shall be administered by, the Public Employment Relations Board, established pursuant to Section 3541 of the Government Code.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Amendment 3

On page 1, strike out lines 1 to 5, inclusive

AMENDMENTS TO ASSEMBLY BILL NO. 3049

Amendment 1

In the title, strike out lines 1 and 2 and insert:

An act to amend Sections 1101, 1154, 1156, 1156.5, 1157.5, 1159.2, 1170.1, 1190, and 1190.1 of, and to add Section 1190.2 to, the Harbors and Navigation Code, relating to bar pilots, and making an appropriation therefor.

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Section 1101 of the Harbors and Navigation Code is amended to read:

1101. The Legislature further finds and declares all of the following:

(a) The maritime industry is necessary for the continued economic well-being and cultural development of all California citizens.

(b) The Bays of San Francisco, San Pablo, and Suisun provide a vital transportation route for the maritime industry.

(c) The increase in vessel size and traffic, and the increase in cargoes carried in bulk, particularly oil and gas and hazardous chemicals, create substantial hazards to the life, property, and values associated with the environment of those waters.

(d) The federal government has long adopted the policy of providing minimum standards that ensure port and waterway safety while encouraging state control over pilot qualifications and licensing.

(e) A program of pilot regulation and licensing is necessary in order to ascertain and guarantee the qualifications, fitness, and reliability of qualified personnel who can provide safe pilotage of vessels entering and using Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun.

(f) The need to ensure safe and pollution-free waterborne commerce requires that pilotage services be employed in the confined, crowded, and environmentally sensitive waters of those bays.

(g) Bar pilotage in the Bays of San Francisco, San Pablo, and Suisun has continuously been regulated by a single-purpose state board since 1850, and that regulation and licensing should be continued.

(h) The individual physical safety and well-being of pilots is of vital importance in providing required pilot services.

(i) The setting of pilotage rates by a state board of pilot commissioners is common to many ports in the United States and such a board is most familiar with, and best able to serve and balance, the interests of the public, foreign and domestic vessels, and bar pilots in the setting of those rates.

SEC. 2. Section 1154 of the Harbors and Navigation Code is amended to read:

1154. (a) The board is vested with all functions and duties relating to the administration of this division, except those functions and duties vested in the Secretary of ~~Business, Transportation and Housing.~~ Transportation.

(b) The board's vested powers include the power to make and enforce rules and regulations that are reasonably necessary to carry out its provisions and to govern its actions. These rules and regulations shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 3. Section 1156 of the Harbors and Navigation Code is amended to read:

1156. (a) The board may appoint, fix the compensation of, and ~~from time to time~~ periodically adjust the compensation of, an executive director who is exempt from the civil service laws, and other employees as may be necessary. The executive director may perform all duties, exercise all powers, discharge all responsibilities, and administer and enforce all laws, rules, and regulations under the jurisdiction of the board, with the approval of the board, including, but not limited to, all of the following:

(1) The administration of personnel employed by the board in accordance with the civil service laws.

(2) To serve as treasurer of the board and keep, maintain, and provide the board with all statements of accounts, records of receipts, and disbursements of the board in accordance with the law.

(3) The issuance and countersigning of licenses that shall also be signed by the president of the board.

(4) The administration of matters and the maintenance of files pertaining to action taken against licenses issued by the board.

(5) The administration of investigations of, and reporting on, a navigational incident or other matter for which a license issued by the board may be revoked or suspended.

(6) To work with board members, staff, and other interested stakeholders to recommend improvements in the pilot training program.

(7) Under the direction of the board, to coordinate with other state and federal agencies charged with protecting the environment and with the oil and hazardous chemical shipping industry.

(8) Any other function, task, or duty as may reasonably be assigned by the president of the board, including, but not limited to, performing research and obtaining documents and other evidence for board activities, including rate hearings.

(b) The Secretary of ~~Business,~~ Transportation ~~and Housing~~ shall appoint one assistant director to serve in a career executive assignment at the pleasure of the secretary. The assistant director shall have the duties as assigned by the executive director, and shall be responsible to the executive director for the performance of his or her duties.

(c) The board may employ personnel necessary to carry out the purposes of this chapter. All personnel shall be appointed pursuant to the State Civil Service Act (Part 1 (commencing with Section 18000) of Division 5 of Title 2 of the Government Code), except for the executive director and the assistant director, who shall be exempt from state civil service. The board may fix the compensation of, and from time to time adjust the compensation of, any employees as may be necessary.

(d) All personnel of the board shall be appointed, directed, and controlled by the board, the executive director, or the board's authorized deputies or agents to whom it may delegate its powers.

(e) The board may contract and employ commission investigators. The board shall adopt regulations for the minimum standards for a commission investigator that shall include, but are not limited to, a basic knowledge of investigative techniques and maritime issues.

SEC. 4. Section 1156.5 of the Harbors and Navigation Code is amended to read:

1156.5. (a) The executive director shall serve at the pleasure of the board and shall be under the direct supervision of the board. The term of office to which the executive director is appointed is five years.

(b) The Secretary of ~~Business, Transportation and Housing,~~ Transportation, or his or her designee, shall act as the executive director during the absence from the state or other temporary absence, disability, or unavailability of the executive director, or during a vacancy in that position.

SEC. 5. Section 1157.5 of the Harbors and Navigation Code is amended to read:

1157.5. ~~On or before April 15, 2010, and annually thereafter, the~~ The board shall submit to the Secretary of the Senate, the Chief Clerk of the Assembly, and the Secretary of ~~Business, Transportation and Housing~~ Transportation, by April 15 of each year, a report describing the board's activities for the preceding calendar year. The report shall include, but not be limited to, all of the following:

(a) The number of vessel movements across the bar, on the bays, and on the rivers within the board's jurisdiction.

(b) The name of each licensed pilot and pilot trainee, and the status of each person. If a person has had more than one status during the reporting year, each status and the length of time in that status shall be indicated. For the purposes of this section, "status" includes all of the following designations:

(1) Licensed and fit for duty.

(2) Licensed and not fit for duty.

(3) Licensed and on authorized training.

(4) Licensed and on active military duty.

(5) Licensed and on leave of absence.

(6) Licensed but license suspended.

(c) A summary of each report of misconduct or a navigational incident involving a pilot or pilot trainee, or other matters for which a license issued by the board may be revoked or suspended. For those cases that have been closed, the summary shall include a description of findings made by the incident review committee and of the resulting action taken by the board. For those cases that are still under investigation, the summary shall include a description of the reported incident and an estimated completion date for the investigation. For those closed cases involving a pilot who has been involved in a prior incident and a finding of pilot error had been made, the report shall also include a summary of that incident.

SEC. 6. Section 1159.2 of the Harbors and Navigation Code is amended to read:

1159.2. (a) The vessel shall pay a board operations surcharge, the purpose of which is to fully compensate the board and the Transportation Agency for the official services, staff services, and incidental expenses of the board and agency. The amount of the surcharge shall be 7.5 percent of all pilotage fees charged by pilots pursuant to

Sections ~~1190 and~~ 1190, 1190.2, and 1191 unless the board establishes, with the approval of the Department of Finance, a lesser percentage, not to exceed any percentage consistent with subdivision (d).

(b) The surcharge shall be billed and collected by the pilots. The pilots shall pay all surcharges collected by them to the board monthly or at a later time that the board may direct.

(c) The board shall quarterly review its ongoing and anticipated expenses and adjust the surcharge to reflect any changes that have occurred since the last adjustment.

(d) The board operations surcharge shall not represent a percentage significantly more than that required to support the board and any costs of the Transportation Agency related to the administration of the board pursuant to subdivision (a) in addition to the maintenance of a reasonable reserve.

SEC. 7. Section 1170.1 of the Harbors and Navigation Code is amended to read:

1170.1. In determining the number of pilots needed, pursuant to Section 1170, the board shall take into consideration the findings and declarations in Sections ~~1100~~ 1100, 1101, and ~~1101,~~ 1102, the results of the study required by Section 1196.5, the 1986 manpower study adopted by the board, the results of an audit made pursuant to, and the factors specified in, Section 1203, the industry's current economic trends, fluctuations in the number of vessel calls, the size of vessels, and whether the need for pilotage is increasing or decreasing.

SEC. 8. Section 1190 of the Harbors and Navigation Code is amended to read:

1190. (a) Every vessel spoken inward or outward bound shall pay the following rate of bar pilotage through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun:

(1) ~~Eight dollars and eleven cents ($8.11)~~ (A) Ten dollars and twenty-six cents ($10.26) per draft foot of the vessel's deepest draft and fractions of a foot pro rata, and an additional charge of ~~73.01~~ 92.43 mills per high gross registered ~~ton as changed pursuant to law in effect on December 31, 1999. The mill rates established by this paragraph may be changed as follows:~~ ton.

~~(A) (i) On and after January 1, 2010, if the number of pilots licensed by the board is 58 or 59 pilots, the mill rate in effect on December 31, 2006, shall be decreased by an incremental amount that is proportionate to one-half of the last audited annual average net income per pilot for each pilot licensed by the board below 60 pilots.~~

~~(ii) On and after January 1, 2010, if the number of pilots licensed by the board is fewer than 58 pilots, the mill rate in effect on December 31, 2006, shall be adjusted in accordance with the method described in clause (i) as though there are 58 pilots licensed by the board.~~

~~(iii) The incremental mill rate adjustment authorized by this subparagraph shall be calculated using the data reported to the board for the number of gross registered tons handled by pilots licensed under this division during the same 12-month period as the audited annual average net income per pilot. The incremental mill rate adjustment shall become effective at the beginning of the immediately following quarter, commencing January 1, April 1, July 1, or October 1, as directed by the board.~~

~~(iv) On and after January 1, 2010, if, during any quarter described in this paragraph, the number of pilots licensed by the board is equal to or greater than 60,~~

~~clauses (i) to (iii), inclusive, shall become inoperative on the first day of the immediately following quarter.~~

~~(B) There shall be an incremental rate of additional mills per high gross registered ton as is necessary and authorized by the board to recover the pilots' costs of obtaining new pilot boats and of funding design and engineering modifications for the purposes of extending the service life of existing pilot boats, excluding costs for repair or maintenance. The incremental mill rate charge authorized by this subparagraph shall be identified as a pilot boat surcharge on the pilots' invoices and separately accounted for in the accounting required by Section 1136. Net proceeds from the sale of existing pilot boats shall be used to reduce the debt on the new pilot boats and any debt associated with the modification of pilot boats under this subparagraph. The board may adjust a pilot boat surcharge to reflect any associated operational savings resulting from the modification of pilot boats under this subparagraph, including, but not limited to, reduced repair and maintenance expenses.~~

~~(C) In addition to the incremental rate specified in subparagraph (B), the~~ (B) The mill rate established by this subdivision may be adjusted at the direction of the board if, after a hearing conducted pursuant to Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, the board determines that there has been a catastrophic cost increase to the pilots that would result in at least a 2-percent increase in the overall annual cost of providing pilot services.

(2) A minimum charge for bar pilotage shall be six hundred sixty-two dollars ($662) for each vessel piloted.

(3) The vessel's deepest draft shall be the maximum draft attained, on a stillwater basis, at any part of the vessel during the course of such transit inward or outward.

(b) The rate specified in subdivision (a) shall apply only to a pilotage that passes through the Golden Gate to or from the high seas to or from a berth within an area bounded by the Union Pacific Railroad Bridge to the north and Hunter's Point to the south. The rate for pilotage to or from the high seas to or from a point past the Union Pacific Railroad Bridge or Hunter's Point shall include a movement fee in addition to the basic bar pilotage rate as specified by the board pursuant to Section 1191.

(c) The rate established in paragraph (1) of subdivision (a) shall be for a trip from the high seas to dock or from the dock to high seas. The rate specified in Section 1191 shall not be charged by pilots for docking and undocking vessels. ~~This subdivision does not apply to the rates charged by inland pilots for their services.~~

~~(d) The board shall determine the number of pilots to be licensed based on the 1986 manpower study adopted by the board.~~

~~(e) Consistent with the board's May 2002 adoption of rate recommendations, the rates imposed pursuant to paragraph (1) of subdivision (a) that are in effect on December 31, 2002, shall be increased by 4 percent on January 1, 2003; those in effect on December 31, 2003, shall be increased by 4 percent on January 1, 2004; those in effect on December 31, 2004, shall be increased by 3 percent on January 1, 2005; and those in effect on December 31, 2005, shall be increased by 3 percent on January 1, 2006.~~

SEC. 9. Section 1190.1 of the Harbors and Navigation Code is amended to read:

1190.1. Every vessel that uses a pilot under this division while navigating the waters of Monterey Bay shall pay the rate ~~provided by subdivisions~~ determined pursuant to subdivision (a) ~~and (c)~~ of Section 1190.

SEC. 10. Section 1190.2 is added to the Harbors and Navigation Code, to read:

1190.2. There shall be an incremental rate of additional mills per high gross registered ton as is necessary and authorized by the board to recover the pilots' cost of obtaining new pilot boats and of funding design and engineering modifications for the purposes of extending the service life of existing pilot boats, excluding costs for repair or maintenance. The incremental mill rate charge authorized by this section shall be identified as a pilot boat surcharge on the pilots' invoices and separately accounted for in the accounting required by Section 1136. Net proceeds from the sale of an existing pilot boat shall be used to reduce the debt on the new pilot boats and any debt associated with the modification of pilot boats under this section. The board may adjust a pilot boat surcharge to reflect any associated operational savings resulting from the modification of pilot boats under this section, including, but not limited to, reduced repair and maintenance expenses.

Amendment 3
On page 1, strike out lines 1 to 9, inclusive, and strike out page 2

AMENDMENTS TO ASSEMBLY BILL NO. 3060

Amendment 1

In the title, strike out lines 1 and 2 and insert:

An act to amend Section 17072 of, and to add Sections 17205 and 24343.4 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Section 17072 of the Revenue and Taxation Code is amended to read:

17072. (a) Section 62 of the Internal Revenue Code, relating to adjusted gross income defined, shall apply, except as otherwise provided.

(b) Section 62(a)(2)(D) of the Internal Revenue Code, relating to certain expenses of elementary and secondary school teachers, shall not apply.

(c) Section 62(a)(21) of the Internal Revenue Code, relating to attorneys fees relating to awards to whistleblowers, shall not apply.

(d) For each taxable year beginning on or after January 1, 2019, Section 62(a) of the Internal Revenue Code, relating to general rule, is modified to provide that the deduction allowed under Section 17205 shall be allowed in determining adjusted gross income.

