

AMENDMENTS TO ASSEMBLY BILL NO. 3090

Amendment 1

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

An act to add Section 14673.4 to the Government Code, relating to state property, and making an appropriation therefor.

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Section 14673.4 is added to the Government Code, to read:
14673.4. (a) The Legislature finds and declares all of the following:

(1) The state owns real property located at 4902 Pacific Highway in the City of San Diego, currently used by the Department of the California Highway Patrol as its San Diego area office.

(2) For the purposes of this section, the real property described in paragraph (1) shall be referred to as the "Pacific Highway Property."

(3) The San Diego area office of the Department of the California Highway Patrol has outgrown the facilities on the Pacific Highway Property, and relocating the operations of the San Diego area office to a location that will accommodate presently necessary and future expansion will better protect the health and safety of the residents of the state.

(4) The Pacific Highway Property may be sold, exchanged, leased, or any combination thereof and the proceeds used to carry out the intent of the Legislature to provide a substitute location for the San Diego area office of the Department of the California Highway Patrol capable of accommodating its presently necessary and future expansion.

(5) Because the subject property is unsuitable to the needs of the state rather than surplus, the Legislature hereby finds and declares that the disposition of the Pacific Highway Property authorized by this section does not constitute a sale or other disposition of surplus state property within the meaning of Section 9 of Article III of the California Constitution and shall not be subject to subdivision (g) of Section 11011.

(b) The Director of General Services may sell, exchange, lease, or any combination thereof, all or a portion of the Pacific Highway Property. The director shall use the proceeds of any sale, exchange, lease, or any combination thereof made pursuant to this subdivision to acquire the land and facilities described in subdivision (g) to provide a substitute location for the San Diego area office of the Department of the California Highway Patrol capable of accommodating its presently necessary and future expansion.

(c) The director shall initially offer the Pacific Highway Property for disposition, pursuant to the authorization described in subdivision (b), to the City of San Diego for purposes of a local government-owned facility to be used for affordable housing, and under terms and conditions that provide for continuous operation of the state's facilities at the Pacific Highway Property until relocation is accomplished. If the City of San



Diego is unable to enter into an agreement for the disposition of the Pacific Highway Property within 120 days after notice from the Department of General Services, the director may offer the Pacific Highway Property for disposition, as described in subdivision (b), to the public through a competitive selection process determined by the director to be in the best interest of the state.

(d) Any exchange, lease, or sale of properties carried out pursuant to this section shall be for no less than fair market value, as determined by an independent appraisal approved by the Department of General Services or pursuant to a competitive selection process. Compensation for the Pacific Highway Property may include land, or a combination of land, improvements, and money.

(e) The Department of General Services shall be reimbursed for any reasonable cost or expense incurred for the transactions described in this section from the proceeds of the sale, lease, exchange, or combination thereof of the Pacific Highway Property.

(f) For the purposes of this section, the Pacific Highway Property shall not be subject to the provisions of Section 11011.1 or Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

(g) The director may enter into one or more agreements, contracts, or leases to provide for the continuous operation of the San Diego area office of the Department of the California Highway Patrol capable of accommodating its presently necessary and future expansion.

(h) (1) Any funds received from the sale, exchange, lease, or any combination thereof, of all or a portion of the Pacific Highway Property authorized by this section shall be held in trust and used only for the acquisition, lease, lease-purchase, lease with an option to purchase, or lease-purchase finance of the land and facilities identified in subdivision (g) and are hereby appropriated to the Department of General Services for expenditure for the purposes of this subdivision.

(2) For the purposes of this section, the terms "lease" or "leases" mean a lease or the selection and acquisition of a lease-purchase, lease-purchase finance, or lease with an option to purchase.

(i) Notwithstanding Section 14669, if the City of San Diego fails to enter into an agreement for the disposition of the Pacific Highway Property as described in subdivision (c), the Department of General Services shall advertise the availability of the Pacific Highway Property and award the sale, lease, exchange, or any combination thereof, of all or a portion of the Pacific Highway Property to the proposer offering to provide a building or buildings that meet the state's requirements if the director determines that the sale, lease, exchange, or any combination thereof to be in the best interest of the state. The director may also lease all or part of the Pacific Highway Property for a period not to exceed 66 years.

(j) (1) The Department of General Services shall develop the terms and conditions of any disposition agreement regarding the Pacific Highway Property, and provide them to the Department of Finance for review before soliciting bids.

(2) The Department of General Services shall obtain approval from the Department of Finance before the execution of any disposition agreement regarding the Pacific Highway Property.

(3) The Department of General Services shall notify the chairperson of the Senate Committee on Appropriations, the chairperson of the Assembly Committee on Appropriations, and the Chairperson of the Joint Legislative Budget Committee, or his

16091

02/27/18 10:15 AM
RN 18 08370 PAGE 3
Substantive

or her designee, in writing of the director's intention to enter into a lease or an agreement, not less than the minimum time that the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine.

Amendment 3

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

- 0 -

AMENDMENTS TO ASSEMBLY BILL NO. 3091

Amendment 1

In the title, in line 1, strike out "Section 13518 of the Penal Code, relating to peace", strike out line 2 and insert:

Section 12525.5 of the Government Code, relating to peace officers.

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Section 12525.5 of the Government Code is amended to read:

12525.5. (a) (1) Each state and local agency that employs peace officers shall annually report to the Attorney General data on all stops conducted by that agency's peace officers for the preceding calendar year.

(2) Each agency that employs 1,000 or more peace officers shall begin collecting data on or before July 1, 2018, and shall issue its first round of reports on or before ~~April 1, 2019.~~ July 1, 2019. Each agency that employs 667 or more but less than 1,000 peace officers shall begin collecting data on or before January 1, 2019, and shall issue its first round of reports on or before April 1, 2020. Each agency that employs 334 or more but less than 667 peace officers shall begin collecting data on or before January 1, 2021, and shall issue its first round of reports on or before April 1, 2022. Each agency that employs one or more but less than 334 peace officers shall begin collecting data on or before January 1, 2022, and shall issue its first round of reports on or before April 1, 2023.

(b) The reporting shall include, at a minimum, the following information for each stop:

(1) The time, date, and location of the stop.

(2) The reason for the stop.

(3) The result of the stop, such as, no action, warning, citation, property seizure, or arrest.

(4) If a warning or citation was issued, the warning provided or violation cited.

(5) If an arrest was made, the offense charged.

(6) The perceived race or ethnicity, gender, and approximate age of the person stopped, provided that the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop, and the information shall not be requested from the person stopped. For motor vehicle stops, this paragraph only applies to the driver, unless any actions specified under paragraph (7) apply in relation to a passenger, in which case the characteristics specified in this paragraph shall also be reported for him or her.

(7) Actions taken by the peace officer during the stop, including, but not limited to, the following:

(A) Whether the peace officer asked for consent to search the person, and, if so, whether consent was provided.



(B) Whether the peace officer searched the person or any property, and, if so, the basis for the search and the type of contraband or evidence discovered, if any.

(C) Whether the peace officer seized any property and, if so, the type of property that was seized and the basis for seizing the property.

(c) If more than one peace officer performs a stop, only one officer is required to collect and report to his or her agency the information specified under subdivision (b).

(d) State and local law enforcement agencies shall not report the name, address, social security number, or other unique personal identifying information of persons stopped, searched, or subjected to a property seizure, for purposes of this section. Notwithstanding any other law, the data reported shall be available to the public, except for the badge number or other unique identifying information of the peace officer involved. Law enforcement agencies are solely responsible for ensuring that personally identifiable information of the individual stopped or any other information that is exempt from disclosure pursuant to this section is not transmitted to the Attorney General in an open text field.

(e) Not later than January 1, 2018, the Attorney General, in consultation with stakeholders, including the Racial and Identity Profiling Advisory Board (RIPA) established pursuant to paragraph (1) of subdivision (j) of Section 13519.4 of the Penal Code, federal, state, and local law enforcement agencies and community, professional, academic, research, and civil and human rights organizations, shall issue regulations for the collection and reporting of data required under subdivision (b). The regulations shall specify all data to be reported, and provide standards, definitions, and technical specifications to ensure uniform reporting practices across all reporting agencies. To the best extent possible, such regulations should be compatible with any similar federal data collection or reporting program.

(f) All data and reports made pursuant to this section are public records within the meaning of subdivision (e) of Section 6252, and are open to public inspection pursuant to Sections 6253 and 6258.

(g) (1) For purposes of this section, "peace officer," as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, is limited to members of the California Highway Patrol, a city or county law enforcement agency, and California state or university educational institutions. "Peace officer," as used in this section, does not include probation officers and officers in a custodial setting.

(2) For purposes of this section, "stop" means any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control.

Amendment 3

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

LEGISLATIVE COUNSEL'S DIGEST

AB 3095, as amended, Santiago. ~~Conservation easements.~~ Wills: electronic wills and electronic records.

Existing law generally requires a will to be in writing and satisfy specified requirements of the Probate Code. Existing law requires a will to be signed by the testator or in the testator's name by some other person in the testator's presence and by the testator's direction. A will that fails to meet those requirements may be valid as a holographic will. Existing law also allows for the execution of a California statutory will.

This bill would authorize a testator to execute an electronic will that, among other things, is created and maintained as an electronic record, as defined, contains the electronic signature of the testator, contains the date and time of the electronic signature, and includes an authentication method, as defined, that is attached to or logically associated with the electronic will to identify the testator. The bill would authorize the electronic document, as defined, to be retained in the custody of a qualified custodian, authorized by the testator, that meets specified requirements and would prescribe methods to change the qualified custodian, including requiring specified affidavits to be made by the qualified custodian. By requiring affidavits that are made under oath, this bill would expand the crime of perjury and would impose a state-mandated local program. The bill would authorize an electronic will to be converted into a certified paper original, as specified. The bill would define new terms for these purposes, and would make conforming changes to related provisions.

Among other things, existing law authorizes a writing in existence when a will is executed to be incorporated by reference if the language of the will manifests this intent and describes the writing sufficiently to permit its identification. Existing law authorizes a will to refer to a writing that directs disposition of tangible personal property not otherwise specifically disposed of by the will, if certain criteria are met.

This bill would expand the application of those provisions to electronic records and allow electronic records to be used instead of writings for those purposes, among others. The bill would authorize, among others, a video recording or other electronic record to be admissible as evidence of the proper execution of a will, the intentions of a testator, the mental state or capacity of a testator, the authenticity of the will, and matters that are determined by the court to be relevant to the probate of a will. The bill would make conforming changes to related provisions.



The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law finds and declares it to be the public policy and in the public interest of California to encourage the voluntary conveyance of conservation easements to qualified nonprofit organizations. Existing law defines the term "conservation easement" for these purposes and authorizes certain entities and organizations to acquire and hold conservation easements, including the state or any city, county, city and county, district, or other state or local governmental entity, if otherwise authorized to acquire and hold title to real property and if the conservation easement is voluntarily conveyed.~~

~~This bill would make nonsubstantive changes to that authorization.~~

Vote: majority. Appropriation: no. Fiscal committee: no yes. State-mandated local program: no yes.



AMENDMENTS TO ASSEMBLY BILL NO. 3095

Amendment 1

In the title, in line 1, strike out "amend Section 815.3 of the Civil Code, relating to real", strike out line 2 and insert:

amend Sections 1633.2 and 1633.3 of the Civil Code, and to amend Sections 6110, 6111, 6113, 6130, 6132, 6221, 6240, 6320, 6382, 6383, and 6384 of, to add Sections 6006 and 6114 to, and to add Chapter 2.5 (commencing with Section 6115) to Part 1 of Division 6 of, the Probate Code, relating to wills.

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Section 1633.2 of the Civil Code is amended to read:
1633.2. In this title the following terms have the following definitions:

(a) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

(b) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.

(c) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

(d) "Contract" means the total legal obligation resulting from the parties' agreement as affected by this title and other applicable law.

(e) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(f) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review by an individual.

(g) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

(h) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record. For purposes of this title, a "digital signature" as defined in subdivision (d) of Section 16.5 of the Government Code is a type of electronic signature.

(i) "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal



government or of a state or of a county, municipality, or other political subdivision of a state.

(j) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

(k) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.

(l) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(m) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(n) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

(o) "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs, including the appointment of an attorney-in-fact under a power of attorney to the extent otherwise authorized under any other law.

SEC. 2. Section 1633.3 of the Civil Code, as amended by Section 2 of Chapter 617 of the Statutes of 2016, is amended to read:

1633.3. (a) Except as otherwise provided in subdivisions (b) and (c), this title applies to electronic records and electronic signatures relating to a transaction.

(b) This title does not apply to transactions subject to the following laws:

(1) A law governing the creation and execution of wills, codicils, or testamentary trusts; trusts, except as otherwise provided in Part 1 (commencing with Section 6100) of Division 6 of the Probate Code with regard to electronic wills, electronic records, and electronic signatures.

(2) Division 1 (commencing with Section 1101) of the Uniform Commercial Code, except Sections 1206 and 1306.

(3) Divisions 3 (commencing with Section 3101), 4 (commencing with Section 4101), 5 (commencing with Section 5101), 8 (commencing with Section 8101), 9 (commencing with Section 9101), and 11 (commencing with Section 11101) of the Uniform Commercial Code.

(4) A law that requires that specifically identifiable text or disclosures in a record or a portion of a record be separately signed, including initialed, from the record. However, this paragraph does not apply to Section 1677 or 1678 of this code or Section 1298 of the Code of Civil Procedure.

(c) This title does not apply to any specific transaction described in Section 17511.5 of the Business and Professions Code, Section 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7, or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14, 1789.16, or 1793.23 of, Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5, 1917.712, 1917.713, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i, 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section 2954.5 or 2963 of,

Chapter 2b (commencing with Section 2981) or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of Division 3 of, Section 3071.5 of Part 5 (commencing with Section 4000) of Division 4 of, or Part 5.3 (commencing with Section 6500) of Division 4 of this code, subdivision (b) of Section 18608 or Section 22328 of the Financial Code, Section 1358.15, 1365, 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code, Section 786 as it applies to individual and group disability policies, 10192.18, 10199.44, 10199.46, 10235.16, 10235.40, 11624.09, or 11624.1 of the Insurance Code, Section 779.1, 10010.1, or 16482 of the Public Utilities Code, or Section 9975 or 11738 of the Vehicle Code. An electronic record may not be substituted for any notice that is required to be sent pursuant to Section 1162 of the Code of Civil Procedure. Nothing in this subdivision shall be construed to prohibit the recordation of any document with a county recorder by electronic means.

(d) This title applies to an electronic record or electronic signature otherwise excluded from the application of this title under subdivision (b) when used for a transaction subject to a law other than those specified in subdivision (b).

(e) A transaction subject to this title is also subject to other applicable substantive law.

(f) The exclusion of a transaction from the application of this title under subdivision (b) or (c) shall be construed only to exclude the transaction from the application of this title, but shall not be construed to prohibit the transaction from being conducted by electronic means if the transaction may be conducted by electronic means under any other applicable law.

(g) Notwithstanding subdivisions (b) and (c), this title shall apply to electronic records and electronic signatures relating to transactions conducted by a person licensed, certified, or registered pursuant to the Alarm Company Act (Chapter 11.6 (commencing with Section 7590) of Division 3 of the Business and Professions Code) for purposes of activities authorized by Section 7599.54 of the Business and Professions Code.

(h) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 3. Section 1633.3 of the Civil Code, as amended by Section 3 of Chapter 617 of the Statutes of 2016, is amended to read:

1633.3. (a) Except as otherwise provided in subdivisions (b) and (c), this title applies to electronic records and electronic signatures relating to a transaction.

(b) This title does not apply to transactions subject to the following laws:

(1) A law governing the creation and execution of wills, codicils, or testamentary trusts; trusts, except as otherwise provided in Part 1 (commencing with Section 6100) of Division 6 of the Probate Code with regard to electronic wills, electronic records, and electronic signatures.

(2) Division 1 (commencing with Section 1101) of the Uniform Commercial Code, except Sections 1206 and 1306.

(3) Divisions 3 (commencing with Section 3101), 4 (commencing with Section 4101), 5 (commencing with Section 5101), 8 (commencing with Section 8101), 9 (commencing with Section 9101), and 11 (commencing with Section 11101) of the Uniform Commercial Code.

(4) A law that requires that specifically identifiable text or disclosures in a record or a portion of a record be separately signed, including initialed, from the record.

However, this paragraph does not apply to Section 1677 or 1678 of this code or Section 1298 of the Code of Civil Procedure.

