

First Supplement to Memorandum 2022-4

California Public Records Act Clean-Up: Follow-Up Legislation

Attached for the Commission's review is a draft of follow-up legislation for last year's nonsubstantive recodification of the California Public Records Act ("CPRA"), which will become operative on January 1, 2023.¹ The recodification necessitated numerous conforming revisions throughout the codes, to update CPRA cross-references to reflect the new statutory scheme. Most of those conforming revisions were accomplished through a companion bill last year,² but some of them were "chaptered out" (i.e., overridden) by another bill revising the same code section. More than half of the 92 proposed amendments in the attached draft are reintroductions of conforming revisions that were chaptered out last year. Almost all of the other proposed amendments in the draft are conforming revisions of CPRA cross-references that were added to the codes last year.

Each conforming revision in the attached draft has an accompanying Comment and an explanatory Note that provides background information. The source of each Comment is also identified (whether the Comment is from the Commission's 2019 report, is from its later supplemental report,³ is a revised version of a Comment in one of those reports, or is new).

A few points are worth noting:

- Last year's companion bill included conforming revisions of Business and Professions Code Sections 5070 and 5070.5, which were chaptered out by another bill (2021 Cal. Stat. ch. 300, §§ 2, 4

1. See 2021 Cal. Stat. ch. 614 (AB 473 (Chau)); see also *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n Reports 207 (2019).

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. See 2021 Cal. Stat. ch. 615 (AB 474 (Chau)).

3. See *Report of the California Law Revision Commission on Chapter 615 of the Statutes of 2021 (Assembly Bill 474)*, 48 Cal. L. Revision Comm'n Reports __ (2021).

(AB 298 (Irwin)). That bill removed the CPRA cross-references from those sections, so conforming revisions of them and the corresponding Comments are no longer necessary.

- Last year’s companion bill included a conforming revision of Elections Code Section 2267, which was chaptered out by 2021 Cal. Stat. ch. 314, § 8 (AB 796 (Berman)). That bill amended and renumbered the provision as Elections Code Section 2269. Thus, the attached draft includes a conforming revision and Comment for Elections Code Section 2269, not former Elections Code Section 2267.
- Last year’s companion bill included a conforming revision of Government Code Section 54953, which was chaptered out by 2021 Cal. Stat. ch. 165, § 3 (AB 361 (Rivas)). That bill amended the section to insert a Jan. 1, 2024 sunset clause; the bill also added another version of Section 54953 to the codes, to become operative on Jan. 1, 2024. Thus, the Government Code now includes two versions of Section 54953. Both versions require a conforming revision and accompanying Comment, as shown in the attached draft.
- Last year’s companion bill included a conforming revision of Vehicle Code Section 40240, which was chaptered out by 2021 Cal. Stat. ch. 709, § 1 (AB 917 (Bloom)). That bill amended the section to insert a Jan. 1, 2027 sunset clause; the bill also added another version of Section 40240 to the codes, to become operative on Jan. 1, 2027. Thus, the Vehicle Code now includes two versions of Section 40240. Both versions require a conforming revision and accompanying Comment, as shown in the attached draft.
- In some instances, a previously approved Comment for a chaptered out conforming revision refers to technical changes (such as elimination of gendered pronouns) that are no longer necessary due to changes made by another bill in 2021. In the attached draft, the staff revised the Comments accordingly and noted as much.

The staff is working with the Office of Legislative Counsel to have the proposed legislation in the attached draft incorporated into the 2022 bill on maintenance of the codes. We will keep the Commission posted on those efforts.

Are the proposed legislation and accompanying Comments in the attached draft acceptable to the Commission?

Respectfully submitted,

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PROPOSED LEGISLATION

Introductory Note. In 2021, the Legislature enacted a nonsubstantive recodification of the California Public Records Act (“CPRA”), which was prepared by the California Law Revision Commission. See AB 473 (Chau), 2021 Cal. Stat. ch. 614; *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n Reports 207 (2019), available at <http://clrc.ca.gov/pub/Printed-Reports/Pub241-G400.pdf>. The nonsubstantive recodification will not become operative until January 1, 2023 (see Gov’t Code §§ 6276.50, 7931.000).

A disposition table and a derivation table for the CPRA recodification are included in the Commission’s report (see pp. 521-36). They might be useful in reviewing the proposed legislation in this draft.

In 2021, the Legislature also enacted a voluminous companion bill consisting of conforming revisions for the CPRA recodification. See AB 474 (Chau), 2021 Cal. Stat. ch. 615; *California Public Records Act Clean-Up: Conforming Revisions*, 46 Cal. L. Revision Comm’n Reports 563 (2019), available at <http://clrc.ca.gov/pub/Printed-Reports/Pub241-G400-CR.pdf>. That bill included a subordination clause (2021 Cal. Stat. ch. 615, § 465), so a large number of those conforming revisions were nullified by other bills. See Gov’t Code § 9605.

Consequently, those conforming revisions will have to be reintroduced in 2022, with updating to reflect changes that other bills made to the code sections in question in 2021. Over half of the proposed amendments shown below are such reintroductions.

The proposed amendments of the following provisions are new:

- (1) Bus. & Prof. Code § 4126.10.
- (2) Bus. & Prof. Code § 5009.5.
- (3) Bus. & Prof. Code § 6210.5.
- (4) Bus. & Prof. Code § 26012.5.
- (5) Educ. Code § 10872.
- (6) Educ. Code § 22228.
- (7) Educ. Code § 32090.
- (8) Educ. Code § 69996.9.
- (9) Elec. Code § 2269 (this amendment replaces AB 474’s amendment of Elec. Code § 2267, which was renumbered as Elec. Code § 2269 in 2021).
- (10) Gov’t Code § 1029.
- (11) Gov’t Code § 11546.45.
- (12) Gov’t Code § 12100.63.
- (13) Gov’t Code § 12100.93.
- (14) Gov’t Code § 16429.5.
- (15) Gov’t Code § 20136.
- (16) Gov’t Code § 68109.
- (17) Gov’t Code § 93026.
- (18) Gov’t Code § 100104.
- (19) Health & Safety Code § 1325.5.
- (20) Health & Safety Code § 1424.3.
- (21) Health & Safety Code § 44274.13.
- (22) Health & Safety Code § 50254.
- (23) Health & Safety Code § 50259.
- (24) Health & Safety Code § 111928.
- (25) Health & Safety Code § 116773.4.
- (26) Health & Safety Code § 128365.
- (27) Health & Safety Code § 128734.1.
- (28) Health & Safety Code § 130206.
- (29) Labor Code § 2783.

- 1 (30) Pub. Cont. Code § 10112.3.
- 2 (31) Pub. Cont. Code § 10208.
- 3 (32) Pub. Cont. Code § 20665.24.
- 4 (33) Pub. Cont. Code § 20919.24.
- 5 (34) Pub. Res. Code § 21080.47.
- 6 (35) Pub. Res. Code § 21168.6.9.
- 7 (36) Pub. Res. Code § 21183.5.
- 8 (37) Pub. Res. Code § 21189.70.8.
- 9 (38) Pub. Util. Code § 3420.
- 10 (39) Rev. & Tax. Code § 17053.99.
- 11 (40) Welf. & Inst. Code § 8257.
- 12 (41) Welf. & Inst. Code § 13405.
- 13 (42) Welf. & Inst. Code § 13652.

14 Almost all of these proposed amendments would conform CPRA cross-references that were
15 added to the codes in 2021. Notes in this draft provide background information on these
16 amendments and the other proposed revisions.

17

1

BUSINESS AND PROFESSIONS CODE

2 **Bus. & Prof. Code § 27 (amended). Information to be provided on internet**

3 SECTION 1. Section 27 of the Business and Professions Code is amended to
4 read:

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

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

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

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

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

37 (3) The Bureau of Household Goods and Services shall disclose information on
38 its licensees, registrants, and permitholders.

39 (4) The Cemetery and Funeral Bureau shall disclose information on its licensees,
40 including cemetery brokers, cemetery salespersons, cemetery managers, crematory

1 managers, cemetery authorities, crematories, cremated remains disposers,
2 embalmers, funeral establishments, and funeral directors.

3 (5) The Professional Fiduciaries Bureau shall disclose information on its
4 licensees.

5 (6) The Contractors State License Board shall disclose information on its
6 licensees and registrants in accordance with Chapter 9 (commencing with Section
7 7000) of Division 3. In addition to information related to licenses as specified in
8 subdivision (a), the board shall also disclose information provided to the board by
9 the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

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

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

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

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

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

21 (12) The Acupuncture Board shall disclose information on its licensees.

22 (13) The Board of Behavioral Sciences shall disclose information on its
23 licensees and registrants.