SEC. 2. Section 17205 is added to the Revenue and Taxation Code, to read:

17205. (a) For each taxable year beginning on or after January 1, 2019, there shall be allowed as a deduction an amount paid or incurred by an employer during the taxable year for the educational assistance of a full-time employee pursuant to an educational assistance program.

(b) For purposes of this section:

(1) "Educational assistance" has the same meaning as defined in Section 17151.

(2) "Educational assistance program" has the same meaning as defined in Section 17151.

(3) "Full-time employee" means an individual who meets either of the following:

(A) Is paid wages for services not less than an average of 40 hours per week.

(B) Is a salaried employee and was paid compensation during the taxable year for full-time employment, within the meaning of Section 515 of the Labor Code.

SEC. 3. Section 24343.4 is added to the Revenue and Taxation Code, to read:

24343.4. (a) For each taxable year beginning on or after January 1, 2019, there shall be allowed as a deduction an amount paid or incurred by an employer during the taxable year for the educational assistance of a full-time employee pursuant to an educational assistance program.

(b) For purposes of this section:

(1) "Educational assistance" has the same meaning as defined in Section 17151.

(2) "Educational assistance program" has the same meaning as defined in Section 17151.

(3) "Full-time employee" means an individual who meets either of the following:
(A) Is paid wages for services not less than an average of 40 hours per week.
(B) Is a salaried employee and was paid compensation during the taxable year for full-time employment, within the meaning of Section 515 of the Labor Code.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect.

Amendment 3
On page 1, strike out lines 1 to 8, inclusive, and strike out page 2

AMENDMENTS TO ASSEMBLY BILL NO. 3061

Amendment 1

In the title, in line 1, after "act" insert:

to add Section 4613 to the Business and Professions Code,

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Section 4613 is added to the Business and Professions Code, to read:

4613. Notwithstanding any other law:

(a) For purposes of this section, "massage establishment" means any business that offers massage therapy in exchange for compensation, whether or not at a fixed place of business. "Massage establishment" includes both of the following:

(1) A certified massage practitioner who is the sole owner, operator, and employee of a massage establishment operating as a sole proprietorship.

(2) A business that is organized as a corporation, general or limited partnership, limited liability company, or any other form of business other than a sole proprietorship.

(b) An owner of a massage establishment shall be registered by the county clerk of the county in which the massage establishment owner operates a business or has his or her principal place of business, and in which the massage establishment owner maintains an office.

(c) The application for registration as a massage establishment owner shall include, but is not limited to, all of the following:

(1) The massage establishment owner's legal name.

(2) The massage establishment owner's residential address and telephone number.

(3) The massage establishment owner's business address and telephone number.

(4) The name and address of any massage establishment or similar business owned or operated by the massage establishment owner, whether or not the massage establishment or similar business is located in the county, and the form of business under which each massage business operates or will be operating.

(5) A signed statement confirming all of the information contained in the registration application, that the massage establishment owner shall be responsible for the conduct of the massage establishment's employees or independent contractors providing massage services, and acknowledging that a failure to comply with this section or any local, state, or federal law may result in revocation of the massage establishment owner's registration.

(d) An applicant for registration shall provide to the county clerk a valid and current driver's license or other identification issued by a state or federal governmental agency or other photographic identification bearing a bona fide seal by a foreign government.

(e) If an applicant for registration is not certified to practice as a certified massage practitioner by the council, the applicant shall submit an application for a background

check that includes the applicant's business, occupation, and employment history for the five years preceding the date of the application and the dates of the applicant's employment history.

(f) The county clerk may charge a fee not to exceed a reasonable amount to cover the costs of registration.

(g) A county clerk that revokes the registration of a massage establishment owner shall report the fact that the registration has been revoked to the council.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Amendment 3

On page 1, strike out lines 1 to 7, inclusive

AMENDMENTS TO ASSEMBLY BILL NO. 3063

Amendment 1

In the title, in line 1, strike out "amend Section 33030" and insert:

add Chapter 11.6 (commencing with Section 42960) to Part 24 of Division 3 of Title 2

Amendment 2

In the title, in line 2, strike out "governance." and insert:

finance.

Amendment 3

On page 1, before line 1, insert:

SECTION 1. Chapter 11.6 (commencing with Section 42960) is added to Part 24 of Division 3 of Title 2 of the Education Code, to read:

CHAPTER 11.6. OPPORTUNITY YOUTH REENGAGEMENT FUND

42960. (a) The Opportunity Youth Reengagement Fund is hereby established in order to provide to local educational agencies serving reengaged opportunity youth, as described in subdivision (c), the same funding as is provided to county offices of education for the alternative education grant. This funding shall include an additional 35 percent local control funding formula reengagement grant in addition to base grant, supplemental grant, and concentration grant funding generated by a participating pupil. Funding under this chapter shall follow the eligible youth, and shall be available year-round.

(b) A local educational agency, as defined for purposes of this chapter to include a school district, a county office of education, and a charter school, shall be eligible to receive grants from the Opportunity Youth Reengagement Fund.

(c) A youth who is eligible to participate in the program funded under this chapter shall include a pupil formerly identified as a dropout, an expelled pupil, and a pupil who has not been enrolled for at least 90 days irrespective of designation, including, but not necessarily limited to, a pupil identified as a transfer pupil but who has not reenrolled in a public elementary or secondary school for at least 90 days.

42961. (a) A grant received pursuant to this chapter shall be used for reengagement services for reengaged youth, including, but not necessarily limited to, the implementation of agreements with federal, state, and local governmental agencies, community-based nonprofit and faith-based organizations, and public postsecondary educational institutions in accordance with subdivision (b).

(b) (1) Each participating local educational agency may enter into an agreement with an entity or entities listed in subdivision (a) to work with the parent or guardian of a high school pupil to provide services to any pupil who has been identified as having dropped out, having been expelled, or having been out of school for more than 90 days. Any services provided pursuant to an agreement entered into under this section with an entity other than another school district, county office of education, or charter school shall be subject to approval by the governing board or body of the participating local educational agency.

(2) The services provided pursuant to an agreement entered into under this section may include, but are not necessarily limited to, all of the following:

(A) Educational services provided to reengaged youth by a local educational agency.

(B) Workforce preparation services provided by a local educational agency or pursuant to an agreement with an organization that is implementing any of the following:

(i) The federal Workforce Innovation and Opportunity Act (29 U.S.C. Sec. 3101 et seq.).

(ii) A federally affiliated Youth Build program.

(iii) Federal Job Corps training or instruction provided by a federal provider.

(iv) Services provided by the California Conservation Corps or a local conservation corps certified by the California Conservation Corps pursuant to Section 14406 or 14507.5 of the Public Resources Code.

(C) Counseling services to address adverse childhood experiences or post-traumatic stress disorder.

(D) Substance abuse treatment services.

(E) Family preservation services.

(F) Other services appropriate for foster youth.

(G) Referrals to other agencies to ameliorate homelessness.

(c) At a minimum, each agreement entered into pursuant to this section shall specify the services to be provided under the agreement, the entity that will coordinate and oversee provision of the services, and the responsibilities of each entity entering into the agreement.

(d) Each participating local educational agency shall use the full amount of a grant it receives under this chapter to provide services to reengaged pupils who generate the funding. In addition, the participating local educational agency may use federal moneys, moneys received from any other allocation of state funds, and moneys received from any other public or private grant that are available for purposes of this chapter to provide services under this chapter.

42962. A local educational agency that receives a grant under this chapter shall summarize outcome data, and publish it in its annual local control and accountability plan. The outcome data published under this section shall include all of the following:

(a) The number of pupils generating reengagement funding.

(b) The number of pupils who generated reengagement funding and who earned, or are making progress toward earning, a high school diploma from a school accredited by the Western Association of Schools and Colleges.

(c) The number of participating pupils enrolled in a career technical education pathway.

(d) The number of pupils enrolled in any of the following: a Workforce Innovation and Opportunity Act program; a federally affiliated Youth Build program; federal Job Corps training or instruction; or a California Conservation Corps or local conservation corps program.

(e) The number of pupils receiving services provided under any of the following: a youth reengagement agreement to provide counseling services; a substance abuse disorder treatment program; family preservation services; other services appropriate for foster youth; or referrals to other agencies to ameliorate homelessness.

Amendment 4
On page 1, strike out lines 1 and 2 and strike out page 2

AMENDMENTS TO ASSEMBLY BILL NO. 3072

Amendment 1

In the title, strike out lines 1 and 2 and insert:

An act to amend Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code, relating to taxation, ~~and declaring the urgency thereof, to take effect immediately.~~

Note: urgency clause is being removed & will be added later with Rules permission

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Section 12206 of the Revenue and Taxation Code is amended to read:

12206. (a) (1) There shall be allowed as a credit against the "tax," as described by Section 12201, a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code, relating to low-income housing credit, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of a "C" corporation, the partners in the case of a partnership, members in the case of a limited liability company, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of a "C" corporation, the partnership in the case of a partnership, the limited liability company in the case of a limited liability company, and the "S" corporation in the case of an "S" corporation.

(4) "Extremely low income households" has the same meaning as in Section 50053 of the Health and Safety Code.

(5) "Very low income households" has the same meaning as in Section 50053 of the Health and Safety Code.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) Except for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, that are allocated credits solely under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code, the low-income housing project shall be located in California and shall meet either of the following requirements:

(i) The project's housing sponsor has been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code, relating to special rule where 50 percent or more of building is financed with tax-exempt bonds subject to volume cap.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(C) (i) For a project that receives a preliminary reservation of the state low-income housing tax credit, allowed pursuant to subdivision (a), on or after January 1, 2009, and before January 1, 2020, the credit shall be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, regardless of how the federal low-income housing tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect, within the meaning of Section 704(b) of the Internal Revenue Code, relating to determination of distributive share.

(ii) This subparagraph shall not apply to a project that receives a preliminary reservation of state low-income housing tax credits under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code unless the project also receives a preliminary reservation of federal low-income housing tax credits.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) ~~(i)~~ The taxpayer shall attach a copy of the certification to any return upon which a tax credit is claimed under this section.

~~(2)~~

(D) In the case of a failure to attach a copy of the certification for the year to the return in which a tax credit is claimed under this section, no credit under this section shall be allowed for that year until a copy of that certification is provided.

~~(D)~~

(E) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit, shall apply to this section.

~~(E)~~

(F) (i) Except as described in clause ~~(ii) or (iii),~~ (ii), for buildings located in designated difficult development areas (DDAs) or qualified census tracts (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, credits may be allocated under this section in the amounts prescribed in subdivision (c), provided that the amount of credit allocated under Section 42 of the Internal Revenue Code, relating to low-income housing credit, is computed on 100 percent of the qualified basis of the building.

(ii) Notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit for buildings located in DDAs or QCTs that are restricted to having 50 percent of the building's occupants be special needs households, as defined in the California Code of Regulations by the California Tax Credit Allocation Committee, even if the taxpayer receives federal credits pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost

areas, provided that the credit allowed under this section shall not exceed 30 percent of the eligible basis of the building.

~~(iii) On and after January 1, 2018, notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit pursuant to paragraph (4) of subdivision (e) even if the taxpayer receives federal credits, pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas.~~

~~(F)~~

(G) (i) The California Tax Credit Allocation Committee may allocate a credit under this section in exchange for a credit allocated pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, in amounts up to 30 percent of the eligible basis of a building if the credits allowed under Section 42 of the Internal Revenue Code, relating to low-income housing credit, are reduced by an equivalent amount.

(ii) An equivalent amount shall be determined by the California Tax Credit Allocation Committee based upon the relative amount required to produce an equivalent state tax credit to the taxpayer.

(c) Section 42(b) of the Internal Revenue Code, relating to applicable percentage: 70 percent present value credit for certain new buildings; 30 percent present value credit for certain other buildings, shall be modified as follows:

(1) In the case of any qualified low-income building that ~~receives an allocation after 1989 and is a new building~~ is a new building, as defined in Section 42(i)(4) of the Internal Revenue Code, relating to new building, and the regulations promulgated thereunder, and not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section ~~42(b)(2)~~ 42(b)(1) of the Internal Revenue Code, relating to ~~temporary minimum credit rate for nonfederally subsidized new buildings, in lieu~~ determination of ~~the percentage prescribed in Section 42(b)(1)(A) of the Internal Revenue Code.~~ applicable percentage.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(2) In the case of any qualified low-income building that ~~receives an allocation after 1989 and that~~ is a new ~~building that is federally subsidized or that is an existing building that is "at risk of conversion,"~~ building, as defined in Section 42(i)(4) of the Internal Revenue Code, relating to new building, and the regulations promulgated thereunder and is federally subsidized, the term "applicable percentage" means for the ~~following:~~ first three years, 15 percent of the qualified basis of the building, and for the fourth year, 5 percent of the qualified basis of the building.

(3) In the case of any qualified low-income building that is an existing building, as defined in Section 42(i)(5) of the Internal Revenue Code, relating to existing building, and the regulations promulgated thereunder and is federally subsidized, the term "applicable percentage " means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

~~(3) For purposes of this section, the term "at risk of conversion," with respect to an existing property means a property that satisfies all of the following criteria:~~

~~(A) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:~~

~~(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.~~

~~(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715*l*(d)(3) and (5) of Title 12 of the United States Code.~~

~~(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.~~

~~(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.~~

~~(v) Programs pursuant to Section 514 of the Housing Act of 1949, Section 1484 of Title 42 of the United States Code, as amended, and Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.~~

~~(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code, relating to low-income housing credit.~~

~~(vii) Programs for loans or grants administered by the Department of Housing and Community Development.~~

~~(B) The restrictions on rent and income levels will terminate or the federally insured mortgage or rent subsidy contract on the property is eligible for prepayment or termination any time within five years before or after the date of application to the California Tax Credit Allocation Committee.~~

~~(C) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.~~

~~(D) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code, relating to rehabilitation expenditures treated as separate new building, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.~~

(4) ~~On and after January 1,2018, in~~ In the case of any qualified low-income building that ~~is (A) farmworker housing, as defined by paragraph (2)~~ meets all of ~~subdivision (h) of Section 50199.7 of the Health and Safety Code, and (B) is federally subsidized,~~ requirements of subparagraphs (A) through (D), inclusive, the term "applicable percentage" means 30 percent for each of the first three ~~years, 20~~ years and 5 percent ~~of the qualified basis of the building, and~~ for the fourth ~~year, 15 percent of the~~ year. A qualified ~~basis of the building.~~ low-income building receiving an allocation under this paragraph is ineligible to also receive an allocation under paragraph (3).

(A) The qualified low-income building is at least 15 years old.