(c) This title does not apply to any specific transaction described in Section 17511.5 of the Business and Professions Code, Section 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7, or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14, 1789.16, or 1793.23 of, Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5, 1917.712, 1917.713, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i, 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section 2954.5 or 2963 of, Chapter 2b (commencing with Section 2981) or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of Division 3 of, Section 3071.5 of Part 5 (commencing with Section 4000) of Division 4 of, or Part 5.3 (commencing with Section 6500) of Division 4 of this code, subdivision (b) of Section 18608 or Section 22328 of the Financial Code, Section 1358.15, 1365, 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code, Section 662, paragraph (2) of subdivision (a) of Section 663, Section 664, 673, or 677, paragraph (2) of subdivision (a) of Section 678, Section 678.1 or 786, paragraph (2) of subdivision (a) of Section 10086, or Section 10113.7, 10127.7, 10127.9, 10127.10, 10192.18, 10199.44, 10199.46, 10235.16, 10235.40, 10509.4, 10509.7, 11624.09, or 11624.1 of the Insurance Code, Section 779.1, 10010.1, or 16482 of the Public Utilities Code, or Section 9975 or 11738 of the Vehicle Code. An electronic record may not be substituted for any notice that is required to be sent pursuant to Section 1162 of the Code of Civil Procedure. Nothing in this subdivision shall be construed to prohibit the recordation of any document with a county recorder by electronic means.

(d) This title applies to an electronic record or electronic signature otherwise excluded from the application of this title under subdivision (b) when used for a transaction subject to a law other than those specified in subdivision (b).

(e) A transaction subject to this title is also subject to other applicable substantive law.

(f) The exclusion of a transaction from the application of this title under subdivision (b) or (c) shall be construed only to exclude the transaction from the application of this title, but shall not be construed to prohibit the transaction from being conducted by electronic means if the transaction may be conducted by electronic means under any other applicable law.

(g) Notwithstanding subdivisions (b) and (c), this title shall apply to electronic records and electronic signatures relating to transactions conducted by a person licensed, certified, or registered pursuant to the Alarm Company Act (Chapter 11.6 (commencing with Section 7590) of Division 3 of the Business and Professions Code) for purposes of activities authorized by Section 7599.54 of the Business and Professions Code.

(h) This section shall become operative on January 1, 2021.

SEC. 4. Section 6006 is added to the Probate Code, to read:

6006. For purposes of this part, the following definitions shall apply:

(a) "Electronic record" has the same meaning as in Section 1633.2 of the Civil Code.

(b) "Electronic signature" has the same meaning as in Section 1633.2 of the Civil Code.

(c) "Electronic will" means a will of a testator, including a California statutory will, that meets all the requirements set forth in Chapter 2.5 (commencing with Section 6115).

SEC. 5. Section 6110 of the Probate Code is amended to read:

6110. (a) Except as provided in this part, a will shall be in writing and satisfy the requirements of ~~this section~~ section, unless it satisfies the requirements set forth in Section 6115 to be an electronic will.

(b) The will shall be signed by one of the following:

(1) By the testator.

(2) In the testator's name by some other person in the testator's presence and by the testator's direction.

(3) By a conservator pursuant to a court order to make a will under Section 2580.

(c) (1) Except as provided in paragraph (2), the will shall be witnessed by being signed, during the testator's lifetime, by at least two persons each of whom (A) being present at the same time, witnessed either the signing of the will or the testator's acknowledgment of the signature or of the will and (B) understand that the instrument they sign is the testator's will.

(2) If a will was not executed in compliance with paragraph (1), the will shall be treated as if it was executed in compliance with that paragraph if the proponent of the will establishes by clear and convincing evidence that, at the time the testator signed the will, the testator intended the will to constitute the testator's will.

SEC. 6. Section 6111 of the Probate Code is amended to read:

6111. (a) A will that does not comply with Section 6110 is valid as a holographic will, whether or not witnessed, if the signature and the material provisions are in the handwriting of the testator: ~~testator or otherwise satisfy the requirements for an~~ electronic will.

(b) If a holographic will does not contain a statement as to the date of its execution and:

(1) If the omission results in doubt as to whether its provisions or the inconsistent provisions of another will are controlling, the holographic will is invalid to the extent of the inconsistency unless the time of its execution is established to be after the date of execution of the other will.

(2) If it is established that the testator lacked testamentary capacity at any time during which the will might have been executed, the will is invalid unless it is established that it was executed at a time when the testator had testamentary capacity.

(c) Any statement of testamentary intent contained in a holographic will may be set forth either in the testator's own handwriting or as part of a commercially printed form will.

SEC. 7. Section 6113 of the Probate Code is amended to read:

6113. A written will or an electronic will is validly executed if its execution complies with any of the following:

(a) The will is executed in compliance with Section 6110 or 6111 or Chapter 6 (commencing with Section 6200) (California statutory will) or Chapter 11 (commencing with Section 6380) (Uniform International Wills ~~Act~~ Act), or the electronic will requirements set forth in Chapter 2.5 (commencing with Section 6115).

(b) The execution of the will complies with the law at the time of execution of the place where the will is ~~executed~~ executed, except electronic wills may be executed

pursuant to Chapter 2.5 (commencing with Section 6115), regardless of where the electronic will is executed.

(c) The execution of the will complies with the law of the place where at the time of execution or at the time of death the testator is domiciled, has a place of abode, or is a ~~national~~ national, except electronic wills may be executed pursuant to Chapter 2.5 (commencing with Section 6115), regardless of where the electronic will is executed or the law of the place at the time of death of the testator.

SEC. 8. Section 6114 is added to the Probate Code, to read:

6114. Subject to any other law or rule of procedure, a video recording or other electronic record may be admissible as evidence of any of the following:

- (a) The proper execution of a will.
- (b) The intentions of a testator.
- (c) The mental state or capacity of a testator.
- (d) The authenticity of a will.
- (e) Matters that are determined by a court to be relevant to the probate of a will.

SEC. 9. Chapter 2.5 (commencing with Section 6115) is added to Part 1 of Division 6 of the Probate Code, to read:

CHAPTER 2.5. ELECTRONIC WILLS

6115. For purposes of this chapter, the following definitions shall apply:

- (a) "Audio and video conference" means communication by which a person is able to see, hear, and communicate with another person in real time using electronic means.
- (b) "Authentication method" means either of the following:
 - (1) A copy of the testator's government-issued photo identification card and one of the following:
 - (A) A knowledge-based authentication method.
 - (B) A digital certificate using a public key infrastructure.
 - (C) A physical device, including a smart card, a USB device, or another token.
 - (D) Biometric identification, including fingerprint identification, a retinal scan, voice or facial recognition, or a video recording of the testator.
 - (E) Another commercially reasonable method.
 - (2) Electronic notarization, in accordance with any other applicable law.
- (c) "Authoritative copy" means the original, unique, identifiable, and unalterable electronic document of an electronic will.
- (d) "Certified paper original" means a tangible document that contains the text of an electronic will, as set forth in Section 6118.5.
- (e) "Electronic document" means all electronic files relating to the electronic will, including the electronic will itself, codicils, and any other documents required for the certification of the will and its execution.
- (f) "Executed" includes the use of an electronic signature.
- (g) "Presence" includes persons being present by means of two-way audio and video conference.
- (h) "Signature" and "signed" includes the use of an electronic signature.

(i) "Witness" includes a person who is present by means of audio and video conference.

6115.5. A testator may execute a valid and enforceable electronic will under this chapter, if the will meets all of the following requirements:

- (a) Is created and maintained as an electronic record.
- (b) Contains the electronic signature of the testator.
- (c) Contains the date and time of the electronic signature.
- (d) Includes an authentication method that is attached to or logically associated with the electronic will to identify the testator.
- (e) Is created and maintained in a manner that any alteration of the electronic will is detectable.
- (f) Is otherwise subject to the Uniform Electronic Transactions Act (Title 2.5 commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code).

6116. (a) A testator may authorize a qualified custodian who meets all of the following criteria to retain custody of the electronic document:

- (1) The qualified custodian is not an heir of the testator or a beneficiary or devisee under the electronic will.
- (2) The qualified custodian executes a written statement affirmatively agreeing to serve in this capacity.
- (3) The qualified custodian consistently employs and stores electronic documents and electronic wills in a system that protects those documents from destruction, alteration, or unauthorized access and detects any change to a stored electronic document.

(4) The qualified custodian stores in the electronic document both of the following:

(A) A photograph or other visual record of the testator and the attesting witnesses that was taken contemporaneously with the execution of the electronic will.

(B) Documentation that was taken contemporaneously with the execution of the electronic will and provides satisfactory evidence of the identities of the testator and the attesting witnesses, including, but not limited to, the documentation and authentication method.

(5) The qualified custodian stores in the electronic document an audio and video recording of the testator and attesting witnesses taken at the time the testator and each attesting witness places his or her electronic signature on the electronic will, if audio and video communication is used for authentication.

(6) The qualified custodian provides a court that is hearing a matter involving an electronic will that he or she is currently storing or has previously stored any information requested by the court pertaining to the qualifications of the qualified custodian and the policies and practices of the qualified custodian concerning the maintenance, storage, and production of electronic wills.

(b) The electronic document entrusted to the qualified custodian is presumed to be the authoritative copy of the electronic will.

6117. (a) A qualified custodian shall provide access to or information concerning an electronic will or a certified paper original only to the following entities:

- (1) The testator or another person at the written instruction of the testator.
- (2) After the death of the testator, the nominated personal representative of the testator or any interested person.

(b) The qualified custodian, in his or her discretion, may destroy the electronic document after any of the following:

- (1) Five or more years after the admission of an electronic will to probate.
- (2) Five or more years after the revocation of an electronic will.
- (3) Five or more years after the termination of service as qualified custodian for the electronic document.

(4) Ten or more years after the death of the testator.

(5) One hundred fifty years after the execution of the electronic will.

(c) The qualified custodian shall cancel, render unreadable, or obliterate the electronic document upon the written instruction of the testator when executed with the same formalities as the will.

6118. (a) A qualified custodian may cease serving in that capacity as provided in this section.

(b) A qualified custodian shall do all of the following when withdrawing from service:

(1) Provide the succeeding qualified custodian the electronic document.

(2) Provide the succeeding qualified custodian with an affidavit that states all of the following:

(A) That the qualified custodian that is withdrawing meets the requirements in Section 6116 and is the qualified custodian designated by the testator in the electronic will or was designated to act in that capacity by another qualified custodian pursuant to this section.

(B) That the electronic document was created at the time the testator executed the electronic will.

(C) That the electronic document has been in the custody of one or more qualified custodians since the execution of the electronic will and has not been altered since the time it was created.

(D) The identity of all qualified custodians who have had custody of the electronic document since the execution of the electronic will.

(c) The testator may designate in writing, with the same formalities required for the execution of an electronic will, a successor qualified custodian. When this occurs, the current qualified custodian shall provide the electronic document and the affidavit required pursuant to subdivision (b) to the successor custodian.

(d) If the qualified custodian chooses to withdraw his or her services and a new qualified custodian has been designated, the current qualified custodian shall provide the testator and the succeeding qualified custodian with 30 days' written notice that he or she will cease to serve in that capacity and shall provide the materials required by subdivision (b) to the successor qualified custodian.

(e) If the qualified custodian chooses to withdraw his or her services and a new qualified custodian has not been designated, both of the following shall be provided to the testator:

(1) Thirty days' written notice that the qualified custodian will cease serving in that capacity.

(2) The certified paper original of, and all records pertaining to, the electronic will.

(f) (1) When making the affidavit required pursuant to subdivision (b), the qualified custodian may rely conclusively on affidavits provided by a predecessor qualified custodian.

(2) If the qualified custodian is an entity, the affidavit of a duly authorized officer or agent of the entity will act as the affidavit of the qualified custodian.

6118.5. (a) An electronic will may be converted to a certified paper original by converting the electronic will into a tangible document that contains both of the following:

(1) The text of the electronic will.

(2) An affidavit required pursuant to either subdivision (b) or (c).

(b) A qualified custodian converting an electronic document to a certified paper original shall state all of the following in an affidavit:

(1) The qualified custodian meets the requirements of Section 6116.

(2) The qualified custodian was designated by the testator to act in this capacity.

(3) The electronic document was created at the time the testator executed the electronic will.

(4) The electronic document has been in the possession of a qualified custodian since the execution of the electronic will and has not been altered since the time it was created.

(5) The identity of all qualified custodians who have had possession of the electronic document since its creation.

(6) The certified paper original is a true, correct, and complete tangible manifestation of the original electronic will.

(7) The records described in Section 6116 are in the custody of the qualified custodian.

(c) To create a certified paper original when the electronic document was discovered not in the custody of a qualified custodian, the person who discovered the electronic document and the person who reduced the document to paper shall each state in an affidavit the following information:

(1) When the electronic will was created, if not indicated in the electronic document.

(2) When, how, and by whom the electronic will was discovered.

(3) The identities of every person who had access to the electronic document.

(4) The method by which the electronic document was stored and the safeguards that were in place to prevent alteration to the electronic document.

(5) Whether the electronic document has been altered since its execution, to the best of the attestant's knowledge.

(6) The certified paper original is a true, correct, and complete tangible manifestation of the electronic will.

(d) (1) A certified paper original of an electronic will may be offered for and admitted into probate in the same manner as if it were an original will executed in accordance with this part. A certified paper original of an electronic will is presumed to be valid and, absent any objection, shall be admitted to probate expeditiously without requiring further proof of validity.

(2) Pursuant to paragraph (1), a party producing a certified paper original shall produce the tangible document and a self-proving affidavit concerning that will, if applicable, and shall affirm, in a written statement under oath, that it is a true copy of

the electronic will and affidavit, if applicable, and to the best knowledge and belief of the certifying party has not been altered since it was executed.

6119. (a) For purposes of executing or filing a document with the court in a proceeding relating to an electronic will, all of the following shall apply:

- (1) A document may be signed with an electronic signature.
- (2) A person is deemed to be in the presence of or appearing before another person if the person is in the same physical location or in a different physical location, but in communication by means of audio and video conference.
- (3) An electronic document executed in conformance with this chapter shall satisfy a provision of law that requires a written record.

(b) If a testator or a witness signing an affidavit or declaration appears by means of audio and video conference, the form shall be modified to indicate that fact.

6119.5. An electronic will may only be revoked by one of the following means:

- (a) A subsequent will that revokes the prior will or part either expressly or by inconsistency.
- (b) Cancelling, rendering unreadable, or obliterating the will with the intent of revoking it by either the testator or a person in the presence of and at the direction of the testator or the qualified custodian at the direction of a testator, pursuant to subdivision (c) of Section 6117.

SEC. 10. Section 6130 of the Probate Code is amended to read:

6130. A writing or an electronic record in existence when a will is executed may be incorporated by reference if the language of the will manifests this intent and describes the writing sufficiently to permit its identification.

SEC. 11. Section 6132 of the Probate Code is amended to read:

6132. (a) Notwithstanding any other provision, a will may refer to a writing or an electronic record that directs disposition of tangible personal property not otherwise specifically disposed of by the will, except for money that is common coin or currency and property used primarily in a trade or business. A writing or an electronic record directing disposition of a testator's tangible personal property is effective if all of the following conditions are satisfied:

- (1) An unrevoked will refers to the ~~writing~~ writing or electronic record.
- (2) The writing or electronic record is dated and is either in the handwriting of, or signed by, the testator.
- (3) The writing or electronic record describes the items and the recipients of the property with reasonable certainty.

(b) The failure of a writing or an electronic record to conform to the conditions described in paragraph (2) of subdivision (a) does not preclude the introduction of evidence of the existence of the testator's intent regarding the disposition of tangible personal property as authorized by this section.

(c) The writing may be written or electronic or signed before or after the execution of the will and need not have significance apart from its effect upon the dispositions of property made by the will. A writing or electronic record that meets the requirements of this section shall be given effect as if it were actually contained in the will itself, except that if any person designated to receive property in the writing or electronic record dies before the testator, the property shall pass as further directed in the writing or electronic record and, in the absence of any further directions, the disposition shall lapse.

(d) The testator may make subsequent ~~handwritten~~ handwritten, electronic, or signed changes to any ~~writing, writing or electronic record~~. If there is an inconsistent disposition of tangible personal property as between ~~writings, writings or electronic records~~, the most recent writing or electronic record controls.

(e) (1) If the writing or electronic record directing disposition of tangible personal property omits a statement as to the date of its execution, and if the omission results in doubt whether its provisions or the provisions of another writing or electronic record inconsistent with it are controlling, then the writing or electronic record omitting the statement is invalid to the extent of its inconsistency unless the time of its execution is established to be after the date of execution of the other ~~writing, writing or electronic record~~.