24 (14) The Dental Board of California shall disclose information on its licensees.

25 (15) The California State Board of Optometry shall disclose information on its
26 licensees and registrants.

27 (16) The Board of Psychology shall disclose information on its licensees,
28 including psychologists and registered psychological associates.

29 (17) The Veterinary Medical Board shall disclose information on its licensees,
30 registrants, and permitholders.

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

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

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

39 **Comment.** Section 27 is amended to reflect nonsubstantive recodification of the California
40 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
41 Reports 207 (2019).

42 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
43 Reports 207 (2019).]

1 **Note.** In 2021, Business and Professions Code Section 27 was amended by the CPRA
2 conforming revisions bill. See 2021 Cal. Stat. ch. 615, § 1 (AB 474 (Chau)). The section was also
3 amended by the following bills:

4 (1) 2021 Cal. Stat. ch. 70, § 1 (AB 141 (Committee on Budget)). This was a budget-related bill
5 enacted on 7/12/21.

6 (2) 2021 Cal. Stat. ch. 188, § 1 (SB 826 (Committee on Business, Professions & Economic
7 Development)).

8 (3) 2021 Cal. Stat. ch. 630, §§ 1, 1.5 (AB 1534 (Committee on Business & Professions)).

9 (4) 2021 Cal. Stat. ch. 647, § 1, 1.1, 1.2, 1.3 (SB 801 (Archuleta)).

10 The amendment made by the CPRA conforming revisions bill was chaptered out by SB 801.
11 See Gov't Code § 9605 (in general, last-chaptered bill prevails).

12 Consequently, the CPRA cross-reference in Business and Professions Code Section 27 still
13 needs to be updated to reflect the CPRA recodification. Due to Government Code Sections 9600
14 and 9605, and the bill coordination amendments in SB 801 (Archuleta), the new conforming
15 revision of Business and Professions Code Section 27 (shown above) is based on 2021 Cal. Stat.
16 ch. 647, § 1.3.

17 **Bus. & Prof. Code § 655 (amended). Optometrist with ownership or other interest in**
18 **dispensing optician or optical company**

19 SEC. 2. Section 655 of the Business and Professions Code is amended to read:

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

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

25 (2) "Optical company" means a person or entity that is engaged in the
26 manufacture, sale, or distribution to physicians and surgeons, optometrists, health
27 plans, or dispensing opticians of lenses, frames, optical supplies, or optometric
28 appliances or devices or kindred products.

29 (3) "Optometrist" means a person licensed pursuant to Chapter 7 (commencing
30 with Section 3000) or an optometric corporation, as described in Section 3160.

31 (4) "Physician and surgeon" means a person licensed by the Medical Board of
32 California or the Osteopathic Medical Board of California under Chapter 5
33 (commencing with Section 2000) or a medical corporation that is authorized to
34 render professional services, as defined in Section 13401 of the Corporations
35 Code.

36 (5) "Registered dispensing optician" means a person or entity licensed pursuant
37 to Chapter 5.5 (commencing with Section 2550).

38 (6) "Therapeutic ophthalmic product" means lenses or other products that
39 provide direct treatment of eye disease or visual rehabilitation for diseased eyes.

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

1 (c) (1) A registered dispensing optician or an optical company may operate,
2 own, or have an ownership interest in a health plan so long as the health plan does
3 not directly employ optometrists to provide optometric services directly to
4 enrollees of the health plan, and may directly or indirectly provide products and
5 services to the health plan or its contracted providers or enrollees or to other
6 optometrists. For purposes of this section, an optometrist may be employed by a
7 health plan as a clinical director for the health plan pursuant to Section 1367.01 of
8 the Health and Safety Code or to perform services related to utilization
9 management or quality assurance or other similar related services that do not
10 require the optometrist to directly provide health care services to enrollees. In
11 addition, an optometrist serving as a clinical director may not employ optometrists
12 to provide health care services to enrollees of the health plan for which the
13 optometrist is serving as clinical director. For the purposes of this section, the
14 health plan's utilization management and quality assurance programs that are
15 consistent with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter
16 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code)
17 do not constitute providing health care services to enrollees.

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

20 (3) The Department of Managed Health Care shall forward to the California
21 State Board of Optometry any complaints received from consumers that allege that
22 an optometrist violated the Optometry Practice Act (Chapter 7 (commencing with
23 Section 3000)). The Department of Managed Health Care and the California State
24 Board of Optometry shall enter into an Inter-Agency Agreement regarding the
25 sharing of information related to the services provided by an optometrist that may
26 be in violation of the Optometry Practice Act that the Department of Managed
27 Health Care encounters in the course of the administration of the Knox-Keene
28 Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section
29 1340) of Division 2 of the Health and Safety Code).

30 (d) An optometrist, a registered dispensing optician, a physician and surgeon, an
31 optical company, or a health plan may execute a lease, sublease, or other written
32 agreement with an optometrist, if all of the following conditions are contained in a
33 written agreement establishing the landlord-tenant relationship:

34 (1) (A) The practice shall be owned by the optometrist and in every phase be
35 under the optometrist's exclusive control, including the selection and supervision
36 of optometric staff, the scheduling of patients, the amount of time the optometrist
37 spends with patients, fees charged for optometric products and services, the
38 examination procedures and treatment provided to ~~patients~~ patients, and the
39 optometrist's contracting with managed care organizations.

40 (B) Subparagraph (A) shall not preclude a lease from including commercially
41 reasonable terms that: (i) require the provision of optometric services at the leased
42 space during certain days and hours, (ii) restrict the leased space from being used
43 for the sale or offer for sale of spectacles, frames, lenses, contact lenses, or other

1 ophthalmic products, except that the optometrist shall be permitted to sell
2 therapeutic ophthalmic products if the registered dispensing optician, physician
3 and surgeon, health plan, or optical company located on or adjacent to the
4 optometrist's leased space does not offer any substantially similar therapeutic
5 ophthalmic products for sale, (iii) require the optometrist to contract with a health
6 plan network, health plan, or health insurer, or (iv) permit the landlord to directly
7 or indirectly provide furnishings and equipment in the leased space.

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

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

18 (4) All signs and displays shall be separate and distinct from that of the other
19 occupants and shall have the optometrist's name and the word "optometrist"
20 prominently displayed in connection therewith. This paragraph shall not prohibit
21 the optometrist from advertising the optometrist's practice location with reference
22 to other occupants or prohibit the optometrist or registered dispensing optician
23 from advertising their participation in any health plan's network or the health
24 plan's products in which the optometrist or registered dispensing optician
25 participates.

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

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

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

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

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

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

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

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

18 (C) If the health plan is the landlord, the termination of the provider agreement
19 between the health plan and the optometrist, in accordance with the Knox-Keene
20 Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section
21 1340) of Division 2 of the Health and Safety Code).

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

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

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

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

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

1 (15) The California State Board of Optometry may inspect, upon request, an
2 individual lease agreement pursuant to its investigational authority, and if such a
3 request is made, the landlord or tenant, as applicable, shall promptly comply with
4 the request. Failure or refusal to comply with the request for lease agreements
5 within 30 days of receiving the request constitutes unprofessional conduct and is
6 grounds for disciplinary action by the appropriate regulatory agency. This section
7 shall not affect the Department of Managed Health Care’s authority to inspect all
8 books and records of a health plan pursuant to Section 1381 of the Health and
9 Safety Code.

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

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

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

23 (f) Nothing in this section shall prohibit a person licensed under Chapter 5
24 (commencing with Section 2000) or its professional corporation from contracting
25 with or employing optometrists, ophthalmologists, or optometric assistants and
26 entering into a contract or landlord-tenant relationship with a health plan, an
27 optical company, or a registered dispensing optician, in accordance with Sections
28 650 and 654 of this code.

29 (g) Any violation of this section constitutes a misdemeanor as to such person
30 licensed under Chapter 7 (commencing with Section 3000) of this division and as
31 to any and all persons, whether or not so licensed under this division, who
32 participate with such licensed person in a violation of any provision of this section.

33 (h) (1) Notwithstanding any other law and in addition to any action available to
34 the California State Board of Optometry, the California State Board of Optometry
35 may issue a citation containing an order of abatement, an order to pay an
36 administrative fine, or both, to an optical company, an optometrist, or a registered
37 dispensing optician for a violation of this section. The administrative fine shall not
38 exceed fifty thousand dollars (\$50,000) per administrative action. Notwithstanding
39 any other law and in addition to any action available to the Medical Board of
40 California or the Osteopathic Medical Board of California, the Medical Board of
41 California or the Osteopathic Medical Board of California may issue a citation
42 containing an order of abatement, an order to pay an administrative fine, or both,

1 to a physician and surgeon for a violation of this section. In assessing the amount
2 of the fine, the board shall give due consideration to all of the following:

3 (A) The gravity of the violation.