(B) The qualified low-income building is serving households of very low income or extremely low income such that the average maximum household income as

restricted, pursuant to an existing regulatory agreement with a federal, state, county, local, or other governmental agency, is not more than 45 percent of the area median gross income, as determined under Section 42 of the Internal Revenue Code, relating to low-income housing credit, adjusted by household size, and a tax credit regulatory agreement is entered into for a period of not less than 55 years restricting the average targeted household income to no more than 45 percent of the area median income.

(C) The qualified low-income building would have insufficient credits under paragraphs (2) and (3) to complete substantial rehabilitation due to a low appraised value.

(D) The qualified low-income building will complete the substantial rehabilitation in connection with the credit allocation herein.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code, relating to qualified low-income building, is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, that, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity that shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may be accumulated and distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code, relating to in general.

(e) The provisions of Section 42(f) of the Internal Revenue Code, relating to definition and special rules relating to credit period, shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code, relating to credit period defined, is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code, relating to special rule for 1st year of credit period, shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code, relating to determination of applicable percentage with respect to increases in qualified basis after 1st year of credit period, is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the ~~later of the~~ taxable ~~years~~ year in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code, relating to allocated credit amount to apply to all taxable years ending during or after credit allocation year, ~~does~~ shall not ~~apply~~ be applicable and instead the following provisions ~~apply:~~ shall be applicable:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), ~~(6)(E)(i)(II),~~ (6)(E)(i)(I), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, ~~do~~ shall not ~~apply to this section.~~ be applicable.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 17058, and Section 23610.5 shall be an amount equal to the sum of all the following:

(1) (A) Seventy million dollars ($70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars ($70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor.

(B) Three hundred million dollars ($300,000,000) for the 2019 calendar year, and, for the 2020 calendar year and each calendar year thereafter, three hundred million dollars ($300,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2019 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall not be eligible for receipt of the housing credit allocated from the increased amount under this subparagraph. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall remain eligible for receipt of the housing credit allocated from the credit ceiling amount under subparagraph (A).

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(4) ~~Five hundred thousand~~ (A) Of the amount allocated pursuant to subparagraph (B) of paragraph (1), twenty-five million dollars ~~($500,000)~~ ($25,000,000) per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(B) The amount of any unallocated or returned credits pursuant to this paragraph per calendar year shall be added to the aggregate amount of credits allocated pursuant to subparagraph (B) of paragraph (1).

(5) The amount of any unallocated or returned credits under former Sections 17053.14, 23608.2, and 23608.3, as those sections read prior to January 1, 2009, until fully exhausted for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(h) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code, relating to compliance period, is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) (1) Section 42(j) of the Internal Revenue Code, relating to recapture of credit, shall not be applicable and the provisions in paragraph (2) shall be substituted in its place.

(2) The requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, and the regulatory agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code, shall apply, provided that the agreement includes all of the following provisions:

(A) A term not less than the compliance period.

(B) A requirement that the agreement be recorded in the official records of the county in which the qualified low-income housing project is located.

(C) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(D) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and that allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(E) A provision incorporating the requirements of Section 42 of the Internal Revenue Code, relating to low-income housing credit, as modified by this section.

(F) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee and the local agency that can enforce the regulatory agreement if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code, relating to qualified low-income housing project.

(G) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(H) A provision that the remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and ~~the~~ allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code, relating to plans for allocation of credit among projects. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code, relating to qualified allocation plan and relating to certain selection criteria must be used, respectively.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, relating to responsibilities of housing credit agencies, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need and demand for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and that the proposed operating income shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units are low-income units with three or more bedrooms.

(ii) Projects providing single-room occupancy units serving very low income tenants.

(iii) (I) Existing projects that are "at risk of ~~conversion," as defined by paragraph (3) of subdivision (e).~~ conversion."

(II) For purposes of this section, the term "at risk of conversion," with respect to an existing property means a property that satisfies all of the following criteria:

(ia) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(Ia) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(Ib) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 17151 (d)(3) and (5) of Title 12 of the United States Code.

(Ic) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(Id) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(Ie) Programs pursuant to Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(If) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(ib) The restrictions on rent and income levels will terminate or the federal insured mortgage on the property is eligible for prepayment any time within five years before or after the date of application to the California Tax Credit Allocation Committee.

(ic) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(id) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code, regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(k) Section 42(*l*) of the Internal Revenue Code, relating to certifications and other reports to secretary, shall be modified as follows:

The term "secretary" shall be replaced by the term "Franchise Tax Board."

(*l*) In the case ~~in which~~ where the credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(m) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1993.

(n) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(o) (1) For a project that receives a preliminary reservation under this section beginning on or after January 1, 2016, and before January 1, 2020, a taxpayer may make an irrevocable election in its application to the California Tax Credit Allocation Committee to sell all or any portion of any credit allowed under this section to one or more unrelated parties for each taxable year in which the credit is allowed subject to both of the following conditions:

(A) The credit is sold for consideration that is not less than 80 percent of the amount of the credit.

(B) The unrelated party or parties purchasing any or all of the credit pursuant to this subdivision is a taxpayer allowed the credit under this section for the taxable year of the purchase or any prior taxable year or is a taxpayer allowed the federal credit under Section 42 of the Internal Revenue Code, relating to low-income housing credit, for the taxable year of the purchase or any prior taxable year in connection with any project located in this state. For purposes of this subparagraph, "taxpayer allowed the

credit under this section" means a taxpayer that is allowed the credit under this section without regard to the purchase of a credit pursuant to this subdivision.

(2) (A) The taxpayer that originally received the credit shall report to the California Tax Credit Allocation Committee within 10 days of the sale of the credit, in the form and manner specified by the California Tax Credit Allocation Committee, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party or parties to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the taxpayer for the sale of the credit.

(B) The California Tax Credit Allocation Committee shall provide an annual listing to the Franchise Tax Board, in a form and manner agreed upon by the California Tax Credit Allocation Committee and the Franchise Tax Board, of the taxpayers that have sold or purchased a credit pursuant to this subdivision.

(3) (A) A credit may be sold pursuant to this subdivision to more than one unrelated party.

(B) (i) Except as provided in clause (ii), a credit shall not be resold by the unrelated party to another taxpayer or other party.

(ii) All or any portion of any credit allowed under this section may be resold once by an original purchaser to one or more unrelated parties, subject to all of the requirements of this subdivision.

(4) Notwithstanding any other law, the taxpayer that originally received the credit that is sold pursuant to paragraph (1) shall remain solely liable for all obligations and liabilities imposed on the taxpayer by this section with respect to the credit, none of which shall apply to a party to whom the credit has been sold or subsequently transferred. Parties that purchase credits pursuant to paragraph (1) shall be entitled to utilize the purchased credits in the same manner in which the taxpayer that originally received the credit could utilize them.

(5) A taxpayer shall not sell a credit allowed by this section if the taxpayer was allowed the credit on any tax return of the taxpayer.

(6) Notwithstanding paragraph (1), the taxpayer, with the approval of the Executive Director of the California Tax Credit Allocation Committee, may rescind the election to sell all or any portion of the credit allowed under this section if the consideration for the credit falls below 80 percent of the amount of the credit after the California Tax Credit Allocation Committee reservation.

(p) The California Tax Credit Allocation Committee may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the California Tax Credit Allocation Committee pursuant to this section.

(q) This section shall remain in effect for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credit, remains in effect.

SEC. 2. Section 17058 of the Revenue and Taxation Code is amended to read:

17058. (a) (1) There shall be allowed as a credit against the "net tax," defined in Section 17039, a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the

Internal Revenue Code, relating to low-income housing credit, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of an individual, the partners in the case of a partnership, members in the case of a limited liability company, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of an individual, the partnership in the case of a partnership, the limited liability company in the case of a limited liability company, and the "S" corporation in the case of an "S" corporation.

(4) "Extremely low income households" has the same meaning as in Section 50053 of the Health and Safety Code.

(5) "Very low income households" has the same meaning as in Section 50053 of the Health and Safety Code.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) Except for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, that are allocated credits solely under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code, the project's housing sponsor has been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code, relating to special rule where 50 percent or more of building is financed with tax-exempt bonds subject to volume cap.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(C) (i) For a project that receives a preliminary reservation of the state low-income housing tax credit, allowed pursuant to subdivision (a), on or after January 1, 2009, and before January 1, 2020, the credit shall be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, regardless of how the federal low-income housing tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect, within the meaning of Section 704(b) of the Internal Revenue Code, relating to determination of distributive share.

(ii) To the extent the allocation of the credit to a partner under this section lacks substantial economic effect, any loss or deduction otherwise allowable under this part that is attributable to the sale or other disposition of that partner's partnership interest made prior to the expiration of the federal credit shall not be allowed in the taxable year in which the sale or other disposition occurs, but shall instead be deferred until

and treated as if it occurred in the first taxable year immediately following the taxable year in which the federal credit period expires for the project described in clause (i).

(iii) This subparagraph shall not apply to a project that receives a preliminary reservation of state low-income housing tax credits under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code unless the project also receives a preliminary reservation of federal low-income housing tax credits.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a ~~partnership~~ partnership, or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall, upon request, provide a copy of the certification to the Franchise Tax Board.

(D) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit, shall apply to this section.

(E) (i) Except as described in clause ~~(ii) or (iii),~~ (ii), for buildings located in designated difficult development areas (DDAs) or qualified census tracts (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, credits may be allocated under this section in the amounts prescribed in subdivision (c), provided that the amount of credit allocated under Section 42 of the Internal Revenue Code, relating to low-income housing credit, is computed on 100 percent of the qualified basis of the building.

(ii) Notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit for buildings located in DDAs or QCTs that are restricted to having 50 percent of the building's occupants be special needs households, as defined in the California Code of Regulations by the California Tax Credit Allocation Committee, even if the taxpayer receives federal credits pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, provided that the credit allowed under this section shall not exceed 30 percent of the eligible basis of the building.

~~(iii) On and after January 1, 2018, notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit pursuant to paragraph (5) of subdivision (c) even if the taxpayer receives federal credits, pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas.~~

(F) (i) The California Tax Credit Allocation Committee may allocate a credit under this section in exchange for a credit allocated pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, in amounts up to 30 percent of the eligible basis of a building if the credits allowed under Section 42 of the Internal Revenue Code, relating to low-income housing credit, are reduced by an equivalent amount.

(ii) An equivalent amount shall be determined by the California Tax Credit Allocation Committee based upon the relative amount required to produce an equivalent state tax credit to the taxpayer.

(c) Section 42(b) of the Internal Revenue Code, relating to applicable percentage: 70 percent present value credit for certain new buildings; 30 percent present value credit for certain other buildings, shall be modified as follows:

(1) In the case of any qualified low-income building ~~placed~~ that is a new building, as defined in ~~service by~~ Section 42(i)(4) of the ~~housing sponsor during 1987,~~ Internal Revenue Code, relating to new building, and the ~~term "applicable percentage" means 9 percent for each of the first three years and 3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings.~~ regulations promulgated thereunder, and not federally subsidized, the term "applicable percentage" means the following:

~~(2) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:~~

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section ~~42(b)(2)~~ 42(b)(1) of the Internal Revenue Code, relating to ~~temporary minimum credit rate for nonfederally subsidized new buildings, in lieu~~ determination of ~~the percentage prescribed in Section 42(b)(1)(A) of the Internal Revenue Code.~~ applicable percentage.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(2) In the case of any qualified low-income building that is a new building, as defined in Section 42(i)(4) of the Internal Revenue Code, relating to new building, and the regulations promulgated thereunder and is federally subsidized, the term "applicable percentage" means for the first three years, 15 percent of the qualified basis of the building, and for the fourth year, 5 percent of the qualified basis of the building.

(3) In the case of any qualified low-income building that ~~receives an allocation after 1989 and that~~ is ~~a new building that is federally subsidized or that is~~ an existing ~~building that~~ building, as defined in Section 42(i)(5) of the Internal Revenue Code, relating to existing building, and the regulations promulgated thereunder and is ~~"at risk of conversion,"~~ federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) ~~For purposes of this section,~~ In the ~~term "at risk~~ case of ~~conversion," with respect to an existing property means a property~~ any qualified low-income building that ~~satisfies~~ meets all of the ~~following criteria:~~ requirements of subparagraphs (A) through (D), inclusive, the term "applicable percentage" means 30 percent for each of the first three years and 5 percent for the fourth year. A qualified low-income building receiving an allocation under this paragraph is ineligible to also receive an allocation under paragraph (3).

(A) The ~~property is a multifamily rental housing development in which~~ qualified low-income building is at least ~~50 percent of the units receive governmental assistance pursuant to any of the following:~~ 15 years old.

~~(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.~~

~~(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715*l*(d)(3) and (5) of Title 12 of the United States Code.~~

~~(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.~~

~~(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.~~

~~(v) Programs pursuant to Section 514 of the Housing Act of 1949, Section 1484 of Title 42 of the United States Code, as amended, and Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.~~

~~(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code, relating to low-income housing credit.~~

~~(vii) Programs for loans or grants administered by the Department of Housing and Community Development.~~

~~(B) The restrictions on rent and income levels will terminate or the federally insured mortgage or rent subsidy contract on the property is eligible for prepayment or termination any time within five years before or after the date of application to the California Tax Credit Allocation Committee.~~

~~(C) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.~~

~~(D)~~

(B) The ~~property satisfies~~ qualified low-income building is serving households of very low income or extremely low income such that the ~~requirements~~ average maximum household income as restricted, pursuant to an existing regulatory agreement with a federal, state, county, local, or other governmental agency, is not more than 45 percent of the area median gross income, as determined under Section ~~42(e)~~ 42 of the Internal Revenue Code, relating to ~~rehabilitation expenditures treated as separate new building, except that~~ low-income housing credit, adjusted by household size, and a tax credit regulatory agreement is entered into for a period of not less than 55 years restricting the ~~provisions~~ average targeted household income to no more than 45 percent of ~~Section 42(e)(3)(A)(ii)(I) shall not apply.~~ the area median income.

~~(5) On and after January 1, 2018, in the case of any~~

(C) The qualified low-income building ~~that is (A) farmworker housing, as defined by paragraph~~ would have insufficient credits under paragraphs (2) ~~of subdivision (h) of Section 50199.7 of the Health and Safety Code, and (B) is federally subsidized, the term "applicable percentage" means for each of the first three years, 20 percent of the qualified basis of the building, and for the fourth year, 15 percent of the qualified basis of the building.~~ and (3) to complete substantial rehabilitation due to a low appraised value.

(D) The qualified low-income building will complete the substantial rehabilitation in connection with the credit allocation herein.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code, relating to qualified low-income building, is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, that, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner ~~equity, which~~ equity that shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may be accumulated and distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code, relating to in general.