(2) If the writing or electronic record directing disposition of tangible personal property omits a statement as to the date of its execution, and it is established that the testator lacked testamentary capacity at any time during which the writing or electronic record may have been executed, the writing or electronic record is invalid unless it is established that it was executed at a time when the testator had testamentary capacity.

(f) (1) Concurrent with the filing of the inventory and appraisal required by Section 8800, the personal representative shall also file the writing or electronic record that directs disposition of the testator's tangible personal property.

(2) Notwithstanding paragraph (1), if the writing or electronic record has not been found or is not available at the time of the filing of the inventory and appraisal, the personal representative shall file the writing or electronic record no later than 60 days prior to filing the petition for final distribution pursuant to Section 11640.

(g) The total value of tangible personal property identified and disposed of in the writing or electronic record shall not exceed twenty-five thousand dollars (\$25,000). If the value of an item of tangible personal property described in the writing or electronic record exceeds five thousand dollars (\$5,000), that item shall not be subject to this section and that item shall be disposed of pursuant to the remainder clause of the will. The value of an item of tangible personal property that is disposed of pursuant to the remainder clause of the will shall not be counted towards the twenty-five thousand dollar (\$25,000) limit described in this subdivision.

(h) As used in this section, the following definitions shall apply:

(1) "Tangible personal property" means articles of personal or household use or ornament, including, but not limited to, furniture, furnishings, automobiles, boats, and jewelry, as well as precious metals in any tangible form, such as bullion or coins and articles held for investment purposes. The term "tangible personal property" does not mean real property, a mobilehome as defined in Section 798.3 of the Civil Code, intangible property, such as evidences of indebtedness, bank accounts and other monetary deposits, documents of title, or securities.

(2) "Common coin or currency" means the coins and currency of the United States that are legal tender for the payment of public and private debts, but does not include coins or currency kept or acquired for their historical, artistic, collectable, or investment value apart from their normal use as legal tender for payment.

SEC. 12. Section 6221 of the Probate Code is amended to read:

6221. A California statutory will other than an electronic will shall be executed only as follows:

(a) The testator shall complete the appropriate blanks and shall sign the will.

(b) Each witness shall observe the testator's signing and each witness shall sign his or her name in the presence of the testator.

SEC. 13. Section 6240 of the Probate Code is amended to read:
6240. The following is the California Statutory Will form:

QUESTIONS AND ANSWERS ABOUT THIS CALIFORNIA STATUTORY WILL

The following information, in question and answer form, is not a part of the California Statutory Will. It is designed to help you understand about Wills and to decide if this Will meets your needs. This Will is in a simple form. The complete text of each paragraph of this Will is printed at the end of the Will.

1. *What happens if I die without a Will?* If you die without a Will, what you own (your "assets") in your name alone will be divided among your spouse, domestic partner, children, or other relatives according to state law. The court will appoint a relative to collect and distribute your assets.

2. *What can a Will do for me?* In a Will you may designate who will receive your assets at your death. You may designate someone (called an "executor") to appear before the court, collect your assets, pay your debts and taxes, and distribute your assets as you specify. You may nominate someone (called a "guardian") to raise your children who are under age 18. You may designate someone (called a "custodian") to manage assets for your children until they reach any age from 18 to 25.

3. *Does a Will avoid probate?* No. With or without a Will, assets in your name alone usually go through the court probate process. The court's first job is to determine if your Will is valid.

4. *What is community property?* Can I give away my share in my Will? If you are married or in a domestic partnership and you or your spouse earned money during your marriage or domestic partnership from work and wages, that money (and the assets bought with it) is community property. Your Will can only give away your one-half of community property. Your Will cannot give away your spouse's one-half of community property.

5. *Does my Will give away all of my assets?* Do all assets go through probate? No. Money in a joint tenancy bank account automatically belongs to the other named owner without probate. If your spouse, domestic partner, or child is on the deed to your house as a joint tenant, the house automatically passes to him or her. Life insurance and retirement plan benefits may pass directly to the named beneficiary. A Will does not necessarily control how these types of "nonprobate" assets pass at your death.

6. *Are there different kinds of Wills?* Yes. There are handwritten Wills, typewritten Wills, electronic Wills, attorney-prepared Wills, and statutory Wills. All are valid if done precisely as the law requires. You should see a lawyer if you do not want to use this Statutory Will or if you do not understand this form.

7. *Who may use this Will?* This Will is based on California law. It is designed only for California residents. You may use this form if you are single, married, a member of a domestic partnership, or divorced. You must be age 18 or older and of sound mind.

8. *Are there any reasons why I should NOT use this Statutory Will?* Yes. This is a simple Will. It is not designed to reduce death taxes or other taxes. Talk to a lawyer to do tax planning, especially if (i) your assets will be worth more than \$600,000 or the current amount excluded from estate tax under federal law at your death, (ii) you own business-related assets, (iii) you want to create a trust fund for your children's education or other purposes, (iv) you own assets in some other state, (v) you want to disinherit your spouse, domestic partner, or descendants, or (vi) you have valuable interests in pension or profit-sharing plans. You should talk to a lawyer who knows about estate planning if this Will does not meet your needs. This Will treats most adopted children like natural children. You should talk to a lawyer if you have stepchildren or foster children whom you have not adopted.

9. *May I add or cross out any words on this Will?* No. If you do, the Will may be invalid or the court may ignore the crossed out or added words. You may only fill in the blanks. You may amend this Will by a separate document (called a codicil). Talk to a lawyer if you want to do something with your assets which is not allowed in this form.

10. *May I change my Will?* Yes. A Will is not effective until you die. You may make and sign a new Will. You may change your Will at any time, but only by an amendment (called a codicil). You can give away or sell your assets before your death. Your Will only acts on what you own at death.

11. *Where should I keep my Will?* After you and the witnesses sign the Will, keep your Will in your safe deposit box or other safe place. You should tell trusted family members where your Will is kept.

12. *When should I change my Will?* You should make and sign a new Will if you marry, divorce, or terminate your domestic partnership after you sign this Will. Divorce, annulment, or termination of a domestic partnership automatically cancels all property stated to pass to a former spouse or domestic partner under this Will, and revokes the designation of a former spouse or domestic partner as executor, custodian, or guardian. You should sign a new Will when you have more children, or if your spouse or a child dies, or a domestic partner dies or marries. You may want to change your Will if there is a large change in the value of your assets. You may also want to change your Will if you enter a domestic partnership or your domestic partnership has been terminated after you sign this Will.

13. *What can I do if I do not understand something in this Will?* If there is anything in this Will you do not understand, ask a lawyer to explain it to you.

14. *What is an executor?* An "executor" is the person you name to collect your assets, pay your debts and taxes, and distribute your assets as the court directs. It may be a person or it may be a qualified bank or trust company.

15. *Should I require a bond?* You may require that an executor post a "bond." A bond is a form of insurance to replace assets that may be mismanaged or stolen by the executor. The cost of the bond is paid from the estate's assets.

16. *What is a guardian?* Do I need to designate one? If you have children under age 18, you should designate a guardian of their "persons" to raise them.

17. *What is a custodian?* Do I need to designate one? A "custodian" is a person you may designate to manage assets for someone (including a child) who is under the age of 25 and who receives assets under your Will. The custodian manages the assets and pays as much as the custodian determines is proper for health, support, maintenance,

and education. The custodian delivers what is left to the person when the person reaches the age you choose (from 18 to 25). No bond is required of a custodian.

18. *Should I ask people if they are willing to serve before I designate them as executor, guardian, or custodian?* Probably yes. Some people and banks and trust companies may not consent to serve or may not be qualified to act.

19. *What happens if I make a gift in this Will to someone and that person dies before I do?* A person must survive you by 120 hours to take a gift under this Will. If that person does not, then the gift fails and goes with the rest of your assets. If the person who does not survive you is a relative of yours or your spouse, then certain assets may go to the relative's descendants.

20. *What is a trust?* There are many kinds of trusts, including trusts created by Wills (called "testamentary trusts") and trusts created during your lifetime (called "revocable living trusts"). Both kinds of trusts are long-term arrangements in which a manager (called a "trustee") invests and manages assets for someone (called a "beneficiary") on the terms you specify. Trusts are too complicated to be used in this Statutory Will. You should see a lawyer if you want to create a trust.

21. *What is a domestic partner?* You have a domestic partner if you have met certain legal requirements and filed a form entitled "Declaration of Domestic Partnership" with the Secretary of State. Notwithstanding Section 299.6 of the Family Code, if you have not filed a Declaration of Domestic Partnership with the Secretary of State, you do not meet the required definition and should not use the section of the Statutory Will form that refers to domestic partners even if you have registered your domestic partnership with another governmental entity. If you are unsure if you have a domestic partner or if your domestic partnership meets the required definition, please contact the Secretary of State's office.

INSTRUCTIONS

1. *READ THE WILL.* Read the whole Will first. If you do not understand something, ask a lawyer to explain it to you.

2. *FILL IN THE BLANKS.* Fill in the blanks. Follow the instructions in the form carefully. Do not add any words to the Will (except for filling in blanks) or cross out any words.

3. *DATE AND SIGN THE WILL AND HAVE TWO WITNESSES SIGN IT.* Date and sign the Will and have two witnesses sign it. You and the witnesses should read and follow the Notice to Witnesses found at the end of this Will.

*You do not need to have this document notarized. Notarization will not fulfill the witness requirement.

CALIFORNIA STATUTORY WILL OF

Print Your Full Name

- 1. Will. This is my Will. I revoke all prior Wills and codicils.
- 2. Specific Gift of Personal Residence. (Optional—use only if you want to give your personal residence to a different person or persons than you give the balance of your assets to under paragraph 5 below.) I give my interest in my principal personal residence at the time of my death (subject to mortgages and liens) as follows:

(Select one choice only and sign in the box after your choice.)

a. Choice One: All to my spouse or domestic partner, registered with the California Secretary of State, if my spouse or domestic partner, registered with the California Secretary of State, survives me; otherwise to my descendants (my children and the descendants of my children) who survive me.

[Empty box for Choice One signature]

b. Choice Two: Nothing to my spouse or domestic partner, registered with the California Secretary of State; all to my descendants (my children and the descendants of my children) who survive me.

[Empty box for Choice Two signature]

c. Choice Three: All to the following person if he or she survives me (Insert the name of the person.):

[Empty box for Choice Three name]

d. Choice Four: Equally among the following persons who survive me (Insert the names of two or more persons.):

[Empty box for Choice Four names]

- 3. Specific Gift of Automobiles, Household and Personal Effects. (Optional—use only if you want to give automobiles and household and personal effects to a different person or persons than you give the balance of your assets to under paragraph 5 below.) I give all of my automobiles (subject to loans), furniture, furnishings, household items, clothing, jewelry, and other tangible articles of a personal nature at the time of my death as follows:

(Select one choice only and sign in the box after your choice.)

a. Choice One: All to my spouse or domestic partner, registered with the California Secretary of State, if my spouse, domestic partner, registered with the California Secretary of State, survives me; otherwise to my descendants (my children and the descendants of my children) who survive me.

b. Choice Two: Nothing to my spouse or domestic partner, registered with the California Secretary of State; all to my descendants (my children and the descendants of my children) who survive me.

c. Choice Three: All to the following person if he or she survives me (Insert the name of the person.):

d. Choice Four: Equally among the following persons who survive me (Insert the names of two or more persons.):

4. Specific Gifts of Cash. (Optional) I make the following cash gifts to the persons named below who survive me, or to the named charity, and I sign my name in the box after each gift. If I do not sign in the box, I do not make a gift. (Sign in the box after each gift you make.)

Name of Person or Charity to receive gift (name one only—please print)	Amount of Cash Gift
	Sign your name in this box to make this gift

Name of Person or Charity to receive gift (name one only—please print)	Amount of Cash Gift
	Sign your name in this box to make this gift

Name of Person or Charity to receive gift (name one only—please print)	Amount of Cash Gift
	Sign your name in this box to make this gift
Name of Person or Charity to receive gift (name one only—please print)	Amount of Cash Gift
	Sign your name in this box to make this gift
Name of Person or Charity to receive gift (name one only—please print)	Amount of Cash Gift
	Sign your name in this box to make this gift

5. Balance of My Assets. Except for the specific gifts made in paragraphs 2, 3 and 4 above, I give the balance of my assets as follows:

(Select one choice only and sign in the box after your choice. If I sign in more than one box or if I do not sign in any box, the court will distribute my assets as if I did not make a Will.)

a. Choice One: All to my spouse or domestic partner, registered with the California Secretary of State, if my spouse or domestic partner, registered with the California Secretary of State, survives me; otherwise to my descendants (my children and the descendants of my children) who survive me.

b. Choice Two: Nothing to my spouse or domestic partner, registered with the California Secretary of State; all to my descendants (my children and the descendants of my children) who survive me.

c. Choice Three: All to the following person if he or she survives me (Insert the name of the person.):

d. Choice Four: Equally among the following persons who survive me (Insert the names of two or more persons.):

6. Guardian of the Child's Person. If, at my death, I have a child under age 18, whether the child is alive at the time this will is executed or born after the date this will is executed, and the child does not have a living parent, I nominate the individual named below as First Choice as guardian of the person of that child (to raise the child). If the First Choice does not serve, then I nominate the Second Choice, and then the Third Choice, to serve. Only an individual (not a bank or trust company) may serve.

Name of First Choice for Guardian of the Person

Name of Second Choice for Guardian of the Person

Name of Third Choice for Guardian of the Person

7. Special Provision for Property of Persons Under Age 25. (Optional—unless you use this paragraph, assets that go to a child or other person who is under age 18 may be given to the parent of the person, or to the Guardian named in paragraph 6 above as guardian of the person until age 18, and the court will require a bond, and assets that go to a child or other person who is age 18 or older will be given outright to the person. By using this paragraph you may provide that a custodian will hold the assets for the person until the person reaches any age from 18 to 25 which you choose.) If a beneficiary of this Will is under the age chosen below, I nominate the individual or bank or trust company named below as First Choice as custodian of the property. If the First Choice does not serve, then I nominate the Second Choice, and then the Third Choice, to serve.

Name of First Choice for Custodian of Assets

Name of Second Choice for Custodian of Assets

Name of Third Choice for Custodian of Assets

Insert any age from 18 to 25 as the age for the person to receive the property:

(If you do not choose an age, age 18 will apply.)

8. Executor. I nominate the individual or bank or trust company named below as First Choice as executor. If the First Choice does not serve, then I nominate the Second Choice, and then the Third Choice, to serve.

Name of First Choice for Executor
Name of Second Choice for Executor
Name of Third Choice for Executor

9. Bond. My signature in this box means a bond is not required for any person named as executor. A bond may be required if I do not sign in this box:

No bond shall be required.

(Notice: You must sign this Will in the presence of two (2) adult witnesses. The witnesses must sign their names in your presence. You must first read to them the following sentence.)

This is my Will: I ask the persons who sign below to be my witnesses.

Signed on _____ at _____, California.
(date) (city)

Signature of Maker of Will

(Notice to Witnesses: Two (2) adults must sign as witnesses. Each witness must read the following clause before signing. The witnesses should not receive assets under this Will.)

Each of us declares under penalty of perjury under the laws of the State of California that the following is true and correct:

- a. On the date written below the maker of this Will declared to us that this instrument was the maker's Will and requested us to act as witnesses to it;
- b. We understand this is the maker's Will;
- c. The maker signed this Will in our presence, all of us being present at the same time;

d. We now, at the maker's request, and in the maker's presence, sign below as witnesses;

e. We believe the maker is of sound mind and memory;

f. We believe that this Will was not procured by duress, menace, fraud or undue influence;

g. The maker is age 18 or older; and

h. Each of us is now age 18 or older, is a competent witness, and resides at the address set forth after his or her name.

Dated: _____, _____

Signature of witness

Signature of witness

Print name here:

Print name here:

Residence address:

Residence address:

AT LEAST TWO WITNESSES MUST SIGN

SEC. 14. Section 6320 of the Probate Code is amended to read:

6320. As used in this chapter, unless the context otherwise requires:

(a) "Designation" means a designation made pursuant to Section 6321.

(b) "Instrument" includes all of the following:

(1) An insurance, annuity, or endowment contract (including any agreement issued or entered into by the insurer in connection therewith, supplemental thereto, or in settlement thereof).

(2) A pension, retirement benefit, death benefit, stock bonus, profit-sharing or employees' saving plan, employee benefit plan, or contract created or entered into by an employer for the benefit of some or all of his or her employees.

(3) A self-employed retirement plan, or an individual retirement annuity or account, established or held pursuant to the Internal Revenue Code.

(4) A multiple-party account, as defined in Section 5132.