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

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

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

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

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

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

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

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

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

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

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

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

36 (i) Administrative fines collected pursuant to this section shall be deposited in
37 the fund of the board that has issued the fine. It is the intent of the Legislature that
38 moneys collected as fines and deposited in the fund be used by the board primarily
39 for enforcement purposes.

40 (j) Any complaints against a physician and surgeon for violations of this section
41 shall be referred to the physician and surgeon's licensing board.

42 (k) This section shall become operative on January 1, 2023.

1 **Comment.** Section 655 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
3 Reports 207 (2019).

4 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
5 Reports 207 (2019).]

6 **Note.** In 2021, Business and Professions Code Section 655 was amended by the CPRA
7 conforming revisions bill. See 2021 Cal. Stat. ch. 615, § 5 (AB 474 (Chau)). The section was also
8 amended, repealed, and added by 2021 Cal. Stat. ch. 630, §§ 10, 11 (AB 1534 (Committee on
9 Business & Professions)).

10 The amendment made by the CPRA conforming revisions bill was chaptered out by AB 1534.
11 See Gov't Code § 9605 (in general, last-chaptered bill prevails).

12 Consequently, the CPRA cross-reference in Business and Professions Code Section 655 still
13 needs to be updated to reflect the CPRA recodification, which will become operative on 1/1/23
14 (see Gov't Code § 7931.000 (2021 Cal. Stat. ch. 614, § 2)). Due to Government Code Section
15 9605, the 1/1/23 sunset clause in 2021 Cal. Stat. ch. 630, § 10, and the 1/1/23 sunrise clause in
16 2021 Cal. Stat. ch. 630, § 11, the new conforming revision of Business and Professions Code
17 Section 655 (shown above) is based on 2021 Cal. Stat. ch. 630, § 11.

18 **Bus. & Prof. Code § 4126.10 (amended). Pharmacy distributing compounded human drug**
19 **preparations interstate**

20 SEC. 3. Section 4126.10 of the Business and Professions Code is amended to
21 read:

22 4126.10. (a) A pharmacy located in California may distribute compounded
23 human drug preparations interstate only if all of the following conditions are met:

24 (1) Between January 1 and March 31 of each year, the pharmacy reports all
25 required data for the previous calendar year into the Information Sharing Network
26 established by the National Association of Boards of Pharmacy in conjunction
27 with the United States Food and Drug Administration (FDA) to implement the
28 Memorandum of Understanding Addressing Certain Distributions of Compounded
29 Human Drug Products.

30 (2) On an annual basis, in connection with and as a condition of renewal of the
31 pharmacy's license, the pharmacist-in-charge of the pharmacy certifies that the
32 reporting requirements of paragraph (1) have been satisfied.

33 (3) The pharmacy reports any adverse drug experience and product quality issue
34 for any compounded product to the board within 12 hours after the pharmacy
35 receives notice of the adverse drug experience or product quality issue.

36 (b) Information reported by the board to the FDA directly or through the
37 Information Sharing Network established by the National Association of Boards of
38 Pharmacy in conjunction with the FDA to implement the Memorandum of
39 Understanding Addressing Certain Distributions of Compounded Human Drug
40 Products shall not be subject to public disclosure under the California Public
41 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
42 (Division 10 (commencing with Section 7920.000)) of Title 1 of the Government
43 Code).

1 **Comment.** Section 4126.10 is amended to reflect nonsubstantive recodification of the
2 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
3 Comm'n Reports 207 (2019).

4 [This Comment is new.]

5 **Note.** Section 4126.10 was just added to the Business and Professions Code by 2021 Cal. Stat.
6 ch. 628, § 18 (AB 1533 (Committee on Business & Professions)). The CPRA cross-reference in
7 that section needs to be updated to reflect the CPRA recodification.

8 **Bus. & Prof. Code § 5009.5 (amended). Privacy of email address**

9 SEC. 4. Section 5009.5 of the Business and Professions Code is amended to
10 read:

11 5009.5. In the interest of protecting the privacy of applicants and licensees, an
12 email address provided by applicants or licensees to the board pursuant to this
13 chapter shall not be considered a public record and shall not be disclosed pursuant
14 to Section 27 or pursuant to a request under the California Public Records Act
15 (~~Chapter 3.5 (commencing with Section 6250) of Division 7 (Division 10~~
16 ~~(commencing with Section 7920.000)~~ of Title 1 of the Government Code), unless
17 required pursuant to a court order by a court of competent jurisdiction.

18 **Comment.** Section 5009.5 is amended to reflect nonsubstantive recodification of the California
19 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
20 Reports 207 (2019).

21 [This Comment is new.]

22 **Note.** Section 5009.5 was just added to the Business and Professions Code by 2021 Cal. Stat.
23 ch. 300, § 2 (AB 298 (Irwin)). The CPRA cross-reference in that section needs to be updated to
24 reflect the CPRA recodification.

25 **Bus. & Prof. Code § 6056 (amended). California Lawyers Association**

26 SEC. 5. Section 6056 of the Business and Professions Code is amended to read:

27 6056. (a) The State Bar, acting pursuant to Section 6001, shall assist the
28 Sections of the State Bar to incorporate as a private, nonprofit corporation
29 organized under Section 501(c)(6) of the Internal Revenue Code and shall transfer
30 the functions and activities of the 16 State Bar Sections and the California Young
31 Lawyers Association to the new private, nonprofit corporation, to be called the
32 California Lawyers Association. The California Lawyers Association shall be a
33 voluntary association, shall not be a part of the State Bar, and shall not be funded
34 in any way through mandatory fees collected by the State Bar. The California
35 Lawyers Association shall have independent contracting authority and full control
36 of its resources. The California Lawyers Association shall not be considered a
37 state, local, or other public body for any purpose, including, but not limited to, the
38 Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of
39 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) and the
40 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of~~
41 ~~Division 7 (Division 10 (commencing with Section 7920.000)~~ of Title 1 of the
42 Government Code).

1 (b) The California Lawyers Association shall establish the criteria for
2 membership in the California Young Lawyers Association. The California
3 Lawyers Association may change the name of the California Young Lawyers
4 Association to another name consistent with the criteria for membership and its
5 mission.

6 (c) The State Bar may assist the California Lawyers Association in gaining
7 appointment to the American Bar Association (ABA) House of Delegates,
8 consistent with the California Lawyers Association’s mission and subject to the
9 consent of the ABA.

10 (d) The State Bar shall support the California Lawyers Association’s efforts to
11 partner with the Continuing Education of the Bar (CEB), subject to agreement by
12 the University of California.

13 (e) The State Bar of California shall ensure that State Bar staff who support the
14 ~~sections~~ Sections, as of September 15, 2017, are reassigned to other comparable
15 positions within the State Bar.

16 (f) The Sections of the State Bar or the California Lawyers Association and the
17 State Bar shall enter into a memorandum of understanding regarding the terms of
18 separation of the Sections of the State Bar from the State Bar and mandatory
19 duties of the California Lawyers Association, including a requirement to provide
20 all of the following:

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

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

23 (3) Educational programs and materials to the licensees of the State Bar and the
24 public.

25 (g) The State Bar of California shall assist the California Lawyers Association in
26 meeting the association’s requirement to provide low- and no-cost MCLE by the
27 inclusion on the State Bar’s internet website of easily accessible links to the low-
28 and no-cost MCLE provided by the California Lawyers Association.

29 **Comment.** Section 6056 is amended to reflect nonsubstantive recodification of the California
30 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
31 Reports 207 (2019).

32 The section is also amended to make a technical change.

33 [This Comment replaces the revised Comment in *Report of the California Law Revision*
34 *Commission on Chapter 615 of the Statutes of 2021 (Assembly Bill 474)*, 48 Cal. L. Revision
35 Comm’n Reports __ (2021).]

36 **Note.** In 2021, Business and Professions Code Section 6056 was amended by the CPRA
37 conforming revisions bill. See 2021 Cal. Stat. ch. 615, § 14 (AB 474 (Chau)). The section was
38 also amended by 2021 Cal. Stat. ch. 723, § 2 (SB 211 (Umberg)).

39 The amendment made by the CPRA conforming revisions bill was chaptered out by SB 211.
40 See Gov’t Code § 9605 (in general, last-chaptered bill prevails).

41 Consequently, the CPRA cross-reference in Business and Professions Code Section 6056 still
42 needs to be updated to reflect the CPRA recodification. The new conforming revision of Business
43 and Professions Code Section 6056 (shown above) is based on 2021 Cal. Stat. ch. 723, § 2.