(e) The provisions of Section 42(f) of the Internal Revenue Code, relating to definition and special rules relating to credit period, shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code, relating to credit period defined, is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code, relating to special ~~rules~~ rule for 1st year of credit period, shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code, relating to determination of applicable percentage with respect to increases in qualified basis after 1st year of credit period, is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the taxable year in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code, relating to allocated credit amount to apply to all taxable years ending during or after credit allocation year, ~~does~~ shall not ~~apply~~ be applicable, and instead the following provisions ~~apply:~~ shall be applicable:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), ~~(5), (6)(E)(i)(II),~~ (5),(6)(E)(i)(I), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, ~~do~~ shall not ~~apply to this section.~~ be applicable.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 23610.5 shall be an amount equal to the sum of all the following:

(1) (A) Seventy million dollars ($70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars ($70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor.

(B) Three hundred million dollars ($300,000,000) for the 2019 calendar year, and, for the 2020 calendar year and each calendar year thereafter, three hundred million dollars ($300,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2019 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall not be eligible for receipt of the housing credit allocated from the increased amount under this subparagraph. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall remain eligible for receipt of the housing credit allocated from the credit ceiling amount under subparagraph (A).

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(4) ~~Five hundred thousand~~ (A) Of the amount allocated pursuant to subparagraph (B) of paragraph (1), twenty-five million dollars ~~($500,000)~~ ($25,000,000) per calendar

year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(B) The amount of any unallocated or returned credits pursuant to this paragraph per calendar year shall be added to the aggregate amount of credits allocated pursuant to subparagraph (B) of paragraph (1).

(5) The amount of any unallocated or returned credits under former Sections 17053.14, 23608.2, and 23608.3, as those sections read prior to January 1, 2009, until fully exhausted for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(h) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code, relating to compliance period, is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) Section 42(j) of the Internal Revenue Code, relating to recapture of credit, shall not be applicable and the following requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, and the regulatory agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code shall apply, provided that the agreement includes all of the following provisions:

(1) A term not less than the compliance period.

(2) A requirement that the agreement be recorded in the official records of the county in which the qualified low-income housing project is located.

(3) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(4) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and that allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(5) A provision incorporating the requirements of Section 42 of the Internal Revenue Code, relating to low-income housing credit, as modified by this section.

(6) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code, relating to qualified low-income housing project.

(7) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(8) A provision that the remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and

operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and ~~the~~ allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code, relating to plans for allocation of credit among projects. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code, relating to qualified allocation plan and relating to certain selection criteria must be used, respectively.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, relating to responsibilities of housing credit agencies, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate ~~that~~ there is a need and demand for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and that the proposed operating income shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies and required equity, and a development fee that does not exceed a specified

percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units are low-income units with three or more bedrooms.

(ii) Projects providing single-room occupancy units serving very low income tenants.

(iii) (I) Existing projects that are "at risk of ~~conversion," as defined by paragraph (4) of subdivision (e).~~ conversion."

(II) For purposes of this section, the term "at risk of conversion," with respect to an existing property means a property that satisfies all of the following criteria:

(ia) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(Ia) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(Ib) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 17151(d)(3) and (5) of Title 12 of the United States Code.

(Ic) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(Id) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(Ie) Programs pursuant to Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(If) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(ib) The restrictions on rent and income levels will terminate or the federal insured mortgage on the property is eligible for prepayment any time within five years before or after the date of application to the California Tax Credit Allocation Committee.

(ic) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(id) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code, regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects

for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application.

(k) Section 42(*l*) of the Internal Revenue Code, relating to certifications and other reports to secretary, shall be modified as follows:

The term "secretary" shall be replaced by the term "Franchise Tax Board."

(*l*) In the case ~~in which~~ where the credit allowed under this section exceeds the net tax, the excess may be carried over to reduce the net tax in the following year, and succeeding taxable years, if necessary, until the credit has been exhausted.

(m) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).

(n) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.

(o) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1989.

(p) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(q) (1) For a project that receives a preliminary reservation under this section beginning on or after January 1, 2016, and before January 1, 2020, a taxpayer may make an irrevocable election in its application to the California Tax Credit Allocation Committee to sell all or any portion of any credit allowed under this section to one or more unrelated parties for each taxable year in which the credit is allowed subject to both of the following conditions:

(A) The credit is sold for consideration that is not less than 80 percent of the amount of the credit.

(B) The unrelated party or parties purchasing any or all of the credit pursuant to this subdivision is a taxpayer allowed the credit under this section for the taxable year of the purchase or any prior taxable year or is a taxpayer allowed the federal credit under Section 42 of the Internal Revenue Code, relating to low-income housing credit, for the taxable year of the purchase or any prior taxable year in connection with any project located in this state. For purposes of this subparagraph, "taxpayer allowed the credit under this section" means a taxpayer that is allowed the credit under this section without regard to the purchase of a credit pursuant to this subdivision.

(2) (A) The taxpayer that originally received the credit shall report to the California Tax Credit Allocation Committee within 10 days of the sale of the credit, in the form and manner specified by the California Tax Credit Allocation Committee, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party or parties to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the taxpayer for the sale of the credit.

(B) The California Tax Credit Allocation Committee shall provide an annual listing to the Franchise Tax Board, in a form and manner agreed upon by the California Tax Credit Allocation Committee and the Franchise Tax Board, of the taxpayers that have sold or purchased a credit pursuant to this subdivision.

(3) (A) A credit may be sold pursuant to this subdivision to more than one unrelated party.

(B) (i) Except as provided in clause (ii), a credit shall not be resold by the unrelated party to another taxpayer or other party.

(ii) All or any portion of any credit allowed under this section may be resold once by an original purchaser to one or more unrelated parties, subject to all of the requirements of this subdivision.

(4) Notwithstanding any other law, the taxpayer that originally received the credit that is sold pursuant to paragraph (1) shall remain solely liable for all obligations and liabilities imposed on the taxpayer by this section with respect to the credit, none of which shall apply to a party to whom the credit has been sold or subsequently transferred. Parties that purchase credits pursuant to paragraph (1) shall be entitled to utilize the purchased credits in the same manner in which the taxpayer that originally received the credit could utilize them.

(5) A taxpayer shall not sell a credit allowed by this section if the taxpayer was allowed the credit on any tax return of the taxpayer.

(6) Notwithstanding paragraph (1), the taxpayer, with the approval of the Executive Director of the California Tax Credit Allocation Committee, may rescind the election to sell all or any portion of the credit allowed under this section if the consideration for the credit falls below 80 percent of the amount of the credit after the California Tax Credit Allocation Committee reservation.

(r) The California Tax Credit Allocation Committee may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the California Tax Credit Allocation Committee pursuant to this section.

(s) ~~The amendments to this section made by Chapter 1222 of~~ Any unused credit may continue to be carried forward, as provided in subdivision (*l*), until the ~~Statutes of 1993 apply only to taxable years beginning on or after January 1, 1994.~~ credit has been exhausted.

(t) This section shall remain in effect on and after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credit, remains in effect. ~~Any unused credit may continue to be carried forward, as provided in subdivision (*l*), until the credit has been exhausted.~~

(u) The amendments to this section made by Chapter 1222 of the Statutes of 1993 shall apply only to taxable years beginning on or after January 1, 1994.

SEC. 3. Section 23610.5 of the Revenue and Taxation Code is amended to read:

23610.5. (a) (1) There shall be allowed as a credit against the "tax," defined in Section 23036, a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code, relating to low-income housing credit, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of a "C" corporation, the partners in the case of a partnership, members in the case of a limited liability company, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of a "C" corporation, the partnership in the case of a partnership, the limited liability company in the case of a limited liability company, and the "S" corporation in the case of an "S" corporation.

(4) "Extremely low income households" has the same meaning as in Section 50053 of the Health and Safety Code.

(5) "Very low income households" has the same meaning as in Section 50053 of the Health and Safety Code.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) Except for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, that are allocated credits solely under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code, the project's housing sponsor has been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code, relating to special rule where 50 percent or more of building is financed with tax-exempt bonds subject to volume cap.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(C) (i) For a project that receives a preliminary reservation of the state low-income housing tax credit, allowed pursuant to subdivision (a), on or after January 1, 2009, and before January 1, 2020, the credit shall be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, regardless of how the federal low-income housing tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has

substantial economic effect, within the meaning of Section 704(b) of the Internal Revenue Code, relating to determination of distributive share.

(ii) To the extent the allocation of the credit to a partner under this section lacks substantial economic effect, any loss or deduction otherwise allowable under this part that is attributable to the sale or other disposition of that partner's partnership interest made prior to the expiration of the federal credit shall not be allowed in the taxable year in which the sale or other disposition occurs, but shall instead be deferred until and treated as if it occurred in the first taxable year immediately following the taxable year in which the federal credit period expires for the project described in clause (i).

(iii) This subparagraph shall not apply to a project that receives a preliminary reservation of state low-income housing tax credits under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code unless the project also receives a preliminary reservation of federal low-income housing tax credits.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a ~~partnership~~ partnership, or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall, upon request, provide a copy of the certification to the Franchise Tax Board.

(D) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit, shall apply to this section.

(E) (i) Except as described in clause ~~(ii) or (iii),~~ (ii), for buildings located in designated difficult development areas (DDAs) or qualified census tracts (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, credits may be allocated under this section in the amounts prescribed in subdivision (c), provided that the amount of credit allocated under Section 42 of the Internal Revenue Code, relating to low-income housing credit, is computed on 100 percent of the qualified basis of the building.

(ii) Notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit for buildings located in DDAs or QCTs that are restricted to having 50 percent of the building's occupants be special needs households, as defined in the California Code of Regulations by the California Tax Credit Allocation Committee, even if the taxpayer receives federal credits pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, provided that the credit allowed under this section shall not exceed 30 percent of the eligible basis of the building.

~~(iii) On and after January 1, 2018, notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit pursuant to paragraph (5) of subdivision (c) even if the taxpayer receives federal credits, pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas.~~

(F) (i) The California Tax Credit Allocation Committee may allocate a credit under this section in exchange for a credit allocated pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, in amounts up to 30 percent of the eligible basis of a building if the credits

allowed under Section 42 of the Internal Revenue Code, relating to low-income housing credit, are reduced by an equivalent amount.

(ii) An equivalent amount shall be determined by the California Tax Credit Allocation Committee based upon the relative amount required to produce an equivalent state tax credit to the taxpayer.

(c) Section 42(b) of the Internal Revenue Code, relating to applicable percentage: 70 percent present value credit for certain new buildings; 30 percent present value credit for certain other buildings, shall be modified as follows:

(1) In the case of any qualified low-income building ~~placed in service by the housing sponsor during 1987, the term "applicable percentage" means 9 percent for each of the first three years and 3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings.~~ that is a new building, as defined in Section 42(i)(4) of the Internal Revenue Code, relating to new building, and the regulations promulgated thereunder, and not federally subsidized, the term "applicable percentage" means the following:

~~(2) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:~~

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section ~~42(b)(2)~~ 42(b)(1) of the Internal Revenue Code, relating to ~~temporary minimum credit rate for nonfederally subsidized new buildings, in lieu~~ determination of ~~the percentage prescribed in Section 42(b)(1)(A) of the Internal Revenue Code.~~ applicable percentage.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(2) In the case of any qualified low-income building that is a new building, as defined in Section 42(i)(4) of the Internal Revenue Code, relating to new building, and the regulations promulgated thereunder and is federally subsidized, the term "applicable percentage" means for the first three years, 15 percent of the qualified basis of the building, and for the fourth year, 5 percent of the qualified basis of the building.

(3) In the case of any qualified low-income building that ~~receives an allocation after 1989 and that~~ is ~~a new building that is federally subsidized or that is~~ an existing ~~building that~~ building, as defined in Section 42(i)(5) of the Internal Revenue Code, relating to existing building, and the regulations promulgated thereunder and is ~~"at risk of conversion,"~~ federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) ~~For purposes of this section,~~ In the ~~term "at risk~~ case of ~~conversion," with respect to an existing property means a property~~ any qualified low-income building that ~~satisfies~~ meets all of the ~~following criteria:~~ requirements of subparagraphs (A) through (D), inclusive, the term "applicable percentage" means 30 percent for each of the first three years and 5 percent for the fourth year. A qualified low-income building

receiving an allocation under this paragraph is ineligible to also receive an allocation under paragraph (3).

(A) The ~~property is a multifamily rental housing development in which~~ qualified low-income building is at least ~~50 percent of the units receive governmental assistance pursuant to any of the following:~~ 15 years old.

~~(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.~~

~~(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715*l*(d)(3) and (5) of Title 12 of the United States Code.~~

~~(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.~~

~~(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.~~

~~(v) Programs pursuant to Section 514 of the Housing Act of 1949, Section 1484 of Title 42 of the United States Code, as amended, and Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.~~

~~(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code, relating to low-income housing credit.~~

~~(vii) Programs for loans or grants administered by the Department of Housing and Community Development.~~

~~(B) The restrictions on rent and income levels will terminate or the federally insured mortgage or rent subsidy contract on the property is eligible for prepayment or termination any time within five years before or after the date of application to the California Tax Credit Allocation Committee.~~

~~(C) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.~~

~~(D)~~

(B) The ~~property satisfies~~ qualified low-income building is serving households of very low income or extremely low income such that the ~~requirements~~ average maximum household income as restricted, pursuant to an existing regulatory agreement with a federal, state, county, local, or other governmental agency, is not more than 45 percent of the area median gross income, as determined under Section ~~42(c)~~ 42 of the Internal Revenue Code, relating to ~~rehabilitation expenditures treated as separate new building, except that~~ low-income housing credit, adjusted by household size, and a tax credit regulatory agreement is entered into for a period of not less than 55 years restricting the ~~provisions~~ average targeted household income to no more than 45 percent of ~~Section 42(c)(3)(A)(ii)(I) shall not apply.~~ the area median income.

~~(5) On and after January 1, 2018, in the case of any~~

(C) The qualified low-income building ~~that is (A) farmworker housing, as defined by paragraph~~ would have insufficient credits under paragraphs (2) ~~of subdivision (h) of Section 50199.7 of the Health and Safety Code, and (B) is federally subsidized, the term "applicable percentage" means for each of the first three years, 20 percent of the~~

~~qualified basis of the building, and for the fourth year, 15 percent of the qualified basis of the building.~~ and (3) to complete substantial rehabilitation due to a low appraised value.

(D) The qualified low-income building will complete the substantial rehabilitation in connection with the credit allocation herein.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code, relating to qualified low-income building, is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, that, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner ~~equity, which~~ equity that shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may be accumulated and distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code, relating to in general.