(5) Any other written or electronic instrument of a type described in Section 5000.

SEC. 15. Section 6382 of the Probate Code is amended to read:

6382. (a) The will shall be made ~~in writing.~~ writing or in electronic form. It need not be written or prepared by the testator himself or herself. It may be written or prepared in any language, by hand or by any other means.

(b) The testator shall declare in the presence of two witnesses and of a person authorized to act in connection with international wills that the document is the testator's will and that the testator knows the contents thereof. The testator need not inform the witnesses, or the authorized person, of the contents of the will.

(c) In the presence of the witnesses, and of the authorized person, the testator shall sign the will or, if the testator has previously signed it, shall acknowledge his or her signature.

(d) If the testator is unable to sign, the absence of the testator's signature does not affect the validity of the international will if the testator indicates the reason for his or her inability to sign and the authorized person makes note thereof on the will. In that case, it is permissible for any other person present, including the authorized person or one of the witnesses, at the direction of the testator, to sign the testator's name for the testator if the authorized person makes note of this also on the will, but it is not required that any person sign the testator's name for the testator.

(e) The witnesses and the authorized person shall there and then attest the will by signing in the presence of the testator.

SEC. 16. Section 6383 of the Probate Code is amended to read:

6383. (a) The signatures shall be placed at the end of the will. If the will consists of several ~~sheets,~~ sheets or electronic records, each sheet or electronic record shall be signed by the testator or, if the testator is unable to sign, by the person signing on his or her behalf or, if there is no such person, by the authorized person. In addition, each sheet shall be numbered.

(b) The date of the will shall be the date of its signature by the authorized person. That date shall be noted at the end of the will by the authorized person.

(c) The authorized person shall ask the testator whether the testator wishes to make a declaration concerning the safekeeping of the will. If so and at the express request of the testator, the place where the testator intends to have the will kept shall be mentioned in the certificate provided for in Section 6384.

(d) A will executed in compliance with Section 6382 is not invalid merely because it does not comply with this section.

SEC. 17. Section 6384 of the Probate Code is amended to read:

6384. The authorized person shall attach to the will a certificate to be signed by the authorized person establishing that the requirements of this chapter for valid execution of an international will have been fulfilled. The authorized person shall keep a copy of the certificate and deliver another to the testator. The certificate shall be substantially in the following form:

CERTIFICATE

(Convention of October 26, 1973)

1. I, _____,
(name, address, and capacity)
a person authorized to act in connection with international wills,
 2. certify that on _____ at _____
(date) (place)
 3. _____
(testator) (name, address, date and place of birth)
in my presence and that of the witnesses
 4. (a) _____
(name, address, date and place of birth)
(b) _____
(name, address, date and place of birth)
- has declared that the attached document is his will and that he knows the contents thereof.
5. I furthermore certify that:
 6. (a) in my presence and in that of the witnesses
 - (1) the testator has signed the will or has acknowledged his signature ~~previously affixed~~ affixed, attached, or logically associated,
 - (2) following a declaration of the testator stating that he was unable to sign his will for the following reason _____, I have mentioned this declaration on the will,*
and the signature has been ~~affixed~~ affixed, attached, or logically associated by

(name and address)*
 7. (b) the witnesses and I have signed the will;
 8. (c) each page or electronic record of the will has been signed by _____ and numbered;*
 9. (d) I have satisfied myself as to the identity of the testator and of the witnesses as designated above;
 10. (e) the witnesses met the conditions requisite to act as such according to the law under which I am acting;
 11. (f) the testator has requested me to include the following statement concerning the safekeeping of his will:*
- _____

- 12. PLACE OF EXECUTION
- 13. DATE
- 14. SIGNATURE and, if
necessary, SEAL

*to be completed if appropriate

SEC. 18. 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 4, inclusive, and strike out page 2

AMENDMENTS TO ASSEMBLY BILL NO. 3096

Amendment 1

In the title, in line 1, strike out "Section 2 of" and insert:

Sections 32286, 33126, 33126.1, 35256, 35258, and 41409 of, and to repeal Sections 33126.15, 35256.1, and 41409.3 of,

Amendment 2

In the title, strike out line 2 and insert:

school accountability.

Amendment 3

On page 1, before line 1, insert:

SECTION 1. Section 32286 of the Education Code is amended to read:

32286. (a) Each school shall adopt its comprehensive school safety plan by March 1, 2000, and shall review and update its plan by March 1, every year thereafter. A new school campus that begins offering classes to pupils after March 1, 2001, shall adopt a comprehensive school safety plan within one year of initiating operation, and shall review and update its plan by March 1, every year thereafter.

(b) ~~Commencing in July 2000, and every July thereafter, with the 2019–20 school year, each school annually shall report on the status of its school safety plan, including a description of its key elements in the annual school accountability report card prepared pursuant to Sections 33126 and 35256.~~ elements, for purposes of the California Longitudinal Pupil Achievement Data System, or any successor data system.

(c) The department shall report the status of the school safety plan, including a description of the key elements, for each school in the annual School Accountability Report Card prepared pursuant to Sections 33126 and 33126.1.

SEC. 2. Section 33126 of the Education Code is amended to read:

33126. (a) ~~The school accountability report card~~ School Accountability Report Card shall provide data by which a parent can make meaningful comparisons between public schools that will enable him or her to make informed decisions on the school in which to enroll his or her children.

(b) ~~The school accountability report card~~ School Accountability Report Card shall include, but is not limited to, assessment of the following school conditions:

(1) (A) Pupil achievement by grade level, as measured by the ~~standardized testing and reporting programs statewide assessment system~~ pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33, 33, or any successor assessment approved by the state board.

(B) ~~After the state develops a statewide assessment system pursuant to Chapter 5 (commencing with Section 60600) and Chapter 6 (commencing with Section 60800) of Part 33, pupil~~ Pupil achievement by grade level, as measured by the results of the



statewide assessment, assessment pursuant to Section 60800, or any successor assessment approved by the state board.

~~(2) Progress toward reducing dropout rates, including the one-year dropout rate listed in the California Basic Educational Data System or a successor data system for the schoolsite over the most recent three-year period, and the graduation rate, as defined by the state board, over the most recent three-year period when available pursuant to Section 52052.~~

(2) High school dropout rates and high school graduation rates.

~~(3) Estimated-Actual expenditures per pupil and types of services funded. The assessment of estimated expenditures per pupil shall reflect the actual salaries of personnel assigned to the schoolsite. The assessment of estimated expenditures per pupil shall be reported in total, shall be reported in subtotal by restricted and by unrestricted source, and shall include a reporting of the average of actual salaries paid to certificated instructional personnel at that schoolsite. This information shall include the per-pupil expenditures of federal, state, and local funds, including actual personnel expenditures and actual nonpersonnel expenditures of federal, state, and local funds, disaggregated by source of funds, for each local educational agency and each school served by the local educational agency.~~

~~(4) Progress toward reducing class sizes and teaching loads, including the The distribution of class sizes at the schoolsite by grade level and the average class size, using the California Basic Educational Data System or a successor data system information for the most recent three-year period, as reported by the California Longitudinal Pupil Achievement Data System, or any successor data system.~~

~~(5) The total number of the school's fully credentialed teachers, the number of teachers relying upon emergency credentials, the number of teachers working without credentials, any assignment of teachers outside their subject areas of competence, misassignments, including misassignments of teachers of English learners, and the number of vacant teacher positions for the most recent three-year period, subject to the availability of the data to the Superintendent.~~

(A) For purposes of this paragraph, "vacant teacher position" means a position to which a single-designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position of which a single-designated certificated employee has not been assigned at the beginning of a semester for an entire semester.

(B) For purposes of this paragraph, "misassignment" means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.

~~(6) (A) Quality and currency of textbooks and other instructional materials, including whether textbooks and other materials meet state standards and are adopted by the state board for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive, and the ratio of textbooks per pupil and the year the textbooks were adopted.~~

~~(B) The availability of sufficient textbooks and other instructional materials, as determined pursuant to Section 60119, for each pupil, including English learners, in each of the areas enumerated in clauses (i) to (iv), inclusive. If the governing board~~

determines, pursuant to Section 60119, that there are insufficient textbooks or instructional materials, or both, it shall include information for each school in which an insufficiency exists, identifying the percentage of pupils who lack sufficient standards-aligned textbooks or instructional materials in each subject area. The subject areas to be included are all of the following:

~~(i) The core curriculum areas of reading/language arts, mathematics, science, and history/social science.~~

~~(ii) Foreign language and health.~~

~~(iii) Science laboratory equipment for grades 9 to 12, inclusive, as appropriate.~~

~~(iv) Visual and performing arts.~~

~~(7)~~

~~(6) The availability of qualified personnel to provide counseling and other pupil support services, including the ratio of academic counselors per pupil.~~ services.

~~(8) Safety, cleanliness, and adequacy of school facilities, including any needed maintenance to ensure good repair as specified in Section 17014, Section 17032.5, subdivision (a) of Section 17070.75, and subdivision (b) of Section 17089.~~

~~(9) The annual number of schooldays dedicated to staff development for the most recent three-year period.~~

~~(10)~~

~~(7) Suspension and expulsion rates for the most recent three-year period.~~ rates.

~~(11) For secondary schools, the~~

~~(8) The percentage of graduates pupils who have passed completed course requirements for entrance to the University of California and the California State University, including the course requirements for high school graduation pursuant to Section 51225.3, and the percentage of pupils enrolled in those courses, as reported by the California Basic Educational Data System Longitudinal Pupil Achievement Data System, or any successor data system.~~

~~(12)~~

~~(9) The number of advanced placement courses offered, by subject.~~

~~(13) The Academic Performance Index, including the disaggregation of subgroups as set forth in Section 52052 and the decile rankings and a comparison of schools.~~

~~(14) Contact information pertaining to organized opportunities for parental involvement.~~

~~(15)~~

~~(10) Career technical education data measures, including all of the following:~~

~~(A) A list of programs offered by the school district in which pupils at the school may participate and that are aligned to the model curriculum standards adopted pursuant to Section 51226, and program sequences offered by the school district. The list should identify courses conducted by a regional occupational center or program, and those conducted directly by the school district.~~

~~(B) A listing of the primary representative of the career technical advisory committee of the school district and the industries represented.~~

~~(A) A list of career technical education courses offered by the school.~~

~~(C)~~

~~(B) The number of pupils participating in career technical education.~~

~~(D)~~

(C) The percentage of pupils that complete a career technical education program and earn a high school diploma.

~~(E)~~

(D) The percentage of career technical education courses that are sequenced or articulated between a school and institutions of postsecondary education.

(11) The status of the school safety plan, including a description of the key elements, pursuant to Section 32286.

~~(c) If the Commission on State Mandates finds a school district is eligible for a reimbursement of costs incurred complying with this section, the school district shall be reimbursed only if the information provided in the school accountability report card is accurate, as determined by the annual audit performed pursuant to Section 41020. If the information is determined to be inaccurate, the school district remains eligible for reimbursement if the information is corrected by May 15. reimbursed.~~

~~(d) It is the intent of the Legislature that schools make a concerted effort to notify parents of the purpose of the school accountability report cards, as described in this section, and ensure that all parents receive a copy of the report card; to ensure that the report cards are easy to read and understandable by parents; School Accountability Report Cards, as described in this section, to ensure that local educational agencies with access to the Internet make available current copies of the report cards available through the Internet; Internet, and to ensure that administrators and teachers are available to answer any questions regarding the report cards.~~

SEC. 3. Section 33126.1 of the Education Code is amended to read:

33126.1. (a) ~~(1) The department shall develop and recommend for adoption by the state board a standardized template~~ Superintendent shall develop a standardized School Accountability Report Card pursuant to Section 33126 intended to simplify the process for completing the school accountability report card and make the school accountability report card and make the information more meaningful to the public.

~~(b) The standardized template shall include all of the following:~~

~~(1) Fields for the insertion of data and information by the department and by local educational agencies:~~

~~(2) A field to report the determination of the sufficiency of textbooks and instructional materials, pursuant to Section 60119.~~

~~(3) A summary statement of the condition of school facilities, as required by Section 17014, Section 17032.5, subdivision (a) of Section 17070.75, and subdivision (b) of Section 17089. The department shall provide examples of summary statements of the condition of school facilities that are acceptable and those that are unacceptable.~~

~~(4) A~~

(2) The School Accountability Report Card shall include a description of data available on the DataQuest Internet Web site of the department, including the Uniform Resource Locator for that Internet Web site.

~~(5) A description of admission requirements for California's public universities, including the Uniform Resource Locator for the University of California Internet Web site providing information about the courses offered by each school that are approved as meeting those requirements.~~

~~(6) A statement concerning the availability of Internet access at public libraries and other locations that are publicly accessible.~~

(e)

(b) When the ~~template~~ School Accountability Report Card for a school is completed, it should enable parents and guardians to compare the manner in which local schools compare to other schools within that school district as well as other schools in the state.

~~(d) In conjunction with the development of the standardized template, the department shall furnish standard definitions for school conditions included in the school accountability report card. The standard definitions shall comply with the following:~~

~~(1) Definitions shall be consistent with the definitions already in place or under the development at the state level pursuant to existing law.~~

~~(2) Definitions shall enable schools to furnish contextual or comparative information to assist the public in understanding the information in relation to the performance of other schools.~~

~~(3) Definitions shall specify the data for which the department will be responsible for providing and the data and information for which the local educational agencies will be responsible.~~

~~(e) By February 1, 2008, the department shall report to the Legislature and the Governor on remaining data elements in the school accountability report card and the feasibility of combining elements, linking to other reporting of data elements, and other possible alternatives for improving the usability and readability of the school accountability report card. The report shall include a survey of the conditions for which the department has valid and reliable data at the state, district, or school level. The report shall provide a timetable for the inclusion of conditions for which standard definitions or valid and reliable data do not yet exist through the department.~~

~~(f) The Superintendent shall recommend and the state board shall appoint 13 members to serve on a broad-based advisory committee of local administrators, educators, parents, and other knowledgeable parties to develop definitions for the school conditions for which standard definitions do not yet exist. The state board may designate outside experts in performance measurements in support of activities of the advisory board.~~

~~(g)~~

~~(c) The state board Superintendent shall approve available develop definitions for inclusion in the template School Accountability Report Card as well as a timetable for the further development of definitions and data collection procedures. ~~Each year~~ the state board shall adopt the template for the current year's school accountability report card. Definitions for all school conditions shall be included in the template.~~

~~(h)~~

~~(d) The department Superintendent annually shall post the completed and viewable template School Accountability Report Card for each school pursuant to Sections 33126 and 35256 on the Internet. ~~The template~~ Internet, on or before February 1. The School Accountability Report Card shall be designed to allow schools or school districts to download or print the template School Accountability Report Card from the Internet. The template shall further be designed to allow local educational agencies, including individual schools, to enter data into the school accountability report card electronically, individualize the report card, and further describe the data elements. The department shall establish model guidelines and safeguards that may be used by~~

school districts with secured access only for those school officials authorized to make modifications.

(i) ~~The department shall maintain current Internet links with the Internet Web sites of local educational agencies to provide parents and the public with easy access to the school accountability report cards maintained on the Internet. In order to ensure the currency of these Internet links, local educational agencies that provide access to school accountability report cards through the Internet shall furnish current Uniform Resource Locators (URLs) for their Internet Web sites to the department.~~

(j) ~~(e) A school or school district that chooses not to utilize the standardized template adopted pursuant to this section for which a School Accountability Report Card is not available shall report the data for its school accountability report card School Accountability Report Card in a manner that is consistent with the definitions adopted developed pursuant to subdivision (c).~~

(k) ~~(f) The department Superintendent shall provide recommendations for changes to the California Basic Educational Longitudinal Pupil Achievement Data System, or a successor data system, and other data collection mechanisms to ensure that the information will be preserved and available in the future.~~

(l) ~~(g) The department Superintendent shall monitor the compliance of local educational agencies with the requirements to prepare and to distribute school accountability report cards, including, but not limited to, the requirements contained in this section, subdivision (c) of Section 35256, and Section 35258.~~

SEC. 4. Section 33126.15 of the Education Code is repealed.

33126.15. (a) By July 1, 2006, the department shall develop, and shall recommend for adoption by the State Board of Education, a revision to the standardized template required pursuant to Section 33126.1:

(b) The revision to the standardized template recommended by the department shall include a comparison of the actual unrestricted funding per pupil allocated for the specific benefit of the school or for the benefit of all schools in the district equally, compared to the districtwide average and to the state average of the same computation. The comparison shall include the percentage by which the school is above or below the districtwide average and the state average.