1 **Bus. & Prof. Code § 6210.5 (amended). Legal Services Trust Fund Commission**

2 SEC. 6. Section 6210.5 of the Business and Professions Code is amended to
3 read:

4 6210.5. (a) There shall be created, within the State Bar, a Legal Services Trust
5 Fund Commission to administer IOLTA accounts, Equal Access Funds, or similar
6 funds or grant monies intended for the support of qualified legal services projects
7 and qualified support centers, as those terms are defined in Section 6213.

8 (b) (1) The Legal Services Trust Fund Commission shall be comprised of 24
9 commissioners as follows:

10 (A) Six commissioners shall be appointed by the State Bar Board of Trustees.

11 (B) Two commissioners shall be appointed by the Senate Committee on Rules.

12 (C) Two commissioners shall be appointed by the Speaker of the Assembly.

13 (D) Ten commissioners shall be appointed by the Chair of the Judicial Council,
14 of which three shall be nonvoting judicial advisors. The three nonvoting judicial
15 advisors shall be comprised of two superior court judges and one appellate justice.

16 (E) Four commissioners shall be appointed by the Legal Services Trust Fund
17 Commission, of which at least two shall be, or have been within five years of
18 appointment, indigent persons as defined by Section 6213.

19 (2) No employee or independent contractor acting as a consultant to a potential
20 recipient of Legal Services Trust Fund grants shall be appointed to the Legal
21 Services Trust Fund Commission. All commissioners shall be designated
22 employees under the Conflict of Interest Code of the State Bar.

23 (3) Except as provided in paragraph (4), each commissioner shall serve for a
24 term of four years that begins upon appointment. Upon completion of an initial
25 term, a Commissioner may be reappointed for a second four-year term. An initial
26 or second term may be extended by one or two years, for a maximum of 10 years,
27 to allow a commissioner to serve as chair or vice chair. A commissioner currently
28 serving as of January 1, 2022, may be reappointed to two additional full terms
29 following the completion of their current term pursuant to paragraph (5).

30 (4) A commissioner appointed by the chair of the Judicial Council shall have no
31 term limits.

32 (5) Each commissioner shall serve at the pleasure of the appointing entity. Each
33 appointing entity may stagger their appointments so one-half of the commissioners
34 are appointed in 2022 and the other one-half are appointed in 2023. A
35 commissioner serving as of January 1, 2022, may continue to serve until replaced
36 by the appointing entity or January 1, 2024, whichever occurs first.

37 (6) Commissioners who are not currently and have never been attorneys licensed
38 in California or another jurisdiction and who submit a form designated by the
39 commission to request a per diem shall be entitled to receive fifty dollars (\$50) per
40 day for each day that they attend a commission meeting of at least one hour in
41 length.

42 (c) The chair and the vice chair of the Legal Services Trust Fund Commission
43 shall be selected by the Chair of the Judicial Council. The chair of the Legal

1 Services Trust Fund Commission shall preside over the commission’s meetings.
2 The Chair of the Judicial Council may select up to two chairs and two vice chairs
3 to lead the commission.

4 (d) The Legal Services Trust Fund Commission shall be subject to the California
5 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
6 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
7 Code) and the Bagley-Keene Open Meeting Act (Article 9 (commencing with
8 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
9 Code).

10 (e) (1) The Legal Services Trust Fund Commission shall recommend to the
11 Board of Trustees of the State Bar rules to determine an applicant’s eligibility for
12 grants under this article and for rules related to grant administration, including
13 rules to monitor and evaluate a recipient’s compliance with Legal Services Trust
14 Fund requirements and grant terms based on criteria established by the Legal
15 Services Trust Fund Commission.

16 (2) The Legal Services Trust Fund Commission shall recommend to the Board
17 of Trustees of the State Bar the amount proposed to be made available for grant
18 distribution from IOLTA funds, along with the amount to be maintained as a
19 fiscally responsible reserve.

20 (3) The Board of Trustees of the State Bar shall approve each recommendation
21 made pursuant to paragraphs (1) and (2) unless the Board of Trustees of the State
22 Bar makes a finding in writing that a recommendation conflicts with a statutory,
23 fiduciary, or legal obligation of the State Bar.

24 (4) The decisions of the Legal Services Trust Fund Commission regarding
25 individual grant awards shall take effect without approval by the Board of Trustees
26 of the State Bar. However, the board may reverse or modify an individual grant
27 award if it makes a finding in writing that the award violates Legal Services Trust
28 Fund rules or a statutory, fiduciary, or legal obligation of the State Bar.

29 (f) Except as provided by subdivision (a) of Section 6033 and by Section
30 6140.03, the State Bar’s actual administrative costs to administer the Legal
31 Services Trust Fund Program, including IOLTA, Equal Access Funds, and similar
32 funds and grant moneys shall be fully funded through these grant programs. The
33 State Bar shall not provide administrative services to the Legal Services Trust
34 Fund Commission in excess of the administrative costs allocated to the State Bar
35 by the Legislature, or by the Legal Services Trust Fund Commission as part of any
36 request by the Legal Services Trust Fund Commission’s request for administrative
37 support.

38 (g) At the conclusion of each fiscal year, the Legal Services Trust Fund
39 Commission shall include a report of receipts of funds under this article,
40 expenditures for administrative costs, and disbursements of the funds on a county-
41 by-county basis, in the annual report of the State Bar’s receipts and expenditures
42 required pursuant to Section 6145. To ensure that awards made by the Legal
43 Services Trust Fund Commission are consistent with statute, rules, and other

1 governing authority, the State Bar shall develop a program to audit a
2 representative sample of grant awards each year. The results of the most recent
3 audit shall be included with the report of receipt of funds described in this
4 subdivision.

5 (h) This section supersedes any conflicting State Bar rules regarding the Legal
6 Services Trust Fund Commission or its responsibilities or oversight by the State
7 Bar's board of trustees.

8 **Comment.** Section 6210.5 is amended to reflect nonsubstantive recodification of the California
9 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
10 Reports 207 (2019).

11 [This Comment is new.]

12 **Note.** Section 6210.5 was just added to the Business and Professions Code by 2021 Cal. Stat.
13 ch. 723, § 11 (SB 211 (Umberg)). The CPRA cross-reference in that section needs to be updated
14 to reflect the CPRA recodification.

15 **Bus. & Prof. Code § 10083.2 (amended). Information for Real Estate Commissioner to**
16 **provide on internet**

17 SEC. 7. Section 10083.2 of the Business and Professions Code is amended to
18 read:

19 10083.2. (a) (1) The commissioner shall provide information on the internet
20 regarding the status of every license issued by the department in accordance with
21 the California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~
22 ~~of Division 7 (Division 10 (commencing with Section 7920.000))~~ of Title 1 of the
23 Government Code) and the Information Practices Act of 1977 (Chapter 1
24 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil
25 Code).

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

32 (3) The public information shall not include personal information, including
33 home telephone number, date of birth, or social security number. The
34 commissioner shall disclose a licensee's address of record. However, the
35 commissioner shall allow a licensee to provide a post office box number or other
36 alternate address, instead of the licensee's home address, as the address of record.
37 This section shall not preclude the commissioner from also requiring a licensee
38 who has provided a post office box number or other alternative mailing address as
39 the licensee's address of record to provide a physical business address or residence
40 address only for the department's internal administrative use and not for disclosure
41 as the licensee's address of record or disclosure on the internet.

42 (4) The public information shall also include whether a licensee is an associate
43 licensee within the meaning of subdivision (a) of Section 2079.13 of the Civil

1 Code and, if the associate licensee is a broker, identify each responsible broker
2 with whom the licensee is contractually associated as described in Section 10032
3 of this code or Section 2079.13 of the Civil Code.

4 (b) For purposes of this section, “internet” has the meaning set forth in
5 paragraph (6) of subdivision (f) of Section 17538.

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

16 (d) The department may develop, through regulations, the amount of the fee and
17 the minimum information to be included in a licensee’s petition, including, but not
18 limited to, a written justification and evidence of rehabilitation pursuant to Section
19 482.

20 (e) “Posted” for purposes of this section is defined as the date of disciplinary
21 action taken by the department.

22 (f) The department shall maintain a list of all licensees whose disciplinary
23 records are altered as a result of a petition approved under subdivision (c). The
24 department shall make the list accessible to other licensing bodies. The department
25 shall update and provide the list to other licensing bodies as often as it modifies
26 the records displayed on its internet website in response to petitions approved
27 under subdivision (c).

28 **Comment.** Section 10083.2 is amended to reflect nonsubstantive recodification of the
29 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
30 Comm’n Reports 207 (2019).