(e) The provisions of Section 42(f) of the Internal Revenue Code, relating to definition and special rules relating to credit period, shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code, relating to credit period defined, is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code, relating to special rule for 1st year of credit period, shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code, relating to determination of applicable percentage with respect to increases in qualified basis after 1st year of credit period, is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor,

to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the ~~later of the~~ taxable ~~years~~ year in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code, relating to allocated credit amount to apply to all taxable years ending during or after credit allocation year, shall not be applicable and instead the following provisions shall be applicable:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), ~~(6)(E)(i)(II),~~ (6)(E)(i)(I), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, shall not be applicable.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 17058 shall be an amount equal to the sum of all the following:

(1) (A) Seventy million dollars ($70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars ($70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor.

(B) Three hundred million dollars ($300,000,000) for the 2019 calendar year, and, for the 2020 calendar year and each calendar year thereafter, three hundred million dollars ($300,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2019 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall not be eligible for receipt of the housing credit allocated from the increased amount under this subparagraph. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall remain eligible for receipt of the housing credit allocated from the credit ceiling amount under subparagraph (A).

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(4) ~~Five hundred thousand~~ (A) Of the amount allocated pursuant to subparagraph (B) of paragraph (1), twenty-five million dollars ~~($500,000)~~ ($25,000,000) per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(B) The amount of any unallocated or returned credits pursuant to this paragraph per calendar year shall be added to the aggregate amount of credits allocated pursuant to subparagraph (B) of paragraph (1).

(5) The amount of any unallocated or returned credits under former Sections 17053.14, 23608.2, and 23608.3, as those sections read prior to January 1, 2009, until fully exhausted for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(h) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code, relating to compliance period, is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) Section 42(j) of the Internal Revenue Code, relating to recapture of credit, shall not be applicable and the following shall be substituted in its place:

The requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, and the regulatory agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code shall apply, provided that the agreement includes all of the following provisions:

(1) A term not less than the compliance period.

(2) A requirement that the agreement be recorded in the official records of the county in which the qualified low-income housing project is located.

(3) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(4) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and that allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(5) A provision incorporating the requirements of Section 42 of the Internal Revenue Code, relating to low-income housing credit, as modified by this section.

(6) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code, relating to qualified low-income housing project.

(7) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(8) A provision that the remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code, relating to plans for allocation of credit among projects. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code, relating to qualified allocation plan and relating to certain selection criteria must be used, respectively.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, relating to responsibilities of housing credit agencies, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need and demand for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and that the proposed operating income shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units are low-income units with three or more bedrooms.

(ii) Projects providing single-room occupancy units serving very low income tenants.

(iii) (I) Existing projects that are "at risk of ~~conversion," as defined by paragraph (4) of subdivision (e).~~ conversion,".

(II) For purposes of this section, the term "at risk of conversion," with respect to an existing property means a property that satisfies all of the following criteria:

(ia) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(Ia) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(Ib) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 17151(d)(3) and (5) of Title 12 of the United States Code.

(Ic) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(Id) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(Ie) Programs pursuant to Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(If) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(ib) The restrictions on rent and income levels will terminate or the federal insured mortgage on the property is eligible for prepayment any time within five years before or after the date of application to the California Tax Credit Allocation Committee.

(ic) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(id) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code, regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(5) Not less than 20 percent of the low-income housing tax credits available annually under this section, Section 12206, and Section 17058 shall be set aside for allocation to rural areas as defined in Section 50199.21 of the Health and Safety Code. Any amount of credit set aside for rural areas remaining on or after October 31 of any calendar year shall be available for allocation to any eligible project. No amount of credit set aside for rural areas shall be considered available for any eligible project so long as there are eligible rural applications pending on October 31.

(k) Section 42(*l*) of the Internal Revenue Code, relating to certifications and other reports to secretary, shall be modified as follows:

The term "secretary" shall be replaced by the term "Franchise Tax Board."

(*l*) In the case ~~in which~~ where the credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding ~~years,~~ taxable years if necessary, until the credit has been exhausted.

(m) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).

(n) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.

(o) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1989.

(p) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(q) (1) A corporation may elect to assign any portion of any credit allowed under this section to one or more affiliated corporations for each taxable year in which the credit is allowed. For purposes of this subdivision, "affiliated corporation" has the meaning provided in subdivision (b) of Section 25110, as that section was amended

by Chapter 881 of the Statutes of 1993, as of the last day of the taxable year in which the credit is allowed, except that "100 percent" is substituted for "more than 50 percent" wherever it appears in the section, as that section was amended by Chapter 881 of the Statutes of 1993, and "voting common stock" is substituted for "voting stock" wherever it appears in the section, as that section was amended by Chapter 881 of the Statutes of 1993.

(2) The election provided in paragraph (1):

(A) May be based on any method selected by the corporation that originally receives the credit.

(B) Shall be irrevocable for the taxable year the credit is allowed, once made.

(C) May be changed for any subsequent taxable year if the election to make the assignment is expressly shown on each of the returns of the affiliated corporations that assign and receive the credits.

(r) (1) For a project that receives a preliminary reservation under this section beginning on or after January 1, 2016, and before January 1, 2020, a taxpayer may make an irrevocable election in its application to the California Tax Credit Allocation Committee to sell all or any portion of any credit allowed under this section to one or more unrelated parties for each taxable year in which the credit is allowed subject to both of the following conditions:

(A) The credit is sold for consideration that is not less than 80 percent of the amount of the credit.

(B) (i) The unrelated party or parties purchasing any or all of the credit pursuant to this subdivision is a taxpayer allowed the credit under this section for the taxable year of the purchase or any prior taxable year or is a taxpayer allowed the federal credit under Section 42 of the Internal Revenue Code, relating to low-income housing credit, for the taxable year of the purchase or any prior taxable year in connection with any project located in this state.

(ii) For purposes of this subparagraph, "taxpayer allowed the credit under this section" means a taxpayer that is allowed the credit under this section without regard to the purchase of a credit pursuant to this subdivision without regard to any of the following:

(I) The purchase of a credit under this section pursuant to this subdivision.

(II) The assignment of a credit under this section pursuant to subdivision (q).

(III) The assignment of a credit under this section pursuant to Section 23363.

(2) (A) The taxpayer that originally received the credit shall report to the California Tax Credit Allocation Committee within 10 days of the sale of the credit, in the form and manner specified by the California Tax Credit Allocation Committee, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party or parties to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the taxpayer for the sale of the credit.

(B) The California Tax Credit Allocation Committee shall provide an annual listing to the Franchise Tax Board, in a form and manner agreed upon by the California Tax Credit Allocation Committee and the Franchise Tax Board, of the taxpayers that have sold or purchased a credit pursuant to this subdivision.

(3) (A) A credit may be sold pursuant to this subdivision to more than one unrelated party.

(B) (i) Except as provided in clause (ii), a credit shall not be resold by the unrelated party to another taxpayer or other party.

(ii) All or any portion of any credit allowed under this section may be resold once by an original purchaser to one or more unrelated parties, subject to all of the requirements of this subdivision.

(4) Notwithstanding any other law, the taxpayer that originally received the credit that is sold pursuant to paragraph (1) shall remain solely liable for all obligations and liabilities imposed on the taxpayer by this section with respect to the credit, none of which shall apply to a party to whom the credit has been sold or subsequently transferred. Parties that purchase credits pursuant to paragraph (1) shall be entitled to utilize the purchased credits in the same manner in which the taxpayer that originally received the credit could utilize them.

(5) A taxpayer shall not sell a credit allowed by this section if the taxpayer was allowed the credit on any tax return of the taxpayer.

(6) Notwithstanding paragraph (1), the taxpayer, with the approval of the Executive Director of the California Tax Credit Allocation Committee, may rescind the election to sell all or any portion of the credit allowed under this section if the consideration for the credit falls below 80 percent of the amount of the credit after the California Tax Credit Allocation Committee reservation.

(s) The California Tax Credit Allocation Committee may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the California Tax Credit Allocation Committee pursuant to this section.

(t) Any unused credit may continue to be carried forward, as provided in subdivision (*l*), until the credit has been exhausted.

(u) This section shall remain in effect on and after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credit, remains in effect.

(v) The amendments to this section made by Chapter 1222 of the Statutes of 1993 shall apply only to taxable years beginning on or after January 1, 1994, except that paragraph (1) of subdivision (q), as amended, shall apply to taxable years beginning on or after January 1, 1993.

~~SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:~~

~~In order to provide affordable housing opportunities at the earliest possible time, it is necessary for this act to take effect immediately.~~

Being removed

Amendment 3

On page 1, strike out lines 1 to 11, inclusive, and strike out page 2

AMENDMENTS TO ASSEMBLY BILL NO. 3073

Amendment 1

In the title, in line 1, strike out "90.5 of the Labor Code, relating to", strike out line 2 and insert:

9100 of, and to add Sections 9301 and 9551 to, the Civil Code, to amend Sections 1720, 1721, 1722, and 1773.2 of the Labor Code, and to amend Sections 4103, 4104, and 4104.5 of, to add Sections 2504, 4102, 4115, 4116, and 4117 to, and to repeal and add Section 4113 of, the Public Contract Code, relating to investor-owned utilities.

Amendment 2

On page 1, before line 1, insert:

SECTION 1. The Legislature finds and declares that:

(a) The practices of bid shopping and bid peddling in connection with certain projects, as defined in this act, of investor-owned utilities regulated by the Public Utilities Commission often result in poor quality of material and workmanship to the detriment of the ratepaying public, deprive the public of the full benefits of fair competition among prime contractors and subcontractors, and lead to insolvencies, loss of wages to employees, and other evils. Therefore, the same requirements for dealing with these problems on public works under the Subletting and Subcontracting Fair Practices Act should be imposed on certain investor-owned utilities, as defined in this act.

(b) To ensure a fair and open bidding process and to eliminate favoritism, fraud, and corruption in the award of contracts and to protect ratepayers from unnecessary costs, certain investor-owned utilities should be required to award construction projects to the lowest responsible bidder.

(c) The requirements of competitive bidding imposed by this act will make it necessary to also impose the same protections for employees and the public as currently afforded on public works. Specifically, this act would protect employees on those projects from substandard wages that might be paid if contractors could recruit labor from distant cheap-labor areas, permit union contractors to compete with nonunion contractors, benefit the public through the superior efficiency of well-paid employees, require certain investor-owned utilities to participate in state-certified apprenticeship programs in order to secure a trained construction workforce to meet California's infrastructure needs, and compensate nonpublic employees with higher wages for the absence of job security and employment benefits enjoyed by public employees. The prevailing wage is a minimum wage, which the Legislature finds should be extended to workers employed on certain projects of investor-owned utilities regulated by the Public Utilities Commission, which heretofore have been excluded from that protection.

SEC. 2. Section 9100 of the Civil Code is amended to read:

9100. (a) Except as provided in subdivision ~~(b)~~, (c), any of the following persons that have not been paid in full may give a stop payment notice to the public entity or assert a claim against a payment bond:

(1) A person that provides work for a public works contract, if the work is authorized by a direct contractor, subcontractor, architect, project manager, or other person having charge of all or part of the public works contract.

(2) A laborer.

(3) A person described in Section 4107.7 of the Public Contract Code.

(b) Except as provided in subdivision (c), both of the following persons that have not been paid in full may assert a claim against a payment bond that was made in connection with a project of an investor-owned utility that is subject to Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code:

(1) A person that provides work for a contract for a project of an investor-owned utility subject to this subdivision, if the work is authorized by a direct contractor, subcontractor, architect, project manager, or other person having charge of all or part of the contract for a project of an investor-owned utility subject to this subdivision.

(2) A laborer.

~~(b)~~

(c) A direct contractor may not give a stop payment notice or assert a claim against a payment bond under this title.

SEC. 3. Section 9301 is added to the Civil Code, to read:

9301. For purposes of this chapter, the term "public entity" when used in reference to a payment bond includes an investor-owned utility, and any construction project or work contracted by that utility that is subject to Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code shall be considered a "public work."

SEC. 4. Section 9551 is added to the Civil Code, to read:

9551. For purposes of this chapter, the term "public entity" includes an investor-owned utility, and any construction project or work contracted by that utility that is subject to Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code shall be considered a "public work."

SEC. 5. Section 1720 of the Labor Code is amended to read:

1720. (a) As used in this chapter, "public works" means:

(1) Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by any public utility company pursuant to order of the Public Utilities Commission or other public authority. For purposes of this paragraph, "construction" includes work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work, and work performed during the postconstruction phases of construction, including, but not limited to, all cleanup work at the jobsite. For purposes of this paragraph, "installation" includes, but is not limited to, the assembly and disassembly of freestanding and affixed modular office systems.

(2) Work done for irrigation, utility, reclamation, and improvement districts, and other districts of this type. "Public work" does not include the operation of the irrigation or drainage system of any irrigation or reclamation district, except as used in Section 1778 relating to retaining wages.

(3) Street, sewer, or other improvement work done under the direction and supervision or by the authority of any officer or public body of the state, or of any

political subdivision or district thereof, whether the political subdivision or district operates under a freeholder's charter or not.

(4) The laying of carpet done under a building lease-maintenance contract and paid for out of public funds.

(5) The laying of carpet in a public building done under contract and paid for in whole or in part out of public funds.

(6) Public transportation demonstration projects authorized pursuant to Section 143 of the Streets and Highways Code.

(7) (A) Infrastructure project grants from the California Advanced Services Fund pursuant to Section 281 of the Public Utilities Code.

(8) Tree removal work done in the execution of a project under paragraph (1).

(B) For purposes of this paragraph, the Public Utilities Commission is not the awarding body or the body awarding the contract, as defined in Section 1722.

(9) Any project of an investor-owned utility that is subject to Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code.

(b) For purposes of this section, "paid for in whole or in part out of public funds" means all of the following:

(1) The payment of money or the equivalent of money by the state or political subdivision directly to or on behalf of the public works contractor, subcontractor, or developer.

(2) Performance of construction work by the state or political subdivision in execution of the project.

(3) Transfer by the state or political subdivision of an asset of value for less than fair market price.

(4) Fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived, or forgiven by the state or political subdivision.

(5) Money loaned by the state or political subdivision that is to be repaid on a contingent basis.

(6) Credits that are applied by the state or political subdivision against repayment obligations to the state or political subdivision.

(c) Notwithstanding subdivision (b):

(1) Private residential projects built on private property are not subject to the requirements of this chapter unless the projects are built pursuant to an agreement with a state agency, a redevelopment agency, a successor agency to a redevelopment agency when acting in that capacity, or a local public housing authority.