(c) The revision to the standardized template recommended by the department shall include a field for reporting the actual restricted funding, per pupil, allocated for the specific benefit of the school or for the benefit of all schools in the district equally.

(d) The revision to the standardized template recommended by the department shall include a comparison of the average of actual salaries paid to certificated instructional personnel, compared to the districtwide average and to the state average of the same computation. This comparison shall include the percentage by which the school is above or below the districtwide average and the state average.

SEC. 5. Section 35256 of the Education Code is amended to read:

35256. School Accountability Report Card

The governing board of each school district maintaining an elementary or secondary school shall develop and cause to be implemented for each school in the school district a School Accountability Report Card.

(a) A School Accountability Report Card shall be maintained for each public elementary or secondary school in the state.

~~(a)~~

~~(b) The School Accountability Report Card shall include, but is not limited to, include the conditions listed in Section 33126. Sections 33126 and 33126.1.~~

~~(b) Not less than triennially, the governing board of each school district shall compare the content of the School Accountability Report Card of the school district to the model School Accountability Report Card adopted by the state board. Variances among school districts shall be permitted where necessary to account for local needs.~~

~~(c) The governing board of each school district annually shall issue a School Accountability Report Card for each school in the school district, publicize those reports, publicize the availability of the School Accountability Report Card for each school in the school district, and notify parents or guardians of pupils that a hard copy will be provided upon request. Commencing with the 2008-09 school year, each school district shall make hard copies of its annually updated report card available, upon request, on or before February 1 of each year.~~

SEC. 6. Section 35256.1 of the Education Code is repealed.

~~35256.1. In addition to the information required under Section 35256, each School Accountability Report Card shall include the information required under Section 41409.3.~~

SEC. 7. Section 35258 of the Education Code is amended to read:

35258. (a) Each school district that is connected to the Internet shall ~~make provide a link to~~ the information contained in the School Accountability Report Card developed pursuant to ~~Section 35256 accessible on the Internet. Sections 33126 and 33126.1 on the school district Internet Web site.~~ The School Accountability Report Card information shall be updated ~~annually. Commencing with the 2008-09 school year, each school district connected to the Internet shall make its annually updated report card available on the Internet on or before February 1 of each year. annually pursuant to Section 33126.1.~~

~~(b) Commencing with the 2008-09 school year, each school district not connected to the Internet shall make hard copies of its annually updated School Accountability Report Card available, pursuant to Section 33126.1 and subdivision (c) of Section 35256, on or before February 1 of each year. 35256.~~

SEC. 8. Section 41409 of the Education Code is amended to read:

41409. (a) Commencing with the 1988-89 fiscal year, and annually thereafter, the Superintendent of ~~Public Instruction~~ shall determine the statewide average percentage of school district expenditures that are allocated to the salaries of administrative personnel, as that term is defined in accounts 1200, 1300, 1700, 1800, and 2200 in Part I of the California School Accounting Manual published by the ~~State Department of Education. department.~~ For school districts using the Standardized Account Code Structure, the term salaries of administrative personnel are defined in object accounts 1300 and 2300 in Part II of the California School Accounting Manual. The Superintendent of ~~Public Instruction~~ also shall determine the statewide average percentage of school district expenditures that are allocated to the salaries of teachers, as defined in account 1100 in Parts I and II of the California School Accounting Manual. The statewide averages shall be calculated for the following types and sizes of school districts:

District	ADA
Elementary	less than 1,000
Elementary	1,000 to 4,999
Elementary	5,000 and greater
High School	less than 1,000
High School	1,000 to 3,999
High School	4,000 and greater
Unified	less than 1,500
Unified	1,500 to 4,999
Unified	5,000 to 9,999
Unified	10,000 to 19,999
Unified	20,000 and greater

(b) Commencing with the 1988–89 fiscal year, and annually thereafter, the Superintendent of Public Instruction shall determine the statewide average salary, by size and type of school district, for the following:

- (1) Beginning, mid-range, and highest salary paid to teachers.
- (2) Schoolsite principals.
- (3) District superintendents.

~~(c) The statewide averages calculated pursuant to subdivisions (a) and (b) shall be provided annually to each school district for use in the school accountability report card.~~

SEC. 9. Section 41409.3 of the Education Code is repealed.

~~41409.3. Each school district, except for school districts maintaining a single school to serve kindergarten or any of grades 1 to 12, inclusive, shall include in the school accountability report card required under Section 35256 a statement that shall include the following information:~~

~~(a) The beginning, median, and highest salary paid to teachers in the district, as reflected in the district's salary scale:~~

~~(b) The average salary for schoolsite principals in the district.~~

~~(c) The salary of the district superintendent.~~

~~(d) Based upon the state summary information provided by the Superintendent of Public Instruction pursuant to subdivision (b) of Section 41409, the statewide average salary for the appropriate size and type of district for the following:~~

~~(1) Beginning, midrange, and highest salary paid to teachers:~~

~~(2) Schoolsite principals:~~

~~(3) District superintendents.~~

~~(e) The statewide average of the percentage of school district expenditures allocated for the salaries of administrative personnel for the appropriate size and type of district for the most recent fiscal year, provided by the Superintendent of Public Instruction pursuant to subdivision (a) of Section 41409:~~

~~(f) The percentage allocated under the district's corresponding fiscal year expenditure for the salaries of administrative personnel, as defined in Sections 1200, 1300, 1700, 1800, and 2200 of the California School Accounting Manual published by the State Department of Education:~~

~~(g) The statewide average of the percentage of school district expenditures allocated for the salaries of teachers for the appropriate size and type of district for the most recent fiscal year, provided by the Superintendent of Public Instruction, pursuant to subdivision (a) of Section 41409.~~

~~(h) The percentage expended for the salaries of teachers, as defined in Section 1100 of the California School Accounting Manual published by the State Department of Education.~~

SEC. 10. The Legislature finds and declares that this act furthers the purposes of the Classroom Instructional Improvement and Accountability Act.

SEC. 11. 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 4

On page 1, strike out lines 1 to 6, inclusive

AMENDMENTS TO ASSEMBLY BILL NO. 3097

Amendment 1

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

An act to amend Section 44024.5 of the Health and Safety Code, relating to vehicular air pollution.

Amendment 2

On page 2, before line 1, insert:

SECTION 1. Section 44024.5 of the Health and Safety Code is amended to read:

44024.5. (a) The department shall compile and maintain statistical and emissions profiles and data from motor vehicles that are subject to the motor vehicle inspection program. The department may use data from any source, including remote sensing data, in use data, and other motor vehicle inspection program data, to develop and confirm the validity of the profiles, to evaluate the program, and to assess the performance of smog check stations. The department shall undertake these requirements directly or seek a qualified vendor for these services.

(b) The department, in cooperation with the state board, shall perform analyses of data collected pursuant to subdivision (a) and report the results to the public ~~annually, beginning no later than July 1, 2011.~~ annually. The report shall include, at a minimum, all of the following:

(1) An independent validation of the evaluation methods, findings, and conclusions presented in the report.

(2) The percentage of vehicles that initially passed a smog check inspection and then failed a subsequent inspection as indicated by the data collected pursuant to subdivision (a).

(3) The percentage of vehicles that initially failed a smog check inspection and then failed a subsequent inspection as indicated by the data collected pursuant to subdivision (a).

(4) An estimate of excessive emissions resulting from vehicles identified in paragraphs (2) and (3).

(5) A best-efforts explanation regarding the reasons vehicles identified in paragraphs (2) and (3) inappropriately failed or passed an inspection.

(6) Recommended changes to the smog check program to reduce to a minimum the excess emissions identified in paragraph (4). In developing the recommended changes, the department and the state board shall undertake a thorough evaluation of the best practices of other state smog check inspection programs, and shall include in the recommendations how these other state best practices can be incorporated into California's program. Program recommendations pertaining to contracting with one or more entities to manage smog check stations shall not be implemented unless the Legislature, by statute, authorizes that contracting.



(7) A comparison to the findings of the report "Evaluation of the California Smog Check Program Using Random Roadside Data" dated March 12, 2009.

(8) The number of vehicles that are unregistered and the number of vehicles that do not renew registration after failing a smog check. The department shall make these determinations, to the extent practicable, in conjunction with the Department of Motor Vehicles and the state board.

(c) The department and the state board, in consultation with the Inspection and Maintenance Review Committee, may determine that, in addition to the vehicles excepted pursuant to Section 44011, certain other motor vehicles may be excepted from the biennial certification requirements of this chapter without significantly compromising the emission reduction objectives set forth in the State Implementation Plan (SIP).

(d) The department may conduct a pilot program to except from the biennial certification requirement those vehicles that may be jointly determined by the department and the state board, after consultation with the Inspection and Maintenance Review Committee, to warrant exception. The department shall provide written notification to the Legislature specifying the number of vehicles to be exempted as well as the geographic location and duration of the pilot program not less than 30 days prior to the implementation of the pilot program. The department shall submit the results of the pilot program to the state board and the Inspection and Maintenance Review Committee for review. Subject to the approval of the United States Environmental Protection Agency as an amendment to the SIP, the department may establish the exception program as a permanent program.

(e) For vehicles four model years old or less, the department shall use test data generated pursuant to Section 44014.7 to develop statistical and emissions profiles. The department may use data from any source, including remote sensing data, warranty repair and recall data, and other motor vehicle inspection program data, to develop and confirm the validity of the data. If the department and state board jointly determine that the emissions from a class of motor vehicles would potentially compromise the emission reduction objectives set forth in the SIP, the state board shall consider appropriate corrective action, including, but not limited to, recall pursuant to Section 43105.

Amendment 3

On page 2, strike out lines 1 to 22, inclusive

AMENDMENTS TO ASSEMBLY BILL NO. 3099

Amendment 1

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

An act to amend Section 21167 of the Public Resources Code, relating to environmental quality.

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Section 21167 of the Public Resources Code is amended to read: 21167. An action or proceeding to attack, review, set aside, void, or annul the following acts or decisions of a public agency on the grounds of noncompliance with this division shall be commenced as follows:

(a) An action or proceeding alleging that a public agency is carrying out or has approved a project that may have a significant effect on the environment without having determined whether the project may have a significant effect on the environment shall be commenced within ~~180~~ 160 days from the date of the public agency's decision to carry out or approve the project, or, if a project is undertaken without a formal decision by the public agency, within ~~180~~ 160 days from the date of commencement of the project.

(b) An action or proceeding alleging that a public agency has improperly determined whether a project may have a significant effect on the environment shall be commenced within ~~30~~ 15 days from the date of the filing of the notice required by subdivision (a) of Section 21108 or subdivision (a) of Section 21152.

(c) An action or proceeding alleging that an environmental impact report does not comply with this division shall be commenced within ~~30~~ 15 days from the date of the filing of the notice required by subdivision (a) of Section 21108 or subdivision (a) of Section 21152 by the lead agency.

(d) An action or proceeding alleging that a public agency has improperly determined that a project is not subject to this division pursuant to subdivision (b) of Section 21080 or Section 21172 shall be commenced within 35 days from the date of the filing by the public agency, or person specified in subdivision (b) or (c) of Section 21065, of the notice authorized by subdivision (b) of Section 21108 or subdivision (b) of Section 21152. If the notice has not been filed, the action or proceeding shall be commenced within ~~180~~ 160 days from the date of the public agency's decision to carry out or approve the project, or, if a project is undertaken without a formal decision by the public agency, within ~~180~~ 160 days from the date of commencement of the project.

(e) An action or proceeding alleging that another act or omission of a public agency does not comply with this division shall be commenced within ~~30~~ 15 days from the date of the filing of the notice required by subdivision (a) of Section 21108 or subdivision (a) of Section 21152.

(f) If a person has made a written request to the public agency for a copy of the notice specified in Section 21108 or 21152 prior to the date on which the agency



19372

03/02/18 08:35 AM
RN 18 09011 PAGE 2
Substantive

approves or determines to carry out the project, then not later than five days from the date of the agency's action, the public agency shall deposit a written copy of the notice addressed to that person in the United States mail, first class postage prepaid. The date upon which this notice is mailed shall not affect the time periods specified in subdivisions (b), (c), (d), and (e).

Amendment 3

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

- 0 -

LEGISLATIVE COUNSEL'S DIGEST

AB 3099, as amended, Santiago. ~~California Conservation Corps~~. Environmental Quality Act: statute of limitations.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA specifies time periods within which a person is required to bring an action or proceeding challenging a public agency's action on the grounds that the public agency violated the requirements of CEQA, as specified.

This bill would shorten certain of those time periods, as provided.

~~Existing law establishes the California Conservation Corps and requires that young women and men participating in the corps program generally be engaged in projects that, among other things, preserve, maintain, and enhance environmentally important lands and waters.~~

~~This bill would make technical, nonsubstantive changes to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.



AMENDMENTS TO ASSEMBLY BILL NO. 3100

Amendment 1

In the title, in line 1, strike out "amend Section 3600.1" and insert:

repeal and add Section 3212.9

Amendment 2

On page 2, before line 1, insert:

SECTION 1. Section 3212.9 of the Labor Code is repealed.

~~3212.9. In the case of a member of a police department of a city, county, or city and county, or a member of the sheriff's office of a county, or a member of the California Highway Patrol, or a county probation officer, or an inspector or investigator in a district attorney's office of any county whose principal duties consist of active law enforcement service, when that person is employed on a regular, full-time salary, or in the case of a member of a fire department of any city, county, or district, or other public or municipal corporation or political subdivision, or any county forestry or firefighting department or unit, when those members are employed on a regular full-time salary, excepting those whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement or firefighting, such as stenographers, telephone operators, and other office workers, the term "injury" includes meningitis that develops or manifests itself during a period while that person is in the service of that department, office, or unit. The compensation that is awarded for the meningitis shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits as provided by the provisions of this division.~~

~~The meningitis so developing or manifesting itself shall be presumed to arise out of and in the course of the employment. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board is bound to find in accordance with it. This presumption shall be extended to a person following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.~~

SEC. 2. Section 3212.9 is added to the Labor Code, to read:

3212.9. (a) The term "injury" includes meningitis that develops or manifests itself when one of the following persons is in the service of the agency, department, or unit as described in this subdivision, and the compensation that is awarded for meningitis shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits as provided by this division:

(1) A member of a police department of a city, county, or city and county, or a member of the sheriff's office of a county, or a member of the Department of the California Highway Patrol.

(2) A county probation officer, or an inspector or investigator in a district attorney's office of a county whose principal duties consist of active law enforcement service and who is employed on a regular, full-time salary.



(3) (A) A member of a fire department of any city, county, or district, or other public or municipal corporation or political subdivision, or a county forestry or firefighting department or unit, who is employed on a regular, full-time salary.

(B) An active firefighting member of the Department of Forestry and Fire Protection.

(b) For purposes of this section, meningitis shall be presumed to arise out of, and in the course of, the employment. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board is bound to find in accordance with it. This presumption shall be extended to a person following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(c) This section does not apply to persons whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement, including custody and corrections, or firefighting, such as stenographers, receptionists, and other office workers.

Amendment 3

On page 2, strike out lines 1 to 35, inclusive

AMENDMENTS TO ASSEMBLY BILL NO. 3102

Amendment 1

In the title, in line 1, strike out "Section 43701" and insert:

Sections 1602 and 1616

Amendment 2

In the title, in line 1, strike out "Health and Safety Code," and insert:

Fish and Game Code,

Amendment 3

In the title, in line 2, strike out "vehicular air pollution." and insert:

fish and wildlife protection and conservation.

Amendment 4

On page 1, before line 1, insert:

SECTION 1. Section 1602 of the Fish and Game Code is amended to read:
1602. (a) An entity shall not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless all of the following occur:

(1) The department receives written notification regarding the activity in the manner prescribed by the department. The notification shall include, but is not limited to, all of the following:

(A) A detailed description of the project's location and a map.

(B) The name, if any, of the river, stream, or lake affected.

(C) A detailed project description, including, but not limited to, construction plans and drawings, if applicable.

(D) A copy of any document prepared pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(E) A copy of any other applicable local, state, or federal permit or agreement already issued.

(F) Any other information required by the department.

(2) The department determines the notification is complete in accordance with Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, irrespective of whether the activity constitutes a development project for the purposes of that chapter.

(3) The entity pays the applicable fees, pursuant to Section 1609.



(4) One of the following occurs:

(A) (i) The department informs the entity, in writing, that the activity will not substantially adversely affect an existing fish or wildlife resource, and that the entity may commence the activity without an agreement, if the entity conducts the activity as described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources.

(ii) Each region of the department shall log the notifications of activities where no agreement is required. The log shall list the date the notification was received by the department, a brief description of the proposed activity, and the location of the activity. Each item shall remain on the log for one year. Upon written request by any person, a regional office shall send the log to that person monthly for one year. A request made pursuant to this clause may be renewed annually.