31 [This revised Comment replaces the one in *California Public Records Act Clean-Up*, 46 Cal. L.
32 Revision Comm’n Reports 207 (2019).]

33 **Note.** In 2021, Business and Professions Code Section 10083.2 was amended by the CPRA
34 conforming revisions bill. See 2021 Cal. Stat. ch. 615, § 27 (AB 474 (Chau)). The section was
35 also amended by 2021 Cal. Stat. ch. 431, § 2 (SB 800 (Archuleta)).

36 Due to the subordination clause in the CPRA conforming revisions bill, the amendment made
37 by that bill was chaptered out by SB 800. See Gov’t Code § 9605 (“In the absence of any *express*
38 *provision to the contrary* in the statute that is enacted last, it shall be conclusively presumed that
39 the statute which is enacted last is intended to prevail over statutes that are enacted earlier at the
40 same session ...” (emphasis added)).

41 Consequently, the CPRA cross-reference in Business and Professions Code Section 10083.2
42 still needs to be updated to reflect the CPRA recodification. The new conforming revision of
43 Business and Professions Code Section 10083.2 (shown above) is based on 2021 Cal. Stat. ch.
44 431, § 2.

1 **Bus. & Prof. Code § 10166.07 (amended). Business activities report of real estate broker**

2 SEC. 8. Section 10166.07 of the Business and Professions Code is amended to
3 read:

4 10166.07. (a) A real estate broker who acts pursuant to Section 10131.1 or
5 subdivision (d) or (e) of Section 10131, and who makes, arranges, or services one
6 or more loans in a calendar year that are secured by real property containing one to
7 four residential units, shall annually file a business activities report, within 90 days
8 after the end of the broker's fiscal year or within any additional time as the
9 commissioner may allow for filing for good cause. The report shall contain within
10 its scope all of the following information for the fiscal year, relative to the
11 business activities of the broker and those of any other brokers and real estate
12 salespersons acting under that broker's supervision:

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

17 (2) A list of the real estate-related activities in which the supervising broker and
18 the brokers and salespersons under the supervising broker's supervision engaged
19 during the prior year. This listing shall identify all of the following:

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

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

23 (C) Activities performed under related licenses, including, but not limited to, a
24 license to engage as a finance lender or a finance broker under the California
25 Financing Law (Division 9 (commencing with Section 22000) of the Financial
26 Code), or a license to engage as a residential mortgage lender or residential
27 mortgage loan servicer under the California Residential Mortgage Lending Act
28 (Division 20 (commencing with Section 50000) of the Financial Code).

29 (3) A list of the forms of media used by the broker and those under the broker's
30 supervision to advertise to the public, including print, radio, television, the
31 internet, or other means.

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

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

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

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

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

42 (A) The total number, aggregate principal amount, lowest beginning interest
43 rate, highest beginning interest rate, highest margin, and a list of the institutional

1 lenders of record. If the loan was funded by any lender other than an institutional
2 lender, the broker shall categorize the loan as privately funded.

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

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

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

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

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

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

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

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

25 (b) A broker subject to this section and Section 10232.2 may file consolidated
26 reports that include all of the information required under this section and Section
27 10232.2. Those consolidated reports shall clearly indicate that they are intended to
28 satisfy the requirements of both sections.

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

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

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

9 **Comment.** Section 10166.07 is amended to reflect nonsubstantive recodification of the
10 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
11 Comm'n Reports 207 (2019).

12 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
13 Reports 207 (2019).]

14 **Note.** In 2021, Business and Profession Code Section 10166.07 was amended by the CPRA
15 conforming revisions bill. See 2021 Cal. Stat. ch. 615, § 29 (AB 474 (Chau)). The section was
16 also amended by 2021 Cal. Stat. ch. 431, § 13 (SB 800 (Archuleta)).

17 Due to the subordination clause in the CPRA conforming revisions bill, the amendment made
18 by that bill was chaptered out by SB 800. See Gov't Code § 9605 ("In the absence of any *express*
19 *provision to the contrary* in the statute that is enacted last, it shall be conclusively presumed that
20 the statute which is enacted last is intended to prevail over statutes that are enacted earlier at the
21 same session ...") (emphasis added)).

22 Consequently, the CPRA cross-reference in Business and Professions Code Section 10166.07
23 still needs to be updated to reflect the CPRA recodification. The new conforming revision of
24 Business and Professions Code Section 10166.07 (shown above) is based on 2021 Cal. Stat. ch.
25 431, § 13.

26 **Bus. & Prof. Code § 10232.2 (amended). Reports to be filed by real estate broker**

27 SEC. 9. Section 10232.2 of the Business and Professions Code is amended to
28 read:

29 10232.2. A real estate broker who meets the criteria of subdivision (a) of Section
30 10232 shall annually file the reports referred to in subdivisions (a) and (c) with the
31 Department of Real Estate within 90 days after the end of the broker's fiscal year
32 or within any additional time as the Real Estate Commissioner may allow for
33 filing for good cause:

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

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

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

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

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

15 (c) A report of all of the following aspects of the business conducted by the
16 broker while engaging in activities described in subdivisions (d) and (e) of Section
17 10131 and in Section 10131.1:

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

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

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

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

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

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

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

35 (e) If the broker fails to file either of the reports required under subdivisions (a)
36 and (c) within the time permitted herein, the commissioner may cause an
37 examination and report to be made and may charge the broker one and one-half
38 times the cost of making the examination and report. In determining the hourly
39 cost incurred by the commissioner for conducting an examination and preparing
40 the report, the commissioner may use the estimated average hourly cost for all
41 department audit staff performing audits of real estate brokers. If a broker fails to
42 pay the above amount within 60 days of the mailing of a notice of billing, the
43 commissioner may suspend the broker's license or deny renewal of the broker's

1 license. The suspension or denial shall remain in effect until the above amount is
2 paid or the broker's right to renew a license has expired. The commissioner may
3 maintain an action for the recovery of the above amount in any court of competent
4 jurisdiction.

5 (f) The reports referred to in subdivisions (a) and (c) are exempted from any
6 requirement of public disclosure by ~~paragraph (2) of subdivision (d) of Section~~
7 6254 subdivision (b) of Section 7929.000 of the Government Code. The
8 commissioner shall annually make and file as a public record, a composite of the
9 annual reports and any comments thereon that are deemed to be in the public
10 interest.

11 **Comment.** Section 10232.2 is amended to reflect nonsubstantive recodification of the
12 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
13 Comm'n Reports 207 (2019).

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

15 [This revised Comment replaces the one in *California Public Records Act Clean-Up*, 46 Cal. L.
16 Revision Comm'n Reports 207 (2019).]

17 **Note.** In 2021, Business and Professions Code Section 10232.2 was amended by the CPRA
18 conforming revisions bill. See 2021 Cal. Stat. ch. 615, § 31 (AB 474 (Chau)). The section was
19 also amended by 2021 Cal. Stat. ch. 431, § 22 (SB 800 (Archuleta)).

20 Due to the subordination clause in the CPRA conforming revisions bill, the amendment made
21 by that bill was chaptered out by SB 800. See Gov't Code § 9605 ("In the absence of any *express*
22 *provision to the contrary* in the statute that is enacted last, it shall be conclusively presumed that
23 the statute which is enacted last is intended to prevail over statutes that are enacted earlier at the
24 same session ...") (emphasis added)).

25 Consequently, the CPRA cross-reference in Business and Professions Code Section 10232.2
26 still needs to be updated to reflect the CPRA recodification. The new conforming revision of
27 Business and Professions Code Section 10232.2 (shown above) is based on 2021 Cal. Stat. ch.
28 431, § 22.

29 **Bus. & Prof. Code § 22979.24 (amended). Monthly report of tobacco manufacturer or**
30 **importer to State Board of Equalization**

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

33 22979.24. (a) Every manufacturer or importer holding a license pursuant to
34 Section 22979.21 shall file, using electronic media in a manner specified by the
35 department, a monthly report to the department. The monthly report shall include,
36 but is not limited to, the following:

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

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

41 (b) The department may suspend the license or revoke the license, pursuant to
42 the provisions applicable to the revocation of a license set forth in Section 30148
43 of the Revenue and Taxation Code, of any importer or any manufacturer that has
44 failed to comply with the requirements of this section.

1 (c) All information and records provided to the department pursuant to
2 subdivision (a) are confidential in nature and shall not be disclosed by the
3 department. Information required under subdivision (a) are not public records
4 under the California Public Records Act, as described in ~~Chapter 3.5 (commencing~~
5 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section
6 7920.000) of Title 1 of the Government Code and shall not be open to public
7 inspection.