(2) If the state or a political subdivision requires a private developer to perform construction, alteration, demolition, installation, or repair work on a public work of improvement as a condition of regulatory approval of an otherwise private development project, and the state or political subdivision contributes no more money, or the equivalent of money, to the overall project than is required to perform this public improvement work, and the state or political subdivision maintains no proprietary interest in the overall project, then only the public improvement work shall thereby become subject to this chapter.

(3) If the state or a political subdivision reimburses a private developer for costs that would normally be borne by the public, or provides directly or indirectly a public

subsidy to a private development project that is de minimis in the context of the project, an otherwise private development project shall not thereby become subject to the requirements of this chapter.

(4) The construction or rehabilitation of affordable housing units for low- or moderate-income persons pursuant to paragraph (5) or (7) of subdivision (e) of Section 33334.2 of the Health and Safety Code that are paid for solely with moneys from the Low and Moderate Income Housing Fund established pursuant to Section 33334.3 of the Health and Safety Code or that are paid for by a combination of private funds and funds available pursuant to Section 33334.2 or 33334.3 of the Health and Safety Code do not constitute a project that is paid for in whole or in part out of public funds.

(5) Unless otherwise required by a public funding program, the construction or rehabilitation of privately owned residential projects is not subject to the requirements of this chapter if one or more of the following conditions are met:

(A) The project is a self-help housing project in which no fewer than 500 hours of construction work associated with the homes are to be performed by the home buyers.

(B) The project consists of rehabilitation or expansion work associated with a facility operated on a not-for-profit basis as temporary or transitional housing for homeless persons with a total project cost of less than twenty-five thousand dollars ($25,000).

(C) Assistance is provided to a household as either mortgage assistance, downpayment assistance, or for the rehabilitation of a single-family home.

(D) The project consists of new construction, expansion, or rehabilitation work associated with a facility developed by a nonprofit organization to be operated on a not-for-profit basis to provide emergency or transitional shelter and ancillary services and assistance to homeless adults and children. The nonprofit organization operating the project shall provide, at no profit, not less than 50 percent of the total project cost from nonpublic sources, excluding real property that is transferred or leased. Total project cost includes the value of donated labor, materials, and architectural and engineering services.

(E) The public participation in the project that would otherwise meet the criteria of subdivision (b) is public funding in the form of below-market interest rate loans for a project in which occupancy of at least 40 percent of the units is restricted for at least 20 years, by deed or regulatory agreement, to individuals or families earning no more than 80 percent of the area median income.

(d) Notwithstanding any provision of this section to the contrary, the following projects shall not, solely by reason of this section, be subject to the requirements of this chapter:

(1) Qualified residential rental projects, as defined by Section 142(d) of the Internal Revenue Code, financed in whole or in part through the issuance of bonds that receive allocation of a portion of the state ceiling pursuant to Chapter 11.8 (commencing with Section 8869.80) of Division 1 of Title 2 of the Government Code on or before December 31, 2003.

(2) Single-family residential projects financed in whole or in part through the issuance of qualified mortgage revenue bonds or qualified veterans' mortgage bonds, as defined by Section 143 of the Internal Revenue Code, or with mortgage credit certificates under a Qualified Mortgage Credit Certificate Program, as defined by

Section 25 of the Internal Revenue Code, that receive allocation of a portion of the state ceiling pursuant to Chapter 11.8 (commencing with Section 8869.80) of Division 1 of Title 2 of the Government Code on or before December 31, 2003.

(3) Low-income housing projects that are allocated federal or state low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code, Chapter 3.6 (commencing with Section 50199.4) of Part 1 of Division 31 of the Health and Safety Code, or Section 12206, 17058, or 23610.5 of the Revenue and Taxation Code, on or before December 31, 2003.

(e) Notwithstanding paragraph (1) of subdivision (a), construction, alteration, demolition, installation, or repair work on the electric transmission system located in California constitutes a public works project for the purposes of this chapter.

(f) If a statute, other than this section, or a regulation, other than a regulation adopted pursuant to this section, or an ordinance or a contract applies this chapter to a project, the exclusions set forth in subdivision (d) do not apply to that project.

(g) For purposes of this section, references to the Internal Revenue Code mean the Internal Revenue Code of 1986, as amended, and include the corresponding predecessor sections of the Internal Revenue Code of 1954, as amended.

(h) The amendments made to this section by either Chapter 938 of the Statutes of 2001 or the act adding this subdivision shall not be construed to preempt local ordinances requiring the payment of prevailing wages on housing projects.

SEC. 6. Section 1721 of the Labor Code is amended to read:

1721. "Political subdivision" includes any county, city, district, public housing authority, or public agency of the state, and assessment or improvement districts. "Political subdivision" also includes an investor-owned utility solely with respect to a project that is subject to Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code.

SEC. 7. Section 1722 of the Labor Code is amended to read:

1722. "Awarding body" or "body awarding the contract" means department, board, authority, officer or agent awarding a contract for public ~~work.~~ work, or an investor-owned utility for a project that is subject to Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code.

SEC. 8. Section 1773.2 of the Labor Code is amended to read:

1773.2. The body awarding any contract for public work, or otherwise undertaking any public work, shall specify in the call for bids for the contract, and in the bid specifications and in the contract itself, what the general rate of per diem wages is for each craft, classification, or type of worker needed to execute the contract.

In lieu of specifying the rate of wages in the call for bids, and in the bid specifications and in the contract itself, the awarding body may, in the call for bids, bid specifications, and contract, include a statement that copies of the prevailing rate of per diem wages are on file at its principal office, which shall be made available to any interested party on request. The awarding body shall also cause a copy of the determination of the director of the prevailing rate of per diem wages to be posted at each job site.

Notwithstanding any other provision of this section, an investor-owned utility awarding a contract for a public work described in paragraph (9) of subdivision (a) of Section 1720, or otherwise undertaking a public work described in paragraph (9) of subdivision (a) of Section 1720, shall specify in the call for bids for the contract, and

in the bid specifications and in the contract itself, the prevailing rate of per diem wages applicable to each craft, classification, or type of worker needed to execute the contract that is available from the director, and shall include a link to the current Internet Web site where the director maintains those determinations. The body awarding any contract for public work shall also keep copies of the prevailing rate of per diem wages, as determined by the director, on file at its principal office, which shall be made available to any interested party on request. The awarding body shall also cause a copy of the determinations of the director of the prevailing rate of per diem wages to be posted at each job site.

SEC. 9. Section 2504 is added to the Public Contract Code, to read:

2504. (a) An investor-owned utility may use, enter into, or require contractors to enter into, a project labor agreement for a construction project that is subject to Chapter 4 (commencing with Section 4100) only if the agreement includes all of the following ratepayer and public protection provisions:

(1) The agreement prohibits discrimination based on race, national origin, religion, sex, sexual orientation, political affiliation, or membership in a labor organization in hiring and dispatching workers for the project.

(2) The agreement permits all qualified contractors and subcontractors to bid for and be awarded work on the project without regard to whether they are otherwise parties to collective bargaining agreements.

(3) The agreement contains an agreed-upon protocol concerning drug testing for workers who will be employed on the project.

(4) The agreement contains guarantees against work stoppages, strikes, lockouts, and similar disruptions of the project.

(5) The agreement provides that disputes arising from the agreement shall be resolved by a neutral arbitrator.

(b) An investor-owned utility shall not enter into any agreement in contravention of the provisions of this chapter.

(c) An investor-owned utility shall file any project labor agreement described in this section with the Public Utilities Commission, and shall make those agreements available to the public before the date that the agreements may be enforced.

(d) For purposes of this section, "investor-owned utility" has the same meaning as defined in subdivision (b) of Section 4113.

SEC. 10. Section 4102 is added to the Public Contract Code, to read:

4102. Any person or entity who is required to submit a notice, bid, subcontractor list, or other written document to an investor-owned utility pursuant to this chapter shall promptly transmit that document to the Public Utilities Commission. Any document submitted to the Public Utilities Commission pursuant to this chapter shall be considered a writing within the meaning of subdivision (g) of Section 6252 of the Government Code, and shall be subject to disclosure under the California Public Records Act, subject to all existing terms and limitations relating to documents held by the Public Utilities Commission.

SEC. 11. Section 4103 of the Public Contract Code is amended to read:

4103. Nothing in this chapter limits or diminishes any rights or remedies, either legal or equitable, which:

(a) An original or substituted subcontractor may have against the prime contractor, his or her successors or assigns.

(b) The state or any county, city, body politic, ~~or~~ public ~~agency~~ agency, or investor-owned utility may have against the prime contractor, or his or her successors or assigns, including the right to take over and complete the contract.

SEC. 12. Section 4104 of the Public Contract Code is amended to read:

4104. Any officer, department, board, ~~or commission~~ commission, or investor-owned utility taking bids for the construction of any public work or improvement shall provide in the specifications prepared for the work or improvement or in the general conditions under which bids will be received for the doing of the work incident to the public work or improvement that any person making a bid or offer to perform the work, shall, in his or her bid or offer, set forth:

(a) (1) The name, the location of the place of business, the California contractor license number, and public works contractor registration number issued pursuant to Section 1725.5 of the Labor Code of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars ($10,000), whichever is greater.

(2) An inadvertent error in listing the California contractor license number or public works contractor registration number provided pursuant to paragraph (1) shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive if the corrected contractor's license number is submitted to the public entity by the prime contractor within 24 hours after the bid opening and provided the corrected contractor's license number corresponds to the submitted name and location for that subcontractor.

(3) (A) Subject to subparagraph (B), any information requested by the officer, department, board, ~~or commission~~ commission, or investor-owned utility concerning any subcontractor who the prime contractor is required to list under this subdivision, other than the subcontractor's name, location of business, the California contractor license number, and the public works contractor registration number, may be submitted by the prime contractor up to 24 hours after the deadline established by the officer, department, board, ~~or commission~~ commission, or investor-owned utility for receipt of bids by prime contractors.

(B) A state ~~or local agency~~ agency, local agency, or investor-owned utility may implement subparagraph (A) at its option.

(b) The portion of the work that will be done by each subcontractor under this act. The prime contractor shall list only one subcontractor for each portion as is defined by the prime contractor in his or her bid.

SEC. 13. Section 4104.5 of the Public Contract Code is amended to read:

4104.5. (a) The officer, department, board, ~~or commission~~ commission, or investor-owned utility taking bids for construction of any public work or improvement shall specify in the bid invitation and public notice the place the bids of the prime contractors are to be received and the time by which they shall be received. The date and time shall be extended by no less than 72 hours if the officer, department, board,

~~or commission~~ commission, or investor-owned utility issues any material changes, additions, or deletions to the invitation later than 72 hours ~~prior to~~ before the bid closing. Any bids received after the time specified in the notice or any extension due to material changes shall be returned unopened.

(b) As used in this section, the term "material change" means a change with a substantial cost impact on the total bid as determined by the awarding agency.

(c) As used in this section, the term "bid invitation" shall include any documents issued to prime contractors that contain descriptions of the work to be bid or the content, form, or manner of submission of bids by bidders.

(d) An investor-owned utility shall submit any bid invitation and public notice described in subdivision (a) to the Public Utilities Commission for filing.

SEC. 14. Section 4113 of the Public Contract Code is repealed.

~~4113. As used in this chapter, the word "subcontractor" shall mean a contractor, within the meaning of the provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, who contracts directly with the prime contractor.~~

~~"Prime contractor" shall mean the contractor who contracts directly with the awarding authority.~~

SEC. 15. Section 4113 is added to the Public Contract Code, to read:

4113. For purposes of this chapter:

(a) "Awarding authority" or "awarding agency" means a public entity subject to this chapter, or an investor-owned utility with respect to a contract for a project of an investor-owned utility in which the total expenditures required for that project exceeds one hundred thousand dollars ($100,000).

(b) "Investor-owned utility" means an electrical corporation, as defined in Section 218 of the Public Utilities Code, or a gas corporation, as defined in Section 222 of the Public Utilities Code, that is within the jurisdiction of the Public Utilities Commission and is not otherwise subject to the provisions of this chapter.

(c) "Prime contractor" means the contractor who contracts directly with the awarding authority.

(d) "Project of an investor-owned utility" or "project" includes, in addition to any public works contract, as defined in Section 1101, any construction, reconstruction, alteration, enlargement, renewal, demolition, installation, repair, or replacement of any structure, building, road, or other improvement of any kind. For purposes of this paragraph, "construction" includes alteration, demolition, repair, installation, and work performed during the design, preconstruction, and postconstruction phases of construction, including, but not limited to, inspection, land surveying work, and all cleanup work at the jobsite. For purposes of this paragraph, "installation" includes, but is not limited to, the assembly and disassembly of freestanding and affixed modular office systems.

(e) "Subcontractor" means a contractor, within the meaning of the provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, who contracts directly with the prime contractor.

SEC. 16. Section 4115 is added to the Public Contract Code, to read:

4115. (a) On any project of an investor-owned utility that is subject to this chapter, the investor-owned utility shall solicit bids in writing and shall award the work to the lowest responsible bidder or reject all bids.

(b) On any project of an investor-owned utility that is subject to this chapter, the investor-owned utility shall specify in the call for bids for the contract, and in the bid specifications and in the contract itself, all of the following:

(1) That prevailing wages are required of all contractors and their subcontractors of every tier.

(2) That apprentices shall be employed and trained pursuant to Section 1777.5 of the Labor Code.

(3) That certified payroll records pursuant to Section 1776 of the Labor Code shall be submitted to the investor-owned utility.

(4) That the other provisions of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code shall apply to work on the project of the investor-owned utility.

(5) That a payment bond, shall be required of the prime contractor for any project, consistent with the requirements in Chapter 5 (commencing with Section 9550) of Title 3 of Part 6 of Division 4 of the Civil Code.

(6) That the investor-owned utility has adopted a bid protest procedure which shall be available to any unsuccessful bidder. This procedure shall, at a minimum, be available to any bidder, and any person, firm, association, trust, partnership, labor organization, corporation, or other legal entity which has, before the letting of the bids on the project in question, entered into a contract with the bidders who have submitted bids, to protest on the basis that the low bidder is not responsible or the bid is not responsive.

SEC. 17. Section 4116 is added to the Public Contract Code, to read:

4116. (a) An investor-owned utility shall require that its contractors and any subcontractors provide an enforceable commitment to the investor-owned utility that the contractor and subcontractors at every tier will use a skilled and trained workforce to perform all work on the public works contract subject to this chapter that falls within an apprenticeship occupation in the building and construction trades. In order to satisfy this subdivision, an investor-owned utility shall enter into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract to use a skilled and trained workforce.

(b) If an investor-owned utility is required to provide an enforceable commitment that a skilled and trained workforce pursuant to subdivision (a) will be used to complete a contract or project, the commitment shall be made in an enforceable agreement with the investor-owned utility 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 section.