(B) The department determines that the activity may substantially adversely affect an existing fish or wildlife resource and issues a final agreement to the entity that ~~includes~~ includes, subject to the limitation in subdivision (b), reasonable measures necessary to protect the resource, and the entity conducts the activity in accordance with the agreement.

(C) A panel of arbitrators issues a final agreement to the entity in accordance with subdivision (b) of Section 1603, and the entity conducts the activity in accordance with the agreement.

(D) The department does not issue a draft agreement to the entity within 60 days from the date notification is complete, and the entity conducts the activity as described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources.

(b) If an environmental impact report, negative declaration, or mitigated negative declaration is certified or adopted for an activity described in subdivision (a) pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), and, in the environmental review process preceding certification or adoption of that environmental document, the department has been provided the opportunity for consultation and comment appropriate for a responsible agency, as defined in Section 21069 of the Public Resources Code, pursuant to the California Environmental Quality Act, any authority in this chapter to propose, or to include in an agreement, measures to protect a fish and wildlife resource shall be limited to the proposal or inclusion of applicable mitigation measures, if any, adopted in the environmental document.

~~(b)~~

(c) (1) If an activity involves the routine maintenance and operation of water supply, drainage, flood control, or waste treatment and disposal facilities, notice to and agreement with the department shall not be required after the initial notification and agreement, unless the department determines either of the following:

(A) The work described in the agreement has substantially changed.

(B) Conditions affecting fish and wildlife resources have substantially changed, and those resources are adversely affected by the activity conducted under the agreement.

(2) This subdivision applies only if notice to, and agreement with, the department was attained ~~prior to~~ before January 1, 1977, and the department has been provided a

copy of the agreement or other proof of the existence of the agreement that satisfies the department, if requested.

(e)

(d) Notwithstanding subdivision (a), the department is not required to determine whether the notification is complete or otherwise process the notification until the department has received the applicable fees.

(d)

(e) (1) Notwithstanding subdivision (a), an entity shall not be required to obtain an agreement with the department pursuant to this chapter for activities authorized by a license or renewed license for cannabis cultivation issued by the Department of Food and Agriculture for the term of the license or renewed license if all of the following occur:

(A) The entity submits all of the following to the department:

(i) The written notification described in paragraph (1) of subdivision (a).

(ii) A copy of the license or renewed license for cannabis cultivation issued by the Department of Food and Agriculture that includes the requirements specified in Section 26060.1 of the Business and Professions Code.

(iii) The fee specified in paragraph (3) of subdivision (a).

(B) The department determines in its sole discretion that compliance with the requirements specified in Section 26060.1 of the Business and Professions Code that are included in the license will adequately protect existing fish and wildlife resources that may be substantially adversely affected by the cultivation without the need for additional measures that the department would include in a draft streambed alteration agreement in accordance with Section 1603.

(C) The department notifies the entity in writing that the exemption applies to the cultivation authorized by the license or renewed license.

(2) The department shall notify the entity in writing whether the exemption in paragraph (1) applies to the cultivation authorized by the license or renewed license within 60 days from the date that the notification is complete and the fee has been paid.

(3) If an entity receives an exemption pursuant to this subdivision and fails to comply with any of the requirements described in Section 26060.1 of the Business and Professions Code that are included in the license, the failure shall constitute a violation under this section, and the department shall notify the Department of Food and Agriculture of any enforcement action taken.

(e)

(f) It is unlawful for any entity to violate this chapter.

SEC. 2. Section 1616 of the Fish and Game Code is amended to read:

1616. Any agreement or any memorandum of understanding executed by the department pursuant to this chapter ~~prior to~~ before January 1, 2004, shall be subject to, and shall be governed by, the provisions of this chapter that were in existence ~~prior to~~ before that date. This section does not apply to paragraph (2) of subdivision ~~(b)~~ (c) of Section 1602, requiring an entity to provide a copy or other satisfactory evidence of an agreement attained ~~prior to~~ before January 1, 1977, upon the request of the department.

63116

03/10/18 03:38 PM
RN 18 09027 PAGE 4
Substantive

Amendment 5

On page 1, strike out lines 1 to 4, inclusive, and strike out pages 2 and 3

- 0 -

AMENDMENTS TO ASSEMBLY BILL NO. 3104

Amendment 1

In the title, in line 1, strike out "Section 189 of" and insert:

Sections 189, 190, and 190.2 of, and to add Sections 190.01 and 1170.127 to,

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Section 189 of the Penal Code is amended to read:

189. (a) All murder ~~which that~~ is perpetrated by means of a destructive device or explosive, a weapon of mass destruction, knowing use of ammunition designed primarily to penetrate metal or armor, poison, lying in wait, torture, or by any other kind of willful, deliberate, and premeditated killing, or ~~which that~~ is committed in the perpetration of, or attempt to perpetrate, ~~arson, rape, carjacking, robbery, burglary, mayhem, kidnapping, train wrecking, or any act punishable under Section 206, 286, 288, 288a, or 289, or any murder which is perpetrated by means of discharging a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict death, a crime listed in subdivision (d) is murder of the first degree.~~ All other kinds of murders are of the second degree.

~~As~~

(b) As used in this section, "destructive the following definitions shall apply:

(1) "Destructive device" means ~~any a~~ destructive device as defined in Section 16460, and "explosive" 16460.

(2) "Explosive" means ~~any an~~ explosive as defined in Section 12000 of the Health and Safety Code.

~~As used in this section, "weapon~~

(3) "Weapon of mass destruction" means ~~any an~~ item defined in Section 11417.

~~To~~

(c) To prove the killing was "deliberate deliberate and premeditated," premeditated, it ~~shall not be~~ is not necessary to prove the defendant maturely and meaningfully reflected upon the gravity of his or her act.

(d) Subdivision (a) applies to the following crimes:

(1) Arson.

(2) Rape.

(3) Carjacking.

(4) Robbery.

(5) Burglary.

(6) Mayhem.

(7) Kidnapping.

(8) Train wrecking.

(9) An act punishable pursuant to Section 206, 286, 288, 288a, or 289.

(10) Discharge of a firearm from a motor vehicle, intentionally at another person outside the vehicle with the intent to inflict death.



SEC. 2. Section 190 of the Penal Code is amended to read:

190. (a) ~~Every~~ A person guilty of murder in the first degree shall be punished by death, imprisonment in the state prison for life without the possibility of parole, or imprisonment in the state prison for a term of 25 years to life. The penalty to be applied shall be determined as provided in Sections 190.1, 190.2, 190.3, 190.4, and ~~190.5~~. 190.5, except that a person guilty of murder in the first degree pursuant to Section 190.01 shall be imprisoned in the state prison for 25 years to life.

Except as provided in subdivision (b), (c), or (d), every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of 15 years to life.

(b) Except as provided in subdivision (c), ~~every~~ a person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of 25 years to life if the victim was a peace officer, as defined in subdivision (a) of Section 830.1, subdivision (a), (b), or (c) of Section 830.2, subdivision (a) of Section 830.33, or Section 830.5, who was killed while engaged in the performance of his or her duties, and the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties.

(c) ~~Every~~ A person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of life without the possibility of parole if the victim was a peace officer, as defined in subdivision (a) of Section 830.1, subdivision (a), (b), or (c) of Section 830.2, subdivision (a) of Section 830.33, or Section 830.5, who was killed while engaged in the performance of his or her duties, and the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties, and any of the following facts has been charged and found true:

(1) The defendant specifically intended to kill the peace officer.

(2) The defendant specifically intended to inflict great bodily injury, as defined in Section 12022.7, on a peace officer.

(3) The defendant personally used a dangerous or deadly weapon in the commission of the offense, in violation of subdivision (b) of Section 12022.

(4) The defendant personally used a firearm in the commission of the offense, in violation of Section 12022.5.

(d) ~~Every~~ A person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of 20 years to life if the killing was perpetrated by means of shooting a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict great bodily injury.

(e) Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not apply to reduce any minimum term of a sentence imposed pursuant to this section. A person sentenced pursuant to this section shall not be released on parole prior to serving the minimum term of confinement prescribed by this section.

SEC. 3. Section 190.01 is added to the Penal Code, to read:

190.01. (a) Notwithstanding Section 189, a person who is not the actual killer and who, with the intent to kill, aids, abets, counsels, commands, induces, solicits, requests, or assists an actor in the commission or attempted commission of the crimes listed in subdivision (d) of Section 189 that results in the death of a person is guilty of murder in the first degree.

(b) Notwithstanding Section 189 and subdivision (a), a person who is not the actual killer but who with reckless indifference to human life and as a major participant, aids, abets, counsels, commands, induces, solicits, requests, or assists an actor in the commission or attempted commission of a crime listed in subdivision (d) of Section 189 that results in the death of a person is guilty of murder in the first degree.

(c) Notwithstanding Section 189, a person who is not the actual killer and who does not act with reckless indifference to human life and is not a major participant in the crime, aids, abets, counsels, commands, induces, solicits, requests, or assists an actor in the commission or attempted commission of a crime listed in subdivision (d) of Section 189 that results in the death of a person is guilty of murder in the second degree.

(d) This section does not apply to a crime in which the victim is a peace officer, as defined in subdivision (a) of Section 830.1, subdivision (a), (b), or (c) of Section 830.2, subdivision (a) of Section 830.33, or Section 830.5, who was killed while engaged in the performance of his or her duties, and the defendant knew or reasonably should have known that the victim was a peace officer engaged in the performance of his or her duties.

SEC. 4. Section 190.2 of the Penal Code is amended to read:

190.2. (a) The penalty for a defendant who is found guilty of murder in the first degree is death or imprisonment in the state prison for life without the possibility of parole if one or more of the following special circumstances has been found under Section 190.4 to be true:

(1) The murder was intentional and carried out for financial gain.

(2) The defendant was convicted previously of murder in the first or second degree. For the purpose of this paragraph, an offense committed in another jurisdiction, which if committed in California would be punishable as first or second degree murder, shall be deemed murder in the first or second degree.

(3) The defendant, in this proceeding, has been convicted of more than one offense of murder in the first or second degree.

(4) The murder was committed by means of a destructive device, bomb, or explosive planted, hidden, or concealed in any place, area, dwelling, building, or structure, and the defendant knew, or reasonably should have known, that his or her act or acts would create a great risk of death to one or more human beings.

(5) The murder was committed for the purpose of avoiding or preventing a lawful arrest, or perfecting or attempting to perfect, an escape from lawful custody.

(6) The murder was committed by means of a destructive device, bomb, or explosive that the defendant mailed or delivered, attempted to mail or deliver, or caused to be mailed or delivered, and the defendant knew, or reasonably should have known, that his or her act or acts would create a great risk of death to one or more human beings.

(7) The victim was a peace officer, as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.4, 830.5, 830.6, 830.10, 830.11, or 830.12, who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties; or the victim was a peace officer, as defined in the above-enumerated sections,

or a former peace officer under any of those sections, and was intentionally killed in retaliation for the performance of his or her official duties.

(8) The victim was a federal law enforcement officer or agent who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or reasonably should have known, that the victim was a federal law enforcement officer or agent engaged in the performance of his or her duties; or the victim was a federal law enforcement officer or agent, and was intentionally killed in retaliation for the performance of his or her official duties.

(9) The victim was a firefighter, as defined in Section 245.1, who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or reasonably should have known, that the victim was a firefighter engaged in the performance of his or her duties.

(10) The victim was a witness to a crime who was intentionally killed for the purpose of preventing his or her testimony in any criminal or juvenile proceeding, and the killing was not committed during the commission or attempted commission, of the crime to which he or she was a witness; or the victim was a witness to a crime and was intentionally killed in retaliation for his or her testimony in any criminal or juvenile proceeding. As used in this paragraph, "juvenile proceeding" means a proceeding brought pursuant to Section 602 or 707 of the Welfare and Institutions Code.

(11) The victim was a prosecutor or assistant prosecutor or a former prosecutor or assistant prosecutor of any local or state prosecutor's office in this or any other state, or of a federal prosecutor's office, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(12) The victim was a judge or former judge of any court of record in the local, state, or federal system in this or any other state, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(13) The victim was an elected or appointed official or former official of the federal government, or of any local or state government of this or any other state, and the killing was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(14) The murder was especially heinous, atrocious, or cruel, manifesting exceptional depravity. As used in this section, the phrase "especially heinous, atrocious, or cruel, manifesting exceptional depravity" means a conscienceless or pitiless crime that is unnecessarily torturous to the victim.

(15) The defendant intentionally killed the victim by means of lying in wait.

(16) The victim was intentionally killed because of his or her race, color, religion, nationality, or country of origin.

(17) The murder was committed while the defendant was engaged in, or was an accomplice in, the commission of, attempted commission of, or the immediate flight after committing, or attempting to commit, the following felonies:

(A) Robbery in violation of Section 211 or 212.5.

(B) Kidnapping in violation of Section 207, 209, or 209.5.

(C) Rape in violation of Section 261.

(D) Sodomy in violation of Section 286.

(E) The performance of a lewd or lascivious act upon the person of a child under the age of 14 years in violation of Section 288.

- (F) Oral copulation in violation of Section 288a.
- (G) Burglary in the first or second degree in violation of Section 460.
- (H) Arson in violation of subdivision (b) of Section 451.
- (I) Train wrecking in violation of Section 219.
- (J) Mayhem in violation of Section 203.
- (K) Rape by instrument in violation of Section 289.
- (L) Carjacking, as defined in Section 215.

(M) To prove the special circumstances of kidnapping in subparagraph (B), or arson in subparagraph (H), if there is specific intent to kill, it is only required that there be proof of the elements of those felonies. If so established, those two special circumstances are proven even if the felony of kidnapping or arson is committed primarily or solely for the purpose of facilitating the murder.

(18) The murder was intentional and involved the infliction of torture.

(19) The defendant intentionally killed the victim by the administration of poison.

(20) The victim was a juror in any court of record in the local, state, or federal system in this or any other state, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(21) The murder was intentional and perpetrated by means of discharging a firearm from a motor vehicle, intentionally at another person or persons outside the vehicle with the intent to inflict death. For purposes of this paragraph, "motor vehicle" means any vehicle as defined in Section 415 of the Vehicle Code.

(22) The defendant intentionally killed the victim while the defendant was an active participant in a criminal street gang, as defined in subdivision (f) of Section 186.22, and the murder was carried out to further the activities of the criminal street gang.

(b) Unless an intent to kill is specifically required under subdivision (a) for a special circumstance enumerated therein, an actual killer, as to whom the special circumstance has been found to be true under Section 190.4, need not have had any intent to kill at the time of the commission of the offense which is the basis of the special circumstance in order to suffer death or confinement in the state prison for life without the possibility of parole.

(c) Every person, not the actual killer, who, with the intent to kill, aids, abets, counsels, commands, induces, solicits, requests, or assists any actor in the commission of murder in the first degree shall be punished by death or imprisonment in the state prison for life without the possibility of parole if one or more of the special circumstances enumerated in subdivision (a) has been found to be true under Section 190.4.

~~(d) Notwithstanding subdivision (c), every person, not the actual killer, who, with reckless indifference to human life and as a major participant, aids, abets, counsels, commands, induces, solicits, requests, or assists in the commission of a felony enumerated in paragraph (17) of subdivision (a) which results in the death of some person or persons, and who is found guilty of murder in the first degree therefor, shall be punished by death or imprisonment in the state prison for life without the possibility of parole if a special circumstance enumerated in paragraph (17) of subdivision (a) has been found to be true under Section 190.4.~~

~~The penalty shall be determined as provided in this section and Sections 190.1, 190.3, 190.4, and 190.5.~~

SEC. 5. Section 1170.127 is added to the Penal Code, to read:

1170.127. (a) A defendant may submit a request for resentencing when all of the following conditions apply:

(1) The person was sentenced to an indeterminate term of imprisonment in the state prison for life without the possibility of parole pursuant to paragraph (17) of subdivision (a) and former subdivision (d) of Section 190.2.

(2) The person was not the actual killer.

(3) The person did not act with reckless indifference to human life and was not a major participant in the underlying felony.

(4) The victim was not a peace officer engaged in the performance of his or her duties, pursuant to paragraph (7) of subdivision (a) of Section 190.2.

(b) The petition for recall and resentencing shall be addressed to the court that originally sentenced the petitioner. If the court that originally sentenced the petitioner is not available to resentence, the presiding judge shall designate another judge to rule on the petition. The petition shall include all of the felonies for which the petitioner is currently serving a sentence that meet the criteria of subdivision (a).