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

10 **Comment.** Section 22979.24 is amended to reflect nonsubstantive recodification of the
11 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
12 Comm'n Reports 207 (2019).

13 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
14 Reports 207 (2019).]

15 **Note.** In 2021, Business and Professions Code Section 22979.24 was amended by the CPRA
16 conforming revisions bill. See 2021 Cal. Stat. ch. 615, § 37 (AB 474 (Chau)). The section was
17 also amended by 2021 Cal. Stat. ch. 432, § 4 (SB 824 (Committee on Governance and Finance)).

18 Due to the subordination clause in the CPRA conforming revisions bill, the amendment made
19 by that bill was chaptered out by SB 824. See Gov't Code § 9605 ("In the absence of any *express*
20 *provision to the contrary* in the statute that is enacted last, it shall be conclusively presumed that
21 the statute which is enacted last is intended to prevail over statutes that are enacted earlier at the
22 same session ...") (emphasis added)).

23 Consequently, the CPRA cross-reference in Business and Professions Code Section 22979.24
24 still needs to be updated to reflect the CPRA recodification. The new conforming revision of
25 Business and Professions Code Section 22979.24 (shown above) is based on 2021 Cal. Stat. ch.
26 432, § 4.

27 **Bus. & Prof. Code § 26012.5 (amended). Information to be provided on internet website**

28 SEC. 11. Section 26012.5 of the Business and Professions Code is amended to
29 read:

30 26012.5. (a) The department shall provide on its internet website information
31 regarding the status of every license issued by the department in accordance with
32 the California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~
33 ~~of Division 7~~ (Division 10 (commencing with Section 7920.000) of Title 1 of the
34 Government Code) and the Information Practices Act of 1977 (Chapter 1
35 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil
36 Code).

37 (b) Beginning January 1, 2022, the information provided on the department's
38 internet website pursuant to subdivision (a) shall include information on
39 suspensions and revocations of licenses and final decisions adopted by the
40 department pursuant to the Administrative Procedure Act (Chapter 3.5
41 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the
42 Government Code) relating to persons or businesses licensed or regulated by the
43 department.

1 (c) The information provided shall not include personal information, including
2 home addresses, home telephone numbers, dates of birth, or social security
3 numbers. The department shall disclose the county of a licensee’s address of
4 record.

5 **Comment.** Section 26012.5 is amended to reflect nonsubstantive recodification of the
6 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
7 Comm’n Reports 207 (2019).

8 [This Comment is new.]

9 **Note.** Section 26012.5 was just added to the Business and Professions Code by 2021 Cal. Stat.
10 ch. 70, § 12 (AB 141 (Committee on Budget)), which was a budget-related bill enacted on
11 7/12/21. The CPRA cross-reference in that section needs to be updated to reflect the CPRA
12 recodification.

13 **Bus. & Prof. Code § 26067 (amended). Track and trace program for movement of cannabis**
14 **and cannabis products**

15 SEC. 12. Section 26067 of the Business and Professions Code is amended to
16 read:

17 22067. (a) The department shall establish a track and trace program for reporting
18 the movement of cannabis and cannabis products throughout the distribution chain
19 that utilizes a unique identifier and is capable of providing information that
20 captures, at a minimum, all of the following:

21 (1) The licensee from which the product originates and the licensee receiving the
22 product.

23 (2) The transaction date.

24 (3) The unique identifier or identifiers for the cannabis or cannabis product.

25 (b) (1) The department, in consultation with the California Department of Tax
26 and Fee Administration, shall create an electronic database containing the
27 electronic shipping manifests to facilitate the administration of the track and trace
28 program, which shall include, but not be limited to, the following information:

29 (A) The variety and quantity or weight of cannabis or cannabis products
30 shipped.

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

32 (C) The variety and quantity or weight of cannabis or cannabis products
33 received.

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

35 (E) A categorization and the unique identifier of the cannabis or cannabis
36 product.

37 (F) The license number issued by the department for all licensees involved in the
38 shipping process, including, but not limited to, cultivators, manufacturers,
39 distributors, and retailers.

40 (2) The database shall be designed to flag irregularities for the department to
41 investigate.

42 (3) The department and state and local agencies may, at any time, inspect
43 shipments and request documentation for current inventory.

1 (4) The California Department of Tax and Fee Administration shall have read
2 access to the electronic database for the purpose of taxation and regulation of
3 cannabis and cannabis products.

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

11 (6) Upon the request of a state or local law enforcement agency, the department
12 shall allow access to or provide information contained within the database to assist
13 law enforcement in their duties and responsibilities pursuant to this division.

14 **Comment.** Section 26067 is amended to reflect nonsubstantive recodification of the California
15 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
16 Reports 207 (2019).

17 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
18 Reports 207 (2019).]

19 **Note.** In 2021, Business and Professions Code Section 26067 was amended by the CPRA
20 conforming revisions bill. See 2021 Cal. Stat. ch. 615, § 40 (AB 474 (Chau)). The section was
21 also amended by a budget-related bill, which took effect upon enactment: 2021 Cal. Stat. ch. 70,
22 § 51 (AB 141 (Committee on Budget)), enacted on 7/12/21.

23 Due to Government Code Sections 9600 and 9605, and the subordination clause in the CPRA
24 conforming revisions bill, the amendment made by that bill was chaptered out by AB 141.

25 Consequently, the CPRA cross-reference in Business and Professions Code Section 26067 still
26 needs to be updated to reflect the CPRA recodification. The new conforming revision of Business
27 and Professions Code Section 26067 (shown above) is based on 2021 Cal. Stat. ch. 70, § 51.

28 **Bus. & Prof. Code § 26162 (amended). Information identifying names of patients, their**
29 **medical conditions, or names of their primary caregivers**

30 SEC. 13. Section 26162 of the Business and Professions Code is amended to
31 read:

32 26162. (a) Information identifying the names of patients, their medical
33 conditions, or the names of their primary caregivers received and contained in
34 records kept by the office or the department for the purposes of administering this
35 chapter are confidential and shall not be disclosed pursuant to the California
36 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
37 ~~(Division 10 (commencing with Section 7920.000))~~ of Title 1 of the Government
38 Code), except as necessary for authorized employees of the State of California or
39 any city, county, or city and county to perform official duties pursuant to this
40 chapter, or a local ordinance.

41 (b) Information identifying the names of patients, their medical conditions, or
42 the names of their primary caregivers received and contained in records kept by
43 the department for the purposes of administering this chapter shall be maintained
44 in accordance with Chapter 1 (commencing with Section 123100) of Part 1 of

1 Division 106 of the Health and Safety Code, Part 2.6 (commencing with Section
2 56) of Division 1 of the Civil Code, and other state and federal laws relating to
3 confidential patient information.

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

5 (1) Employees of the department notifying state or local agencies about
6 information submitted to the agency that the employee suspects is falsified or
7 fraudulent.

8 (2) Notifications from the department to state or local agencies about apparent
9 violations of this division or applicable local ordinance.

10 (3) Verification of requests by state or local agencies to confirm licenses and
11 certificates issued by the department or other state agency.

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

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

18 **Comment.** Section 26162 is amended to reflect nonsubstantive recodification of the California
19 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
20 Reports 207 (2019).

21 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
22 Reports 207 (2019).]

23 **Note.** In 2021, Business and Professions Code Section 26162 was amended by the CPRA
24 conforming revisions bill. See 2021 Cal. Stat. ch. 615, § 41 (AB 474 (Chau)). The section was
25 also amended by a budget-related bill, which took effect upon enactment: 2021 Cal. Stat. ch. 70,
26 § 79 (AB 141 (Committee on Budget)), enacted on 7/12/21.

27 Due to Government Code Sections 9600 and 9605, and the subordination clause in the CPRA
28 conforming revisions bill, the amendment made by that bill was chaptered out by AB 141.

29 Consequently, the CPRA cross-reference in Business and Professions Code Section 26162 still
30 needs to be updated to reflect the CPRA recodification. The new conforming revision of Business
31 and Professions Code Section 26162 (shown above) is based on 2021 Cal. Stat. ch. 70, § 79.