(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 section.

(c) 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 investor-owned utility shall withhold further payments until a complete report is provided.

(d) If a monthly report does not demonstrate compliance with this chapter, the investor-owned utility shall withhold further payments until the contractor, bidder, or other entity provides a plan to achieve substantial compliance with this section, with

respect to the relevant apprenticeable occupation, before completion of the contract or project.

(e) The Public Utilities Commission shall require all investor-owned utilities to report compliance with this section, and shall take all actions necessary to assure full compliance. The Public Utilities Commission shall not grant exceptions or delays for compliance with this section, unless the investor-owned utility can demonstrate to the commission that it has made diligent and good-faith efforts to comply with this section and that the granting of the exception or delay is necessary in order to prevent immediate harm to the public health or safety or to the environment. Any exception or delay granted by the Public Utilities Commission shall cease as soon as the emergency requiring that exception or delay is over.

(f) For purposes of this section:

(1) "Apprenticeable occupation" means an occupation for which the chief has approved an apprenticeship program pursuant to Section 3075 of the Labor Code.

(2) "Building and construction trades" has the same meaning as in Section 3075.5 of the Labor Code.

(3) "Chief" means the Chief of the Division of the Apprenticeship Standards of the Department of Industrial Relations.

(4) "Graduate of an apprenticeship program" means either of the following:

(A) An individual that has been issued a certificate of completion under the authority of the California Apprenticeship Council for completing an apprenticeship program approved by the chief pursuant to Section 3075 of the Labor Code.

(B) An individual that has completed an apprenticeship program located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the United States Secretary of Labor.

(5) "Registered apprentice" means an apprentice registered in an apprenticeship program approved by the chief pursuant to Section 3075 of the Labor Code who is performing work covered by the standards of that apprenticeship program and receiving the supervision required by the standards of that apprenticeship program.

(6) "Skilled journeyperson" means a worker who either graduated from an apprenticeship program for the applicable occupation that was approved by the chief, or has at least as many hours of on-the-job experience in the applicable occupation that would be required to graduate from an apprenticeship program for the applicable occupation that is approved by the chief.

(7) "Skilled and trained workforce" means a workforce that meets both of the following criteria:

(A) All the workers are either registered apprentices or skilled journeypersons.

(B) (i) For work performed on or after January 1, 2019, at least 40 percent of the skilled journeypersons are graduates of an apprenticeship program for the applicable occupation that was either approved by the chief pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the United States Secretary of Labor.

(ii) For work performed on or after January 1, 2020, at least 50 percent of the skilled journeypersons are graduates of an apprenticeship program for the applicable occupation that was either approved by the chief pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the Unites States Secretary of Labor.

(iii) For work performed January 1, 2021, at least 60 percent of the skilled journeypersons are graduates of an apprenticeship program for the applicable occupation that was either approved by the chief pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the United States Secretary of Labor.

SEC. 18. Section 4117 is added to the Public Contract Code, to read:

4117. An investor-owned utility shall not enter into any agreement in contravention of the provisions of this chapter.

SEC. 19. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Amendment 3

On page 1, strike out lines 1 to 10, inclusive, and strike out page 2

AMENDMENTS TO ASSEMBLY BILL NO. 3074

Amendment 1

In the title, strike out lines 1 and 2 and insert:

An act to amend Sections 4688.21 and 4850.3 of the Welfare and Institutions Code, relating to developmental services.

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Section 4688.21 of the Welfare and Institutions Code is amended to read:

4688.21. (a) The Legislature places a high priority on opportunities for adults with developmental disabilities to choose and customize day services to meet their individualized ~~needs;~~ needs, have opportunities to further the development or maintenance of employment and volunteer ~~activities;~~ activities, direct their ~~services;~~ services, pursue postsecondary ~~education;~~ education, and increase their ability to lead integrated and inclusive lives. To further these goals, a consumer may choose a tailored day service or vouchered community-based training service, in lieu of any other regional center vendored day program, look-alike day program, supported employment program, or work activity program.

(b) (1) A tailored day service shall do both of the following:

(A) Include an individualized service design, as determined through the individual program plan (IPP) and approved by the regional center, that maximizes the consumer's individualized choices and needs. This service design may include, but may not be limited to, the following:

(i) Fewer days or hours than in the program's approved day program, look-alike day program, supported employment program, or work activity program design.

(ii) Flexibility in the duration and intensity of services to meet the consumer's individualized needs.

(B) Encourage opportunities to further the development or maintenance of employment, volunteer activities, or pursuit of postsecondary education; maximize consumer direction of the service; and increase the consumer's ability to lead an integrated and inclusive life.

(2) The type and amount of tailored day service shall be determined through the IPP process, pursuant to Section 4646. The IPP shall contain, but not be limited to, both of the following:

(A) A detailed description of the consumer's individualized choices and needs and how these choices and needs will be met.

(B) The type and amount of services and staffing needed to meet the consumer's individualized choices and needs, and unique health and safety and other needs.

(3) The staffing requirements set forth in Section ~~55756~~ 56756 of Title 17 of the California Code of Regulations and subdivision (r) of Section 4851 of this code shall not apply to a tailored day service.

(4) For currently vendored programs wishing to offer a tailored day service option, the regional center shall vendor a tailored day service option upon negotiating a rate and maximum units of service design that includes, but is not limited to, the following:

(A) A daily or hourly rate and maximum units of service design that does not exceed the equivalent cost of four days per week of the vendor's current rate, if the vendor has a daily day program rate.

(B) A rate and maximum units of service design that does not exceed the equivalent cost of four-fifths of the hours of the vendor's current rate, if the vendor has an hourly rate.

(5) The regional center shall ensure that the vendor is capable of complying with, and will comply with, the consumer's IPP, individual choice, and health and safety needs.

(6) For new programs wishing to offer a tailored day service option, the regional center shall vendor a tailored day service option upon negotiating a rate and maximum units of service design. The rate paid to the new vendor shall not exceed four-fifths of the temporary payment rate or the median rate, whichever is applicable.

(7) Effective July 1, 2011, and prior to the time of development, review, or modification of a consumer's IPP, regional centers shall provide information about tailored day service to eligible adult consumers. A consumer may request information about tailored day services from the regional center at any time and may request an IPP meeting to secure those services.

(c) (1) Notwithstanding subdivision (a), a consumer in a supported employment program or work activity program who has the stated goal of integrated competitive employment in his or her IPP may request to use tailored day services in conjunction with his or her existing program to achieve that goal, if both of the following criteria are met:

(A) The type, amount, and provider of tailored day service allowed under this subdivision shall be determined through the IPP process, pursuant to Section 4646.

(B) The IPP shall contain, but not be limited to, both of the following:

(i) A detailed description of the consumer's individualized choices and needs detailing how these choices and needs will be met to achieve integrated competitive employment.

(ii) The type and amount of services and staffing needed to meet the consumer's individualized choices and needs, and unique health and safety and other needs to gain integrated competitive employment.

(2) The following are the maximum hours of tailored day services that may be authorized in conjunction with existing services under this subdivision:

(A) For individuals currently receiving work activity program services, the IPP may authorize up to 75 hours of service per calendar quarter, the authorized hours shall be reduced from the individual's work activity program hours, and the work activity program shall conform to the hourly billing process described in Section 4863.

(B) For individuals receiving group supported employment services, the IPP may authorize up to five hours a month of tailored day services in addition to the job coaching supports they receive on the job.

~~(c)~~

(d) (1) A vouchered community-based training service is defined as a consumer-directed service that assists the consumer in the development of skills required for community integrated employment or participation in volunteer activities, or both, and the assistance necessary for the consumer to secure employment or volunteer positions or pursue secondary education.

(2) Implementation of vouchered community-based training service is contingent upon the approval of the federal Centers for Medicare and Medicaid Services.

(3) Vouchered community-based training service shall be provided in natural environments in the community, separate from the consumer's residence.

(4) A consumer, parent, or conservator vendored as a vouchered community-based training service shall utilize the services of a financial management services (FMS) entity. The regional center shall provide information about available financial management services and shall assist the consumer in selecting a FMS vendor to act as coemployer.

(5) A parent or conservator shall not be the direct support worker employed by the vouchered community-based training service vendor.

(6) If the direct support worker is required to transport the consumer, the vouchered community-based training service vendor shall verify that the direct support worker can transport the consumer safely and has a valid California driver's license and proof of insurance.

(7) The rate for vouchered community-based training service shall not exceed fourteen dollars and ninety-nine cents ($14.99) per hour. The rate includes employer-related taxes and all transportation needed to implement the service, except as described in paragraph (8). The rate does not include the cost of the FMS.

(8) A consumer vendored as a vouchered community-based training service shall also be eligible for a regional center-funded bus pass, if appropriate and needed.

(9) Vouchered community-based training service shall be limited to a maximum of 150 hours per quarter. The services to be provided and the service hours shall be documented in the consumer's IPP.

(10) A direct support worker of vouchered community-based training service shall be an adult who possesses the skill, training, and experience necessary to provide services in accordance with the IPP.

(11) Effective July 1, 2011, and prior to the time of development, review, or modification of a consumer's IPP, regional centers shall provide information about vouchered community-based training service to eligible adult consumers. A consumer may request information about vouchered community-based training service from the regional center at any time and may request an IPP meeting to secure those services.

(12) The type and amount of vouchered community-based training service shall be determined through the IPP process pursuant to Section 4646. The IPP shall contain, but not be limited to, the following:

(A) A detailed description of the consumer's individualized choices and needs and how these choices and needs will be met.

(B) The type and amount of services and staffing needed to meet the consumer's individualized choices and unique health and safety and other needs.

~~(d)~~

(e) The department may adopt emergency regulations for tailored day service or vouchered community-based training service. The adoption, amendment, repeal, or

readoption of a regulation authorized by this subdivision is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement that it describe specific facts showing the need for immediate action. A certificate of compliance for these implementing regulations shall be filed within 24 months following the adoption of the first emergency regulations filed pursuant to this subdivision.

SEC. 2. Section 4850.3 of the Welfare and Institutions Code is amended to read:

4850.3. (a) ~~The Legislature intends that in~~ In order to increase effectiveness and opportunity to gain meaningful integrated competitive employment opportunities, pursuant to paragraph (1) of subdivision (a) of Section 4869, habilitation services shall also provide community-based vocational development services to enhance community employment readiness, develop social skills necessary for successful community employment, and build a network of community and employment opportunities for individuals with developmental disabilities.

~~(b) The department shall conduct a four-year demonstration project, pursuant to paragraph (1) of subdivision (a) of Section 4869, to determine whether community-based vocational development services increase integrated competitive employment outcomes and reduce purchase of service costs for working age adults.~~

(1) For purposes of this ~~section, "community-based~~ section, "community-based vocational development services" means (A) services provided to enhance community employment readiness, which may include the use of discovery and job exploration opportunities, (B) social skill development services necessary to obtain and maintain community employment, (C) services to use internship, apprenticeship, and volunteer opportunities to provide community-based vocational development skills development opportunities, (D) services to access and participate in postsecondary education or career technical education, and (E) building a network of community and employment opportunities.

(2) If community-based vocational development services are determined to be a necessary step to achieve ~~a supported~~ an integrated competitive employment outcome, a plan shall be developed through the IPP process and may include, but is not limited to, all of the following:

(A) An inventory of potential employment interests.

(B) Preferences for types of work environments or situations.

(C) Identification of any training or education needed for the consumer's desired job.

(D) Opportunities to explore jobs or self-employment as a means to meet the consumer's desired employment outcome.

(E) Identification of any personal or family networks the consumer may use to achieve his or her desired employment outcomes.

(3) The habilitation service provider and the regional center shall review the plan developed pursuant to paragraph (2) semiannually to document progress towards objectives, additional barriers, and other changes that impact the consumer's desired employment outcome.

(4) The hourly rate for community-based vocational development services, for the purposes of this section, shall be forty dollars ($40) per hour for a maximum of 75

hours per calendar quarter for all services identified and provided in the community-based vocational development plan as developed pursuant to paragraphs (2) and (3). Prior to the implementation of community-based vocational development services, the department shall secure federal Medicaid funding for this service.

(5) Hours of participation in community-based vocational development services may be provided in lieu of hours of participation in other community-based day program services, as determined by the consumer's individual program planning team, for up to two years. Community-based vocational development services may be authorized for an additional two years, if the consumer's individual program planning team determines and documents at each semiannual review that the consumer is making significant progress toward the habilitation services objectives. A consumer's participation in community-based vocational development services shall not exceed a total of four years.

~~(c) The department shall select up to five volunteer regional centers that reflect the geographic diversity of California to participate in the demonstration project.~~

~~(d) The department shall publish a notice on the department's Internet Web site when the demonstration project has been implemented.~~

~~(e) (1) After conclusion of the demonstration project, the department shall review the effectiveness of the demonstration project and make determinations whether community-based vocational development services (A) increase employment outcomes, (B) reduce purchase of service costs, and (C) may be implemented on a statewide basis.~~

~~(2) The department shall notify the appropriate fiscal and policy committees of both houses of the Legislature of the determinations made pursuant to this subdivision.~~

~~(f)~~

(b) This section shall be implemented only to the extent that federal financial participation is available and any necessary federal approvals have been obtained.

~~(g) This section shall remain in effect only until January 1, 2025, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2025, deletes or extends that date.~~

Amendment 3

On page 1, strike out lines 1 to 5, inclusive, and strike out pages 2 to 4, inclusive

AMENDMENTS TO ASSEMBLY BILL NO. 3079

Amendment 1

In the title, in line 1, after "act" insert:

to amend Section 2192 of, and to add Section 2192.5 to, the Streets and Highways Code,

Amendment 2

In the title, in line 1, strike out "ports." and insert:

transportation.

Amendment 3

On page 1, before line 1, insert:

SECTION 1. Section 2192 of the Streets and Highways Code is amended to read:

2192. (a) The following revenues shall be allocated for infrastructure projects pursuant to this section:

(1) The revenues deposited in the Trade Corridors Enhancement Account pursuant to Section 2192.4, except for those revenues in the account that were appropriated by Senate Bill 132 of the 2017–18 Regular Session (Chapter 7 of the Statutes of 2017).

(2) An amount of federal funds equal to the amount of revenue apportioned to the state under Section 167 of Title 23 of the United States Code from the national highway freight programs, pursuant to the federal Fixing America's Surface Transportation Act ("FAST Act," Public Law 114-94).