(c) (1) Upon receiving a petition for recall and resentencing pursuant to this section, the court shall conduct an evidentiary hearing to determine whether the petitioner satisfies the criteria in subdivision (a). The petitioner shall bear the burden of proving his or her eligibility for resentencing by clear and convincing evidence.

(2) If the court finds the petitioner is eligible, the petitioner shall be resentenced pursuant to Section 190.01, unless the court, in its discretion, determines that resentencing the petitioner would present an unreasonable risk to public safety. In no case shall the term be longer than the original sentence.

(3) A hearing ordered pursuant to this subdivision is a post-conviction release proceeding for purposes of paragraph (7) of subdivision (b) of Section 28 of Article I of the California Constitution.

(d) Notwithstanding subdivision (b) of Section 977, the petitioner may waive his or her appearance in court for the resentencing hearing, provided that the accusatory pleading is not amended at the resentencing and that a new trial is not going to occur. The waiver shall be in writing and signed by the petitioner.

(e) Petitions for relief pursuant to this section shall be filed on or before January 1, 2024.

Amendment 3

On page 1, strike out lines 1 to 6, inclusive, and strike out page 2

AMENDMENTS TO ASSEMBLY BILL NO. 3119

Amendment 1

In the title, in line 1, strike out "Section 451 of" and insert:

Sections 170000, 170002, 170006, 170052, and 170056 of, to amend the heading of Division 17 (commencing with Section 170000) of, to add Sections 170085 and 170086 to, to repeal Sections 170032, 170044, 170058, 170062, and 170084 of, to repeal Chapter 2 (commencing with Section 170010) of Division 17 of, and to repeal and add Section 170004 of,

Amendment 2

In the title, strike out line 2 and insert:

the San Diego Unified Port District consolidation.

Amendment 3

On page 1, before line 1, insert:

SECTION 1. The heading of Division 17 (commencing with Section 170000) of the Public Utilities Code is amended to read:

DIVISION 17. SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY
UNIFIED PORT CONSOLIDATION ACT

SEC. 2. Section 170000 of the Public Utilities Code is amended to read:

170000. This division shall be known and may be cited as the San Diego County Regional Airport Authority Unified Port Consolidation Act.

SEC. 3. Section 170002 of the Public Utilities Code is amended to read:

170002. ~~There is hereby established the San Diego County Regional Airport Authority, as a local governmental entity of regional government, with established by Section 170002, as it read on December 31, 2018, is hereby consolidated into the San Diego Unified Port District. In addition of the port district's jurisdictional authority before January 1, 2019, the port district shall have jurisdiction extending throughout the County of San Diego. Diego, as specified in this division.~~

(b) The San Diego Unified Port District is the successor to, and is vested with, the powers, functions, and jurisdiction of the former San Diego County Regional Airport Authority. Unless the context requires otherwise, whenever the term "San Diego County Regional Airport Authority" appears within any statute, it shall be deemed a reference to the San Diego Unified Port District.

SEC. 4. Section 170004 of the Public Utilities Code is repealed.

~~170004. The Legislature finds and declares all of the following:~~



(a) Airports help to link local, regional, statewide, national, and global economic activities. Airports are also essential features of comprehensive transportation systems, that include streets and highways, rail transit, transit over water, and mass transit.

(b) It is essential to the public health, safety, and welfare that airports be developed and operated in the San Diego County region so that those airports promote economic development, protect environmental quality, and enhance social equity.

(c) The significant regional consequences of airport planning, development, and operations require the creation of a regional airport authority.

SEC. 5. Section 170004 is added to the Public Utilities Code, to read:

170004. (a) The Legislature finds and declares the following:

(1) The consolidation of the former San Diego County Regional Airport Authority into the San Diego Unified Port District will facilitate the planning necessary to properly mitigate traffic, flooding, and other potential risks and impacts, and will prevent interagency disputes that arise because of traffic, flooding, and other potential environmental risks and impacts.

(2) The San Diego Unified Port District owns and is the trustee of the lands underlying the San Diego International Airport, the tidelands adjacent to the San Diego International Airport, and large segments of the primary roadways that provide access to the San Diego International Airport.

(3) The establishment of the San Diego Unified Port District was affirmed by the voters of the port district's five member cities, which include San Diego, Chula Vista, Coronado, National City, and Imperial Beach, and the port district owned and operated the San Diego International Airport until the Legislature, without voter approval, created the San Diego County Regional Airport Authority and transferred the ownership and operation of the San Diego International Airport to the San Diego County Regional Airport Authority.

(4) A primary purpose of creating the San Diego County Regional Airport Authority was to find an alternate site location for the San Diego International Airport, and to place a measure on the ballot to seek voter approval for such an alternate site. However, in 2006, the voters of the County of San Diego rejected the San Diego County Regional Airport Authority's ballot proposal.

(5) Returning management and control of the San Diego International Airport to the San Diego Unified Port District would effectuate the intent of the residents of the County of San Diego to vest the authority to operate the airport with the port district.

(b) It is the intent of the Legislature to consolidate the San Diego County Regional Airport Authority into the San Diego Unified Port District, and to empower the port district with the powers and authority of the San Diego County Regional Airport Authority in addition to the powers and authority held by the port district before January 1, 2019.

SEC. 6. Section 170006 of the Public Utilities Code is amended to read:

170006. For the purposes of this division, the following terms have the following meanings, unless the context requires otherwise.

(a) The "authority" "Authority" means the San Diego County Regional Airport Authority established under this division. Unified Port District established under the San Diego Unified Port District Act (Chapter 67 of the First Extraordinary Session of the Statutes of 1962).

(b) The ~~“board”~~ “Board” and “board of directors” means the governing board of the authority established as specified in Chapter 2 (commencing with Section 170010). Board of Commissioners of the San Diego Unified Port District.

(c) The ~~“consolidated agency”~~ means the authority resulting from the consolidation of the San Diego Association of Governments and the transit boards pursuant to Chapter 3 (commencing with Section 132350) of Division 12.7.

(d) The ~~“east county cities”~~ means the Cities of El Cajon, La Mesa, Lemon Grove, and Santee.

(e) The ~~“north county coastal cities”~~ means the Cities of Carlsbad, Del Mar, Encinitas, Oceanside, and Solana Beach.

(f) The ~~“north county inland cities”~~ means the Cities of Escondido, Poway, San Marcos, and Vista.

(g) The ~~“port”~~

(c) “Port,” “port district,” or “district” means the San Diego Unified Port District established under the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session). Session of the Statutes of 1962).

(h)

(d) The ~~“San Diego International Airport”~~ means the airport located at Lindbergh Field in the County of San Diego.

(i) The ~~“south county cities”~~ means the Cities of Chula Vista, Coronado, Imperial Beach, and National City.

SEC. 7. Chapter 2 (commencing with Section 170010) of Division 17 of the Public Utilities Code is repealed.

SEC. 8. Section 170032 of the Public Utilities Code is repealed.

~~170032. (a) The authority may sue and be sued in all actions and proceedings, in all courts and tribunals of competent jurisdiction.~~

~~(b) All claims for money or damages against the authority are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code.~~

SEC. 9. Section 170044 of the Public Utilities Code is repealed.

~~170044. Except as otherwise specifically provided to the contrary in this chapter, a recorded majority vote of the total membership of the board of directors is required on each action.~~

SEC. 10. Section 170052 of the Public Utilities Code is amended to read:

170052. The authority shall be responsible for developing all aspects of airport facilities that it operates, including, but not limited to, all of the following:

(a) The location of terminals, hangars, aids to air navigation, Runway Protection Zones (RPZ), Airport Influence Areas (AIA), parking lots and structures, intermodal connections on airport property, and all other facilities and services ~~necessary to serve passengers and other customers of the airport.~~ directly and substantially related to the air transportation of passengers or property.

(b) Street and highway access improvements serving the airport facility, and access, ingress, and egress with the objective of minimizing, to the extent practicable, traffic congestion ~~on access routes or vehicle miles traveled~~ in the vicinity of the airport.

(c) Providing for public mass transportation access in cooperation and coordination with the responsible public transportation agency in whose jurisdiction the airport is located.

(d) Analyzing and developing intercity bus and passenger rail access to terminals in cooperation with an established agency or organization experienced in developing and operating that service, if the service or the technology proposed for implementation is demonstrated to be in regular, scheduled revenue service and is demonstrated to be a cost-effective investment when considering both direct and indirect benefits. If that service is proven feasible, the authority shall endeavor to maximize the convenience of its patrons by incorporating the service into the design of its terminals.

(e) Improvements, including, but not limited to, airport facility projects, to protect the San Diego International Airport from potential environmental risks and impacts.

SEC. 11. Section 170056 of the Public Utilities Code is amended to read:

~~170056. The port shall transfer all title and ownership of the San Diego International Airport to the authority consistent with the terms of the transfer under Section 170060 and shall include, but need not be limited to, all of the following: All of the title, ownership, and interests of the former San Diego County Regional Airport Authority, including, but not limited to, those of the San Diego International Airport and its supporting facilities owned or held by the former San Diego County Regional Airport Authority, shall vest in the port district, which may record an instrument to accurately reflect the title and ownership interest in any facilities of the airport in the records of the San Diego County Recorder's Office, including, but not limited to, the following:~~

~~(a) All interest in real property and improvements, including, but not limited to, all terminals, runways, taxiways, aprons, hangars, Runway Protection Zones (RPZ), Airport Influence Areas (AIA), emergency vehicles or facilities, parking facilities for passengers and employees, facilities, above and below ground utility lines and connections, easements, rights-of-way, other rights for the use of property necessary or convenient to the use of airport properties, and buildings and facilities used to operate, maintain, and manage the airport which is consistent with the Airport Layout Plan (ALP) dated September 13, 2000, and identified as Drawing No. 724 on file with the clerk of the port, subject to paragraphs (1), (2), and (3). port.~~

~~(1) The following real properties shall not be transferred and shall remain under the ownership and control of the port:~~

~~(A) All property originally leased to General Dynamics Corporation and identified in Document No. 12301 on file with the clerk of the port.~~

~~(B) Property subleased by the port from TDY Industries, Inc., c/o Allegheny Teledyne (formerly Teledyne Ryan Aeronautical) and identified as Document No. 17600 on file with the clerk of the port.~~

~~(C) Property leased to Solar Turbines, Incorporated for parking along Pacific Highway and identified as Document No. 39904 on file with the clerk of the port (Parcel No. 016-026).~~

~~(D) Property leased to Solar Turbines, Incorporated, for parking along Laurel Street and identified as Document No. 29239 on file with the clerk of the port (Parcel No. 016-016 - Parcel 2).~~

~~(E) Property leased to Sky Chefs, Incorporated, located at 2450 Winship Lane and identified as Document No. 37740 on file with the clerk of the port (Parcel No. 012-025).~~

~~(F) (i) Property located at Parcel No. 034-002 and identified as Pond 20. The port shall retain ownership of Pond 20 and shall reimburse the airport fund for the fair~~

market value of that property. The fair market value shall be determined by appraisal and negotiation. If there is no agreement following that negotiation, then the amount of payment shall be determined by arbitration.

(ii) On January 1, 2003, the port shall commence repayment to the airport of the negotiated or arbitrated fair market value for the property. The repayment schedule shall be a 10-year amortized payment plan with interest based upon the rate of 1 percent above the prevailing prime rate.

(2) The following additional real properties shall be transferred from the port to the authority:

(A) Property

(b) All interest in the real property and improvements adjacent to Pond 20 located at Parcel Nos. 042-002 and 042-003 (this parcel encompasses approximately two or three acres).

(B) Property

(c) All interest in the real property and improvements acquired as Parcel No. 034-001 from Western Salt Processing Plant and identified as Document No. 39222 from GGTW, LLC.

(3) The following nonairport, real properties that presently provide airport-related services shall also be excluded from any land transfer to the authority:

(A) Airport employee parking lot located at Harbor Island Drive and Harbor Island Drive East identified as District Parcel No. 007-020.

(B) Airport taxi and shuttle overflow lot located at the southeast corner of North Harbor Drive and Harbor Island Drive identified as District Parcel No. 007-025.

(C) Property leased to National Car Rental System, Incorporated, located east of the southeast corner of North Harbor Drive and Harbor Island Drive identified as District Parcel No. 007-034.

(D) Property leased to The Hertz Corporation located east of the southeast corner of North Harbor Drive and Harbor Island Drive identified as District Parcel No. 007-035.

(E) Property leased to Avis Rent-A-Car Corporation located at the southwest corner of North Harbor Drive and Rental Car Roadway identified as District Parcel No. 007-036.

(F) Property leased to National Car Rental System, Incorporated, located at the southeast corner of North Harbor Drive and Rental Car Roadway identified as District Parcel No. 007-038.

(G) Property leased in common to National Car Rental System, Incorporated; The Hertz Corporation; and Avis Rent-A-Car Corporation known as Joint-Use Roadway identified as District Parcel No. 007-037.

(H) Property leased to Jimsair, Incorporated, located on the property previously known as the General Dynamics Parcel, south of Sassafras Street and west of Pacific Highway adjacent to the Airport Operation Area identified as District Parcel No. 016-042.

(I) Property leased to Budget Rent A Car of San Diego located at both the northeast and southwest corners of Palm Street and Pacific Highway identified as District Parcel No. 016-001 (Parcel 1 and 2).

(J) Property leased to Budget Rent A Car of San Diego located east of the northeast corner of Palm Street and Pacific Highway identified as District Parcel No. 016-001 (Parcel 3).

(K) Property leased to Lichtenberger Equipment, Incorporated, located north of the northeast corner of Palm Street and Pacific Highway identified as District Parcel No. 016-034.

(L) Property leased to Park and Ride, Incorporated, located at the northeast corner of Sassafras and Pacific Highway identified as District Parcel No. 016-038.

(M) Property leased to Ace Parking Management, Incorporated, located north of the intersection of Sassafras Street and Pacific Highway identified as District Parcel No. 016-040.

(N) Property leased to Federal Express Corporation located at the west end of the extension of Washington Street identified as District Parcel No. 015-008.

(b)

(d) All contracts with airport tenants, concessionaires, leaseholders, and others, including, but not limited to, fees from vehicle rental companies, companies, and collective bargaining agreements with labor organizations and employment contracts.

(e)

(e) All airport-related financial obligations secured by revenues and fees generated from the operations of the airport, including, but not limited to, bonded indebtedness associated with the airport. The authority shall assume obligations issued or incurred by the port for San Diego International Airport, including, but not limited to, any long-term debt, grants, and grant assurances.

(d)

(f) All airport-related financial reserves, including, but not limited to, sinking funds and other credits.

(e)

(g) All personal property, including, but not limited to, emergency vehicles, office equipment, computers, records and files, software required for financial management, personnel management, and accounting and inventory systems, and any other personal property owned by the port authority used to operate or maintain the airport.

(f) Notwithstanding any provision of this section, the port shall agree to lease for a period of 66 years, commencing on January 1, 2003, to the authority parcels 1, 2, and 3 of the property originally leased to General Dynamics (identified in Document No. 12301 on file with the clerk of the port) consisting of approximately 89.75 acres west of the Pacific Highway and including property leased to JimsAir (identified as Parcel #016-042), property leased to Federal Express Corporation (identified as Parcel #015-008) and the Park, Shuttle and Fly lot operated by Five Star Parking under a management agreement with the port (identified as Clerk Document No. 38334, dated March 29, 1999), subject to the following terms:

(1) The rent shall be paid monthly in arrears and the annual rent shall be level based on the fair market value of the property as of January 1, 2006, and a market rate of return on that date.

(2) The authority shall lease to the port at the same fair market value per square foot a total of not to exceed 250 parking spaces in reasonable proximity to the port's administrative building located at 3165 Pacific Highway with the authority having a right to relocate or substitute substantially equivalent or better parking from time to time. The parties shall first meet and confer to determine by appraisal and negotiation the fair market value rent. If the authority and port do not reach agreement within 60

days after commencement of meetings for that purpose, either party may submit the matter to binding arbitration in San Diego in accordance with the Commercial Arbitration Rules of the American Arbitration Association. In the event airport operations cease to exist on the property leased to the authority pursuant to this section, control of the property will revert to the port as provided in Section 170060.

(3) All other terms of the ground lease shall be in accordance with reasonable commercial practice in the San Diego area for long-term real property ground leases.

SEC. 12. Section 170058 of the Public Utilities Code is repealed.

170058. Property adjacent to the San Diego International Airport, owned by the port, and commonly referred to as the "General Dynamics Property" shall continue to be operated by the port.

SEC. 13. Section 170062 of the Public Utilities Code is repealed.