32 CIVIL CODE

33 **Civ. Code § 1798.24 (amended). Disclosure of personal information by agency**

34 SEC. 14. Section 1798.24 of the Civil Code is amended to read:

35 1798.24. An agency shall not disclose any personal information in a manner that
36 would link the information disclosed to the individual to whom it pertains unless
37 the information is disclosed, as follows:

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

39 (b) With the prior written voluntary consent of the individual to whom the
40 information pertains, but only if that consent has been obtained not more than 30
41 days before the disclosure, or in the time limit agreed to by the individual in the
42 written consent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (t) (1) To the University of California, a nonprofit educational institution, an
28 established nonprofit research institution performing health or social services
29 research, the Cradle-to-Career Data System, for purposes consistent with the
30 creation and execution of the Cradle-to-Career Data System Act pursuant to
31 Article 2 (commencing with Section 10860) of Chapter 8.5 of Part 7 of Division 1
32 of Title 1 of the Education Code, or, in the case of education-related data, another
33 nonprofit entity, conducting scientific research, if the request for information is
34 approved by the Committee for the Protection of Human Subjects (CPHS) for the
35 California Health and Human Services Agency (CHHSA) or an institutional
36 review board, as authorized in paragraphs (5) and (6). The approval shall include a
37 review and determination that all the following criteria have been satisfied:

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

42 (B) The researcher has provided a sufficient plan to destroy or return all
43 personal information as soon as it is no longer needed for the research project,

1 unless the researcher has demonstrated an ongoing need for the personal
2 information for the research project and has provided a long-term plan sufficient to
3 protect the confidentiality of that information.

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

8 (2) The CPHS shall enter into a written agreement with the Office of Cradle-to-
9 Career Data, as defined in Section 10862 of the Education Code, to assist the
10 managing entity of that office in its role as the institutional review board for the
11 Cradle-to-Career Data System.

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

15 (A) Determine whether the requested personal information is needed to conduct
16 the research.

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

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

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

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

27 (4) Reasonable costs to the agency associated with the agency's process of
28 protecting personal information under the conditions of CPHS approval may be
29 billed to the researcher, including, but not limited to, the agency's costs for
30 conducting a portion of the data processing for the researcher, removing personal
31 information, encrypting or otherwise securing personal information, or assigning
32 subject codes.

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

36 (6) Pursuant to paragraph (5), the CPHS shall enter into a written agreement
37 with the institutional review board established pursuant to former Section 49079.6
38 of the Education Code. The agreement shall authorize, commencing July 1, 2010,
39 or the date upon which the written agreement is executed, whichever is later, that
40 board to provide the data security approvals required by this subdivision, if the
41 data security requirements set forth in this subdivision and the act specified in
42 subdivision (a) of Section 49079.5 of the Education Code are satisfied.

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

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

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

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

12 **Comment.** Section 1798.24 is amended to reflect nonsubstantive recodification of the
13 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
14 Comm'n Reports 207 (2019).

15 [This revised Comment replaces the one in *California Public Records Act Clean-Up*, 46 Cal. L.
16 Revision Comm'n Reports 207 (2019).]

17 **Note.** In 2021, Civil Code Section 1798.24 was amended by the CPRA conforming revisions
18 bill. See 2021 Cal. Stat. ch. 615, § 44 (AB 474 (Chau)). The section was also amended by two
19 budget related bills, which took effect upon enactment:

20 (1) 2021 Cal. Stat. ch. 144, § 1 (AB 132 (Committee on Budget)), enacted on 7/27/21.

21 (2) 2021 Cal. Stat. ch. 696, § 1 (AB 172 (Committee on Budget)), enacted on 10/8/21.

22 Due to Government Code Sections 9600 and 9605, the amendment made by the CPRA
23 conforming revisions bill was chaptered out by AB 172.

24 Consequently, the CPRA cross-reference in Civil Code Section 1798.24 still needs to be
25 updated to reflect the CPRA recodification. The new conforming revision of Civil Code Section
26 1798.24 (shown above) is based on 2021 Cal. Stat. ch. 696, § 1.

27 **Civ. Code § 1798.29 (amended). Notice of data breach**

28 SEC. 15. Section 1798.29 of the Civil Code is amended to read:

29 1798.29. (a) Any agency that owns or licenses computerized data that includes
30 personal information shall disclose any breach of the security of the system
31 following discovery or notification of the breach in the security of the data to any
32 resident of California (1) whose unencrypted personal information was, or is
33 reasonably believed to have been, acquired by an unauthorized person, or, (2)
34 whose encrypted personal information was, or is reasonably believed to have been,
35 acquired by an unauthorized person and the encryption key or security credential
36 was, or is reasonably believed to have been, acquired by an unauthorized person
37 and the agency that owns or licenses the encrypted information has a reasonable
38 belief that the encryption key or security credential could render that personal
39 information readable or usable. The disclosure shall be made in the most expedient
40 time possible and without unreasonable delay, consistent with the legitimate needs
41 of law enforcement, as provided in subdivision (c), or any measures necessary to
42 determine the scope of the breach and restore the reasonable integrity of the data
43 system.

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

6 (c) The notification required by this section may be delayed if a law
7 enforcement agency determines that the notification will impede a criminal
8 investigation. The notification required by this section shall be made after the law
9 enforcement agency determines that it will not compromise the investigation.

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

12 (1) The security breach notification shall be written in plain language, shall be
13 titled “Notice of Data Breach,” and shall present the information described in
14 paragraph (2) under the following headings: “What Happened,” “What
15 Information Was Involved,” “What We Are Doing,” “What You Can Do,” and
16 “For More Information.” Additional information may be provided as a supplement
17 to the notice.

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

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

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

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

[NAME OF INSTITUTION / LOGO] Date: [insert date]	
NOTICE OF DATA BREACH	
What Happened?	

What Information Was Involved?	
What We Are Doing.	
What You Can Do.	
Other Important Information. [insert other important information]	
For More Information.	Call [telephone number] or go to [internet website]

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

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

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

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

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

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

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

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

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

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

27 (B) Advice on steps that people whose information has been breached may take
28 to protect themselves.

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

37 (f) For purposes of this section, "breach of the security of the system" means
38 unauthorized acquisition of computerized data that compromises the security,
39 confidentiality, or integrity of personal information maintained by the agency.
40 Good faith acquisition of personal information by an employee or agent of the
41 agency for the purposes of the agency is not a breach of the security of the system,
42 provided that the personal information is not used or subject to further
43 unauthorized disclosure.

1 (g) For purposes of this section, “personal information” means either of the
2 following:

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

6 (A) Social security number.

7 (B) Driver’s license number, California identification card number, tax
8 identification number, passport number, military identification number, or other
9 unique identification number issued on a government document commonly used to
10 verify the identity of a specific individual.

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

14 (D) Medical information.

15 (E) Health insurance information.

16 (F) Unique biometric data generated from measurements or technical analysis of
17 human body characteristics, such as a fingerprint, retina, or iris image, used to
18 authenticate a specific individual. Unique biometric data does not include a
19 physical or digital photograph, unless used or stored for facial recognition
20 purposes.

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

23 (H) Genetic data.

24 (2) A username or email address, in combination with a password or security
25 question and answer that would permit access to an online account.

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

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

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

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

40 (5) For purposes of this section, “genetic data” means any data, regardless of its
41 format, that results from the analysis of a biological sample of an individual, or
42 from another source enabling equivalent information to be obtained, and concerns
43 genetic material. Genetic material includes, but is not limited to, deoxyribonucleic

1 acids (DNA), ribonucleic acids (RNA), genes, chromosomes, alleles, genomes,
2 alterations or modifications to DNA or RNA, single nucleotide polymorphisms
3 (SNPs), uninterpreted data that results from analysis of the biological sample or
4 other source, and any information extrapolated, derived, or inferred therefrom.

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

7 (1) Written notice.

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

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

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

17 (B) Conspicuous posting, for a minimum of 30 days, of the notice on the
18 agency’s internet website page, if the agency maintains one. For purposes of this
19 subparagraph, conspicuous posting on the agency’s internet website means
20 providing a link to the notice on the home page or first significant page after
21 entering the internet website that is in larger type than the surrounding text, or in
22 contrasting type, font, or color to the surrounding text of the same size, or set off
23 from the surrounding text of the same size by symbols or other marks that call
24 attention to the link.

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

27 (4) In the case of a breach of the security of the system involving personal
28 information defined in paragraph (2) of subdivision (g) for an online account, and
29 no other personal information defined in paragraph (1) of subdivision (g), the
30 agency may comply with this section by providing the security breach notification
31 in electronic or other form that directs the person whose personal information has
32 been breached to promptly change the person’s password and security question or
33 answer, as applicable, or to take other steps appropriate to protect the online
34 account with the agency and all other online accounts for which the person uses
35 the same username or email address and password or security question or answer.

36 (5) In the case of a breach of the security of the system involving personal
37 information defined in paragraph (2) of subdivision (g) for login credentials of an
38 email account furnished by the agency, the agency shall not comply with this
39 section by providing the security breach notification to that email address, but
40 may, instead, comply with this section by providing notice by another method
41 described in this subdivision or by clear and conspicuous notice delivered to the
42 resident online when the resident is connected to the online account from an

1 Internet Protocol address or online location from which the agency knows the
2 resident customarily accesses the account.