(b) The funding described in subdivision (a) shall be available upon appropriation for allocation by the California Transportation Commission for infrastructure improvements in this state on federally designated Trade Corridors of National and Regional Significance, on the Primary Freight Network, and along other corridors that have a high volume of freight movement, as determined by the commission and as identified in the state freight plan developed pursuant to Section 13978.8 of the Government Code. Projects eligible for funding shall be included in an adopted regional transportation plan. Projects within the boundaries of a metropolitan planning organization shall be included in an adopted regional transportation plan that includes a sustainable communities strategy determined by the State Air Resources Board to achieve the region's greenhouse gas emissions reduction targets. In developing guidelines for implementing this section, the commission shall (1) apply the guiding principles, to the maximum extent practicable, in the California Sustainable Freight Action Plan released in July 2016 pursuant to Executive Order B-32-15, and (2) consult the state freight plan and the applicable port master plan.

(c) Eligible projects for these funds include, but are not limited to, all of the following:

(1) Highway improvements to more efficiently accommodate the movement of freight, particularly for ingress and egress to and from the state's land ports of entry, rail terminals, and seaports, including navigable inland waterways used to transport freight between seaports, land ports of entry, and airports, and to relieve traffic congestion along major trade or goods movement corridors.

(2) Freight rail system improvements to enhance the ability to move goods from seaports, land ports of entry, and airports to warehousing and distribution centers throughout California, including projects that separate rail lines from highway or local road traffic, improve freight rail mobility, and other projects that improve the safety, efficiency, and capacity of the rail freight system.

(3) Projects to enhance the capacity and efficiency of ports, except that funds available under this section shall not be allocated to a project that includes the purchase of fully automated cargo handling equipment. For the purposes of this paragraph, "fully automated" means equipment that is remotely operated or remotely monitored, with or without the exercise of human intervention or control. Nothing in this paragraph shall prohibit the use of funds available pursuant to this section for a project that includes the purchase of human-operated zero-emission equipment, human-operated near-zero-emission equipment, and infrastructure supporting that human-operated equipment. Furthermore, nothing in this section shall prohibit the purchase of devices that support that human-operated equipment, including equipment to evaluate the utilization and environmental benefits of that human-operated equipment.

(4) Truck corridor improvements, including dedicated truck facilities or truck toll facilities, including the mitigation of the emissions from trucks or these facilities.

(5) Border access improvements that enhance goods movement between California and Mexico and that maximize the state's ability to access funds made available to the state by federal law.

(6) Surface transportation, local road, and connector road improvements to effectively facilitate the movement of goods, particularly for ingress and egress to and from the state's land ports of entry, airports, and seaports, to relieve traffic congestion along major trade or goods movement corridors.

(d) Projects funded with revenues identified in paragraph (1) of subdivision (a) shall be consistent with Article XIX of the California Constitution.

(e) (1) In adopting the program of projects to be funded with funds described in subdivision (a), the commission shall evaluate the total potential economic and noneconomic benefits of the program of projects to California's economy, environment, and public health. The evaluation shall specifically assess localized impacts in disadvantaged communities. The commission shall consult with the agencies identified in Executive Order B-32-15 and metropolitan planning organizations in order to utilize the appropriate models, techniques, and methods to develop the parameters for evaluating the program of projects. The commission shall allocate the funding from subdivision (a) for trade infrastructure improvements as follows:

(A) Sixty percent of the funds shall be available for projects nominated by regional transportation agencies and other public agencies, including counties, cities, and port authorities, in consultation with the department. The commission shall provide reasonable geographic targets for funding allocations without constraining what an agency may propose or what the commission may approve.

(B) (i) Forty percent of the funds shall be available for projects nominated by the department, in consultation with regional transportation agencies.

(ii) Of the amount allocated pursuant to this subparagraph, not less than 10 percent of these funds shall be available for projects nominated by the department pursuant to Section 2192.5.

(2) In adopting a program of projects pursuant to paragraph (1), the commission shall prioritize projects jointly nominated and jointly funded by the state and local agencies. In considering geographic balance for the overall program, the commission may adjust the corridor-based targets in subparagraph (A) of paragraph (1) to account for projects programmed pursuant to subparagraph (B) of paragraph (1).

(f) (1) The commission shall adopt guidelines, including a transparent process to evaluate projects and to allocate the funding described in subdivision (a) for trade infrastructure improvements in a manner that (1) addresses the state's most urgent needs, (2) balances the demands of various land ports of entry, seaports, and airports, (3) places emphasis on projects that improve trade corridor mobility and safety while reducing emissions of diesel particulates, greenhouse gases, and other pollutants and reducing other negative community impacts, especially in disadvantaged communities, (4) makes a significant contribution to the state's economy, (5) recognizes the key role of the state in project identification, (6) supports integrating statewide goods movement priorities in a corridor approach, and (7) includes disadvantaged communities measures, as established by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code, and other tools the commission determines, for evaluating benefits or costs for disadvantaged communities and low-income communities. Project nominations shall include either a quantitative or qualitative assessment of the benefits the project is expected to achieve relative to the evaluation criteria.

(2) The guidelines adopted pursuant to paragraph (1) may include streamlining of project delivery by authorizing regional transportation agencies and other public agencies to seek commission approval of a letter of no prejudice that allows the agency to expend its own funds for a project programmed in a future year of the adopted program of projects, in advance of allocation of funds to the project by the commission, and to be reimbursed at a later time for eligible expenditures. A letter of no prejudice shall only be available to local or regional transportation agencies for moneys that have been identified for future allocation to the applicant agency. Moneys designated for the program shall only be reimbursed when there is funding available in an amount sufficient to make the reimbursement.

(g) In addition, the commission shall also consider the following factors when allocating these funds:

(1) "Velocity," which means the speed by which large cargo would travel from the land port of entry or seaport through the distribution system.

(2) "Throughput," which means the volume of cargo that would move from the land port of entry or seaport through the distribution system.

(3) "Reliability," which means a reasonably consistent and predictable amount of time for cargo to travel from one point to another on any given day or at any given time in California.

(4) "Congestion reduction," which means the reduction in recurrent daily hours of delay to be achieved.

(h) For purposes of this section, the following terms have the following meanings:

(1) "Disadvantaged communities" are those communities identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code.

(2) "Low-income communities" are census tracts with median household incomes at or below 80 percent of the statewide median income or with median household incomes at or below the threshold designated as low income by the Department of Housing and Community Development's list of state income limits adopted pursuant to Section 50093 of the Health and Safety Code.

(i) It is the intent of the Legislature for the commission to adopt an initial program of projects utilizing the state and federal funds described in subdivision (a) for eligible projects as soon as practicable and no later than May 17, 2018.

SEC. 2. Section 2192.5 is added to the Streets and Highways Code, to read:

2192.5. (a) The California Port Efficiency Program is hereby created to establish a process to nominate projects for purposes of clause (ii) of subparagraph (B) of paragraph (1) of subdivision (e) of Section 2192. The department shall select projects for nomination from projects proposed by eligible applicants described in subdivision (c) that most effectively improve velocity, throughput, and reliability of port operations.

(b) Projects eligible for nomination pursuant to this section include, but are not limited to, the following:

(1) Deployment of digital industrial infrastructure to facilitate and streamline the exchange of data between supply chain participants.

(2) Projects designed to reduce truck visit times including, but not limited to, appointment systems and truck parking facilities.

(c) Only a regional transportation agency or port authority may propose a project for nomination to the department pursuant to this section.

(d) Projects nominated pursuant to this section shall comply with the requirements set forth in Section 2192.

Amendment 4

On page 1, strike out lines 1 and 2

AMENDMENTS TO ASSEMBLY BILL NO. 3082

Amendment 1
In the title, in line 1, strike out "amend" and insert:

add

Amendment 2
In the title, in line 1, strike out "10000 of" and insert:

12318 to

Amendment 3
On page 1, before line 1, insert:

SECTION 1. Section 12318 is added to the Welfare and Institutions Code, to read:

12318. (a) On or before July 1, 2019, the State Department of Social Services shall, in consultation with interested stakeholders, develop a program to address the issue of sexual harassment of in-home supportive services providers that includes all of the following:

(1) A uniform statewide protocol to follow whenever a provider reports sexual harassment, that includes clear guidelines for the state, counties, public authorities, providers, and recipients.

(2) A requirement that providers attend sexual harassment education as part of the provider orientation required pursuant to Section 12301.24.

(3) A continuing program of sexual harassment education for providers and recipients.

(4) A procedure for providers to report sexual harassment, with guidelines and timelines for investigation. The procedure shall include due process protections for recipients, specify remedial options, and establish guidelines for coordination with law enforcement agencies, if appropriate.

(5) A procedure to ensure protection against retaliation for a provider who reports sexual harassment, including, but not limited to, ensuring that the provider receives payment for services rendered, especially in a case in which a recipient withholds approval of a timesheet in the context of sexual harassment or retaliation.

(b) The department shall, on or before July 1, 2020, and annually thereafter, submit a report to the Legislature summarizing the outcomes of the program developed pursuant to subdivision (a). The report shall be submitted in compliance with Section 9795 of the Government Code.

Amendment 4
On page 1, strike out lines 1 to 4, inclusive, and strike out page 2

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AMENDMENTS TO ASSEMBLY BILL NO. 3087

Amendment 1

In the title, in line 1, strike out "amend Section 1340 of" and insert:

add Section 128741 to

Amendment 2

In the title, in line 2, strike out "care service plans." and insert:

facilities.

Amendment 3

On page 1, before line 1, insert:

SECTION 1. Section 128741 is added to the Health and Safety Code, to read:

128741. A health facility shall report the following information for each procedure performed:

(a) Medicare reimbursement on a fee-for-service basis.

(b) The average Medicare reimbursement on a Medicare managed care basis, averaged across Medicare managed care plans.

(c) The average reimbursement by payers other than Medicare or Medi-Cal.

Amendment 4

On page 1, strike out lines 1 to 4, inclusive

AMENDMENTS TO ASSEMBLY BILL NO. 3088

Amendment 1

In the title, in line 1, strike out "relating to assisted living facilities." and insert:

to amend Sections 1792.7 and 1792.10 of, and to add Section 1792.11 to, the Health and Safety Code, relating to health facilities.

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Section 1792.7 of the Health and Safety Code is amended to read:

1792.7. (a) The Legislature finds and declares all of the following:

(1) In continuing care contracts, providers offer a wide variety of living accommodations and care programs for an indefinite or extended number of years in exchange for substantial payments by residents.

(2) The annual reporting and reserve requirements for each continuing care provider should include a report that summarizes the provider's recent and projected performance in a form useful to residents, prospective residents, and the department.

(3) Certain providers enter into "life care contracts" or similar contracts with their residents. Periodic actuarial studies that examine the actuarial financial condition of these providers will help to assure their long-term financial soundness.

(b) Each provider shall annually file with the department a report that shows certain key financial indicators for the provider's past five years, based on the provider's actual experience, and for the upcoming five years, based on the provider's projections. Providers shall file their key indicator reports in the manner required by Section 1792.9 and in a form prescribed by the department.

(c) Each provider ~~that has entered into Type A contracts~~ shall file with the department an actuary's opinion as to the actuarial financial condition of the provider's continuing care operations in the manner required by Section 1792.10.

SEC. 2. Section 1792.10 of the Health and Safety Code is amended to read:

1792.10. (a) Each provider ~~that has entered into Type A contracts~~ shall submit to the department, at least once every ~~five~~ three years, an actuary's opinion as to the provider's actuarial financial condition. The actuary's opinion shall be based on an actuarial study completed by the opining actuary in a manner that meets the requirements described in Section 1792.8. The actuary's opinion, and supporting actuarial study, shall examine, refer to, and opine on the provider's actuarial financial condition as of a specified date that is within four months of the date the opinion is provided to the department.

(b) Each provider ~~required to file an actuary's opinion under subdivision (a)~~ that held a certificate of authority on December 31, 2003, shall file its actuary's opinion before the expiration of five years following the date it last filed an actuarial study or opinion with the department. Thereafter, the provider shall file its required actuary's opinion before the expiration of ~~five~~ three years following the date it last filed an actuary's opinion with the department.

(c) Each provider ~~required to file an actuary's opinion under subdivision (a)~~ that did not hold a certificate of authority on December 31, 2003, or was not required to file an actuary's opinion prior to January 1, 2018, shall file its first actuary's opinion within 45 days following the due date for the provider's annual report for the fiscal year in which the provider obtained its certificate of authority. Thereafter, the provider shall file its required actuary's opinion before the expiration of ~~five~~ three years following the date it last filed an actuary's opinion with the department.

(d) The actuary's opinion required by subdivision (a) shall comply with generally accepted actuarial principles and the standards of practice adopted by the Actuarial Standards Board. The actuary's opinion shall also include statements that the data and assumptions used in the underlying actuarial study are appropriate and that the methods employed in the actuarial study are consistent with sound actuarial principles and practices. The actuary's opinion ~~must~~ shall state whether the provider has adequate resources to meet all its actuarial liabilities and related statement items, including an appropriate surplus, and whether the provider's financial condition is actuarially sound.

(e) A provider shall, within 10 days after filing its actuary's opinion with the department pursuant to this section, post a copy of the actuary's opinion in a central and conspicuous location at the facility and in a conspicuous location on the provider's Internet Web site.

SEC. 3. Section 1792.11 is added to the Health and Safety Code, to read:

1792.11. (a) At least once every three years, each provider shall conduct a reasonably competent and diligent maintenance and replacement study of the accessible areas that the provider is obligated to repair, replace, restore, or maintain within the facility. The board of each provider shall review this study, or cause it to be reviewed, annually, and shall use the review to consider and implement necessary adjustments to its reserve account requirements.

(b) The study required by this section shall, at a minimum, include all of the following:

(1) Identification of the major components that the provider is obligated to repair, replace, restore, or maintain that, as of the date of the study, have a remaining useful life of less than 20 years.

(2) Identification of the probable remaining useful life of the components identified in paragraph (1) as of the date of the study.

(3) An estimate of the cost of repair, replacement, restoration, or maintenance of the components identified in paragraph (1).

(4) An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the components identified in paragraph (1) during, and at the end of, the components' useful life.

(5) A funding plan that indicates how the provider plans to fund its obligation to repair and replace the major components that have an expected remaining useful life of 20 years or less, with the exception of those components that the board has determined it will not replace or repair.

(c) Each provider shall submit to the department, at least once every three years, a summary of the maintenance and replacement study required by this section and the necessary adjustments the board of that provider has made or plans to make as a result of the study. Within 10 days of filing the summary and adjustment plan with the department, the provider shall post a copy of the summary and adjustment plan in a

central and conspicuous location at the facility and in a conspicuous location on the provider's Internet Web site.

Amendment 3
On page 1, strike out lines 1 to 3, inclusive