170062. (a) The authority may, in its sole discretion, from time to time, enter into agreements with the port for services including, but not limited to, operations, maintenance, and purchasing, as the authority may find necessary or beneficial to facilitate the operation of San Diego International Airport.

(b) The authority shall have no obligation to purchase or procure any services, facilities, or equipment from or through the port. At no time shall the authority be obligated to purchase auditing, public affairs, and governmental relations, strategic planning, legal, or board support services from the port. However, the authority may elect to obtain these services and support in agreement with the port.

(c) Performance of all these services shall be subject to the direction and control of the authority, and shall be provided in accordance with specifications, policies, and procedures as communicated by the authority to the port from time to time. In all cases, the port shall provide services of sufficient quality, quantity, reliability, and timeliness to ensure that the authority can continue the operation, maintenance, planning and improvement of and for San Diego International Airport consistent with the standards and practices under which the airport is operated on the effective date of the act that added this subparagraph or higher standards as the authority may adopt, or as may be required in the authority's judgment to meet the requirements of federal or state law, or the needs of the users of the airport for the safe, secure, and efficient operation of the airport. The authority also, from time to time, may establish performance standards for and may conduct financial or performance audits, or both, of all services provided by the port and all charges or claims for payment for the services provided.

(d) Services provided by the Harbor Police shall in no event be of less quality than the standard established for airport police services by the three other largest airports, based on annual passengers, in this state. The port shall cooperate fully, at its own cost, in any financial or performance audit, or both, conducted by, or on behalf of, the authority or by any government agency having jurisdiction.

(e) The authority shall reimburse the port for the actual and reasonable direct costs, including, but not limited to, an appropriate allocation of general and administrative expenses associated with the provision of that service, incurred by the port to deliver services actually provided to the authority in accordance with the standards and requirements described in this section. The port shall request payment for services on a monthly basis. Those requests shall provide details regarding each service or element thereof for which payment is requested as the authority reasonably may request. The authority shall have the right to review and approve any request for

payment for those services. Payment shall be due and payable 30 days after the request provided all necessary supporting documentation is received by the authority.

(f) The San Diego Harbor Police Department shall remain under the jurisdiction of the San Diego Unified Port District, and employees shall incur no loss of employment or reduction in wages, health and welfare benefits, seniority, retirement benefits or contributions made to retirement plans, or other terms and conditions of employment as a result of enactment of this division. The San Diego Harbor Police Department shall have the exclusive contract for law enforcement services at San Diego International Airport during that time as the airport continues to operate at Lindbergh Field, and peace officers of the Harbor Police shall remain employees of the port.

SEC. 14. Section 170084 of the Public Utilities Code is repealed.

~~170084. The authority shall assume and be bound by the terms and conditions of employment set forth in any collective bargaining agreement or employment contract between the port and any labor organization or employee affected by the creation of the authority, as well as the duties, obligations, and liabilities arising from, or relating to, labor obligations imposed by state or federal law upon the port. Aviation division employees of the port affected by this division shall become employees of the authority and shall suffer no loss of employment or reduction in wages, health and welfare benefits, seniority, retirement benefits or contributions made to retirement plans, or any other term or condition of employment as a result of the enactment of this division. No employee of the port shall suffer loss of employment or reduction in wages or benefits as a result of the enactment of this division.~~

SEC. 15. Section 170085 is added to the Public Utilities Code, to read:

170085. (a) Every employee of the former San Diego County Regional Airport Authority shall become an employee of the port district.

(b) In addition to any existing power granted in Section 23 of the San Diego Unified Port District Act (Chapter 67 of the First Extraordinary Session of the Statutes of 1962), the port district may also bring an action in all courts and tribunals of competent jurisdiction to determine the validity of any of its equipment trust certificates or other evidence of indebtedness pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(c) In addition to any existing power granted in Section 61 of the San Diego Unified Port District Act (Chapter 67 of the First Extraordinary Session of the Statutes of 1962), the port district may also do all of the following:

(1) Levy assessments, reassessments, or special taxes, and issue bonds related to (A) airport facilities projects and related operations and maintenance; and (B) other projects, including, but not limited to, operations and maintenance projects independent of construction projects that are necessary to carry out its duties and responsibilities pursuant to this act or the San Diego Unified Port District Act (Chapter 67 of the First Extraordinary Session of the Statutes of 1962).

(2) Levy assessments, reassessments, or special taxes, and issue bonds in accordance with the requirements of the Landscaping and Lighting Act of 1972 (Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code).

(3) Apportion any special benefit assessment levied by the port district on any basis in accordance with Section 61 of the San Diego Unified Port District Act (Chapter 67 of the First Extraordinary Session of the Statutes of 1962), and any county in which the port district is located may collect, at the request of the port district, all special

benefit assessments levied by the port district, and cause those revenues to be deposited into the county treasury to the credit of the port district, as set forth in that section.

SEC. 16. Section 170086 is added to the Public Utilities Code, to read:

170086. (a) The board shall appoint members to an audit committee to serve as a standing committee for the port district. Each member of the committee shall be a voting member. The public members shall be appointed by the board for staggered three-year terms.

(b) The board shall select the three public members from among the following categories of persons, with no more than one appointee from each category at any one time:

(1) A professional with experience in the field of public finance and budgeting.
(2) An architect or civil engineer licensed to practice in this state.
(3) A professional with experience in the field of real estate or land economics.
(4) A person with experience in managing construction of large-scale public works projects.

(5) A person with public or private sector executive level decisionmaking experience.

(6) A person who resides within the airport influence area of the San Diego International Airport (Lindbergh Field).

(7) A person with experience in environmental justice as it pertains to land use.

(c) The board may appoint other persons to serve as nonvoting, noncompensated, ex officio members on the audit committee.

(d) In appointing the public members of the audit committee, the board shall provide for selection policies, appointment procedures, conflict-of-interest policies, length-of-term policies, and policies for providing compensation, if any.

(e) The audit committee shall serve as a guardian of the public trust, acting independently and charged with oversight responsibilities for reviewing the authority's internal controls, financial reporting obligations, operating efficiencies, ethical behavior, and regular attention to cashflows, capital expenditures, regulatory compliance, and operations.

(f) The audit committee shall meet a minimum of four times per year and shall, at a minimum, do all the following:

(1) Regularly review the port district's accounting, audit, and performance monitoring processes.

(2) At the time of contract renewal, recommend to the appropriate committee and the board its nomination for an external auditor and the compensation of that auditor, and consider at least every three years whether there should be a rotation of the audit firm or the lead audit partner to ensure continuing auditor independence.

(3) Advise the appropriate committee and the board regarding the selection of the auditor.

(4) Be responsible for oversight and monitoring of internal and external audit functions, and monitoring performance of, and internal compliance with, the port district policies and procedures.

(5) Be responsible for overseeing the annual audit by the external auditors and any internal audits.

(6) Make recommendations to the port district regarding paragraphs (1) to (5), inclusive.

(g) An affirmative vote by at least five members of the audit committee shall be required for approval of the annual internal and external audits, including performance monitoring, the auditor's annual audit plan for each fiscal year submitted to the board for approval, and actions recommending or approving debt financing for the port district.

(Amended by Stats. 2013, Ch. 83, Sec. 8. (AB 1058) Effective January 1, 2014.)

SEC. 17. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 18. 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 4

On page 1, strike out lines 1 to 6, inclusive, and strike out page 2

AMENDMENTS TO ASSEMBLY BILL NO. 3121

Amendment 1

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

and 917 of, and to add Article 9.5 (commencing with Section 1048) to Chapter 4 of Division 8 of,

Amendment 2

On page 2, in line 1, strike out "or"

Amendment 3

On page 2, in line 2, strike out "privilege)" and insert:

privilege), or 1048 (union agent-represented worker privilege)

Amendment 4

On page 2, in line 16, strike out "or"

Amendment 5

On page 2, in line 17, after the comma insert:

or 1048 (union agent-represented worker privilege),

Amendment 6

On page 2, in line 31, strike out "or"

Amendment 7

On page 2, in line 32, after the comma insert:

or 1048 (union agent-represented worker privilege),

Amendment 8

On page 2, in line 36, strike out "or"



Amendment 9

On page 2, in line 36, strike out "caseworker" and insert:

caseworker, or union agent

Amendment 10

On page 2, below line 37, insert:

SEC. 2. Section 917 of the Evidence Code is amended to read:

917. (a) If a privilege is claimed on the ground that the matter sought to be disclosed is a communication made in confidence in the course of the lawyer-client, lawyer referral service-client, physician-patient, psychotherapist-patient, clergy-penitent, marital or domestic partnership, sexual assault counselor-victim, domestic violence counselor-victim, ~~or human trafficking caseworker-victim~~ or union agent-represented worker relationship, the communication is presumed to have been made in confidence and the opponent of the claim of privilege has the burden of proof to establish that the communication was not confidential.

(b) A communication between persons in a relationship listed in subdivision (a) does not lose its privileged character for the sole reason that it is communicated by electronic means or because persons involved in the delivery, facilitation, or storage of electronic communication may have access to the content of the communication.

(c) For purposes of this section, "electronic" has the same meaning provided in Section 1633.2 of the Civil Code.

SEC. 3. Article 9.5 (commencing with Section 1048) is added to Chapter 4 of Division 8 of the Evidence Code, to read:

Article 9.5. Union Agent-Represented Worker Privilege

1048. (a) Except as required by subdivision (b), and subject to Section 912, a union agent and a represented employee or represented former employee have a privilege to refuse to disclose, in any court or to any administrative board or agency, or in any arbitration or other proceeding, any confidential communication between the employee or former employee and the union agent made while the union agent was acting in his or her representative capacity. A represented employee or represented former employee also has a privilege to prevent another from disclosing a confidential communication between the employee and a union agent that is privileged pursuant to this section.

(b) A union agent may use or reveal a confidential communication made to the union agent while the union agent was acting in his or her representative capacity in either of the following circumstances:

(1) In actions against the union agent in his or her personal or official representative capacity, or against the local union or subordinate body thereof or international union of affiliated or subordinate body thereof or any agent thereof in their personal or official representative capacities.

(2) When, after full disclosure has been provided, the written or oral consent of the bargaining unit member has been obtained or, if the bargaining unit member is deceased or has been adjudged incompetent by a court of competent jurisdiction, the written or oral consent of the bargaining unit member's estate or guardian or conservator.

(c) A union agent shall use or reveal a confidential communication made to the union agent while the union agent was acting in his or her representative capacity if required to do so by a court order.

1048.1. For purposes of this article, the following terms have the following meanings:

(a) "Confidential communication" means information transmitted, by oral or written communication, between a represented employee or represented former employee and a union agent and in confidence by a means which, so far as the employee, former employee, or union agent is aware, discloses the information to no third persons other than those who are present to further the interest of the employee, former employee, or union agent or those to whom disclosure is reasonably necessary for the transmission of the information or the accomplishment of the purpose for which the communication was made, and includes advice given by a union agent in the course of a representational relationship.

(b) "Union agent" means a person employed, elected, or appointed by a labor organization and whose duties include the representation of employees in a bargaining unit in a grievance procedure or in negotiations for a labor agreement and the labor organization. An appointed employee steward is not a union agent except to the extent a represented employee or represented former employee communicates in confidence to the steward regarding a grievance or potential grievance and the appointed employee steward was a steward at the time the communication was made.

1048.2. There is no privilege under this article if the union agent reasonably believes that disclosure of any confidential communication is necessary to prevent a criminal act that the union agent reasonably believes is likely to result in the death of, or substantial bodily harm to, an individual.

1048.3. There is no privilege under this article with respect to a confidential communication made to enable or aid a person in committing, or planning to commit, a crime or fraud.

1048.4. The privilege established under this article does not apply in criminal proceedings.

AMENDMENTS TO ASSEMBLY BILL NO. 3125

Amendment 1

In the title, in line 1, strike out "288" and insert:

1269b

Amendment 2

In the title, in line 1, strike out "sex", strike out line 2 and insert:

bail.

Amendment 3

On page 1, before line 1, insert:

SECTION 1. Section 1269b of the Penal Code is amended to read:

1269b. (a) The officer in charge of a jail in which an arrested person is held in custody, an officer of a sheriff's department or police department of a city who is in charge of a jail or is employed at a fixed police or sheriff's facility and is acting under an agreement with the agency that keeps the jail in which an arrested person is held in custody, an employee of a sheriff's department or police department of a city who is assigned by the department to collect bail, the clerk of the superior court of the county in which the offense was alleged to have been committed, and the clerk of the superior court in which the case against the defendant is pending may approve and accept bail in the amount fixed by the warrant of arrest, schedule of bail, or order admitting to bail in cash or surety bond executed by a certified, admitted surety insurer as provided in the Insurance Code, to issue and sign an order for the release of the arrested person, and to set a time and place for the appearance of the arrested person before the appropriate court and give notice thereof.

(b) If a defendant has appeared before a judge of the court on the charge contained in the complaint, indictment, or information, the bail shall be in the amount fixed by the judge at the time of the appearance. If that appearance has not been made, the bail shall be in the amount fixed in the warrant of arrest or, if no warrant of arrest has been issued, the amount of bail shall be pursuant to the uniform countywide schedule of bail for the county in which the defendant is required to appear, previously fixed and approved as provided in subdivisions (c) and (d).

(c) It is the duty of the superior court judges in each county to prepare, adopt, and annually revise a uniform countywide schedule of bail for all bailable felony offenses and for all misdemeanor and infraction offenses except Vehicle Code infractions. The penalty schedule for infraction violations of the Vehicle Code shall be established by the Judicial Council in accordance with Section 40310 of the Vehicle Code.

(d) A court may, by local rule, prescribe the procedure by which the uniform countywide schedule of bail is prepared, adopted, and annually revised by the judges.



If a court does not adopt a local rule, the uniform countywide schedule of bail shall be prepared, adopted, and annually revised by a majority of the judges.

(e) (1) In adopting a uniform countywide schedule of bail for all bailable felony offenses, the judges shall consider the seriousness of the offense charged. In considering the seriousness of the offense charged the judges shall assign an additional amount of required bail for each aggravating or enhancing factor chargeable in the complaint, including, but not limited to, additional bail for charges alleging facts that would bring a person within any of the following sections: Section 667.5, 667.51, 667.6, 667.8, 667.85, 667.9, 667.10, 12022, 12022.1, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.6, 12022.7, 12022.8, or 12022.9 of this code, or Section 11356.5, 11370.2, or 11370.4 of the Health and Safety Code.

~~In~~

(2) In considering offenses in which a violation of Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code is alleged, the judge shall assign an additional amount of required bail for offenses involving large quantities of controlled substances.

(3) In adopting or revising a uniform countywide schedule of bail for all bailable felony offenses, the judges shall do all of the following:

(A) Except as provided in subparagraph (B), if a person is booked for or charged with two or more offenses, require bail to be the amount computed under the bail schedule for the charge having the highest amount of bail, including applicable amounts for enhancements and prior convictions.

(B) If a person is booked for or charged with two or more offenses and one of the circumstances specified in clause (i) or (ii) is present, require bail to be the sum of the amounts listed for each offense, including applicable amounts for enhancements and prior convictions.

(i) The offenses were alleged to be committed against separate victims or on separate dates.

(ii) Separate sex acts were alleged to be committed on the same victim and each may be punished separately.

(C) When determining the amount of bail pursuant to subparagraph (A) or (B), require both of the following:

(i) That amounts for applicable enhancements be added only one time per victim.

(ii) That amounts for prior convictions, if applicable, be added only one time per prior case.

(f) The countywide bail schedule shall contain a list of the offenses and the amounts of bail applicable for each as the judges determine to be appropriate. If the schedule does not list all offenses specifically, it shall contain a general clause for designated amounts of bail as the judges of the county determine to be appropriate for all the offenses not specifically listed in the schedule. A copy of the countywide bail schedule shall be sent to the officer in charge of the county jail, to the officer in charge of each city jail within the county, to each superior court judge and commissioner in the county, and to the Judicial Council.

(g) (1) Upon posting bail, the defendant or arrested person shall be discharged from custody as to the offense on which the bail is posted.

~~All~~

26100

03/08/18 10:34 PM
RN 18 08872 PAGE 3
Substantive

(2) All money and surety bonds so deposited with an officer authorized to receive bail shall be transmitted immediately to the judge or clerk of the court by which the order was made or warrant issued or bail schedule fixed. If, in the case of felonies, an indictment is filed, the judge or clerk of the court shall transmit all of the money and surety bonds to the clerk of the court.

(h) If a defendant or arrested person so released fails to appear at the time and in the court so ordered upon his or her release from custody, Sections 1305 and 1306 apply.

Amendment 4

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