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

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

13 (l) For purposes of this section, “encryption key” and “security credential” mean
14 the confidential key or process designed to render the data usable, readable, and
15 decipherable.

16 **Comment.** Section 1798.29 is amended to reflect nonsubstantive recodification of the
17 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
18 Comm’n Reports 207 (2019).

19 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
20 Reports 207 (2019).]

21 **Note.** In 2021, Civil Code Section 1798.29 was amended by the CPRA conforming revisions
22 bill. See 2021 Cal. Stat. ch. 615, § 45 (AB 474 (Chau)). The section was also amended by 2021
23 Cal. Stat. ch. 527, § 1 (AB 825 (Levine)).

24 Due to the subordination clause in the CPRA conforming revisions bill, the amendment made
25 by that bill was chaptered out by AB 825. See Gov’t Code § 9605 (“In the absence of any *express*
26 *provision to the contrary* in the statute that is enacted last, it shall be conclusively presumed that
27 the statute which is enacted last is intended to prevail over statutes that are enacted earlier at the
28 same session ...” (emphasis added)).

29 Consequently, the CPRA cross-references in Civil Code Section 1798.29 still need to be
30 updated to reflect the CPRA recodification. The new conforming revision of Civil Code Section
31 1798.29 (shown above) is based on 2021 Cal. Stat. ch. 527, § 1.

32 **Civ. Code § 1798.82 (amended). Notice of data breach**

33 SEC. 16. Section 1798.82 of the Civil Code is amended to read:

34 1798.82. (a) A person or business that conducts business in California, and that
35 owns or licenses computerized data that includes personal information, shall
36 disclose a breach of the security of the system following discovery or notification
37 of the breach in the security of the data to a resident of California (1) whose
38 unencrypted personal information was, or is reasonably believed to have been,
39 acquired by an unauthorized person, or, (2) whose encrypted personal information
40 was, or is reasonably believed to have been, acquired by an unauthorized person
41 and the encryption key or security credential was, or is reasonably believed to
42 have been, acquired by an unauthorized person and the person or business that
43 owns or licenses the encrypted information has a reasonable belief that the
44 encryption key or security credential could render that personal information

1 readable or usable. The disclosure shall be made in the most expedient time
2 possible and without unreasonable delay, consistent with the legitimate needs of
3 law enforcement, as provided in subdivision (c), or any measures necessary to
4 determine the scope of the breach and restore the reasonable integrity of the data
5 system.

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

11 (c) The notification required by this section may be delayed if a law
12 enforcement agency determines that the notification will impede a criminal
13 investigation. The notification required by this section shall be made promptly
14 after the law enforcement agency determines that it will not compromise the
15 investigation.

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

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

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

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

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

30 (D) For a written notice described in paragraph (1) of subdivision (j), use of the
31 model security breach notification form prescribed below or use of the headings
32 described in this paragraph with the information described in paragraph (2),
33 written in plain language, shall be deemed to be in compliance with this
34 subdivision.

35

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

Other Important Information. [insert other important information]	
For More Information.	Call [telephone number] or go to [internet website]

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

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

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

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

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

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

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

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

6 (G) If the person or business providing the notification was the source of the
7 breach, an offer to provide appropriate identity theft prevention and mitigation
8 services, if any, shall be provided at no cost to the affected person for not less than
9 12 months along with all information necessary to take advantage of the offer to
10 any person whose information was or may have been breached if the breach
11 exposed or may have exposed personal information defined in subparagraphs (A)
12 and (B) of paragraph (1) of subdivision (h).

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

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

17 (B) Advice on steps that people whose information has been breached may take
18 to protect themselves.

19 (C) In breaches involving biometric data, instructions on how to notify other
20 entities that used the same type of biometric data as an authenticator to no longer
21 rely on data for authentication purposes.

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

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

37 (g) For purposes of this section, "breach of the security of the system" means
38 unauthorized acquisition of computerized data that compromises the security,
39 confidentiality, or integrity of personal information maintained by the person or
40 business. Good faith acquisition of personal information by an employee or agent
41 of the person or business for the purposes of the person or business is not a breach
42 of the security of the system, provided that the personal information is not used or
43 subject to further unauthorized disclosure.

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

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

6 (A) Social security number.

7 (B) Driver’s license number, California identification card number, tax
8 identification number, passport number, military identification number, or other
9 unique identification number issued on a government document commonly used to
10 verify the identity of a specific individual.

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

14 (D) Medical information.

15 (E) Health insurance information.

16 (F) Unique biometric data generated from measurements or technical analysis of
17 human body characteristics, such as a fingerprint, retina, or iris image, used to
18 authenticate a specific individual. Unique biometric data does not include a
19 physical or digital photograph, unless used or stored for facial recognition
20 purposes.

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

23 (H) Genetic data.

24 (2) A username or email address, in combination with a password or security
25 question and answer that would permit access to an online account.

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

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

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

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

40 (5) “Genetic data” means any data, regardless of its format, that results from the
41 analysis of a biological sample of an individual, or from another source enabling
42 equivalent information to be obtained, and concerns genetic material. Genetic
43 material includes, but is not limited to, deoxyribonucleic acids (DNA), ribonucleic

1 acids (RNA), genes, chromosomes, alleles, genomes, alterations or modifications
2 to DNA or RNA, single nucleotide polymorphisms (SNPs), uninterpreted data that
3 results from analysis of the biological sample or other source, and any information
4 extrapolated, derived, or inferred therefrom.

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

7 (1) Written notice.

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

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

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

18 (B) Conspicuous posting, for a minimum of 30 days, of the notice on the internet
19 website page of the person or business, if the person or business maintains one.
20 For purposes of this subparagraph, conspicuous posting on the person’s or
21 business’s internet website means providing a link to the notice on the home page
22 or first significant page after entering the internet website that is in larger type than
23 the surrounding text, or in contrasting type, font, or color to the surrounding text
24 of the same size, or set off from the surrounding text of the same size by symbols
25 or other marks that call attention to the link.

26 (C) Notification to major statewide media.

27 (4) In the case of a breach of the security of the system involving personal
28 information defined in paragraph (2) of subdivision (h) for an online account, and
29 no other personal information defined in paragraph (1) of subdivision (h), the
30 person or business may comply with this section by providing the security breach
31 notification in electronic or other form that directs the person whose personal
32 information has been breached promptly to change the person’s password and
33 security question or answer, as applicable, or to take other steps appropriate to
34 protect the online account with the person or business and all other online
35 accounts for which the person whose personal information has been breached uses
36 the same username or email address and password or security question or answer.

37 (5) In the case of a breach of the security of the system involving personal
38 information defined in paragraph (2) of subdivision (h) for login credentials of an
39 email account furnished by the person or business, the person or business shall not
40 comply with this section by providing the security breach notification to that email
41 address, but may, instead, comply with this section by providing notice by another
42 method described in this subdivision or by clear and conspicuous notice delivered
43 to the resident online when the resident is connected to the online account from an

1 Internet Protocol address or online location from which the person or business
2 knows the resident customarily accesses the account.

3 (k) For purposes of this section, “encryption key” and “security credential”
4 mean the confidential key or process designed to render data usable, readable, and
5 decipherable.

6 (l) Notwithstanding subdivision (j), a person or business that maintains its own
7 notification procedures as part of an information security policy for the treatment
8 of personal information and is otherwise consistent with the timing requirements
9 of this part, shall be deemed to be in compliance with the notification requirements
10 of this section if the person or business notifies subject persons in accordance with
11 its policies in the event of a breach of security of the system.

12 **Comment.** Section 1798.82 is amended to reflect nonsubstantive recodification of the
13 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
14 Comm’n Reports 207 (2019).

15 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
16 Reports 207 (2019).]

17 **Note.** In 2021, Civil Code Section 1798.82 was amended by the CPRA conforming revisions
18 bill. See 2021 Cal. Stat. ch. 615, § 48 (AB 474 (Chau)). The section was also amended by 2021
19 Cal. Stat. ch. 527, § 3 (AB 825 (Levine)).

20 Due to the subordination clause in the CPRA conforming revisions bill, the amendment made
21 by that bill was chaptered out by AB 825. See Gov’t Code § 9605 (“In the absence of any *express*
22 *provision to the contrary* in the statute that is enacted last, it shall be conclusively presumed that
23 the statute which is enacted last is intended to prevail over statutes that are enacted earlier at the
24 same session ...” (emphasis added)).

25 Consequently, the CPRA cross-reference in Civil Code Section 1798.82 still needs to be
26 updated to reflect the CPRA recodification. The new conforming revision of Civil Code Section
27 1798.82 (shown above) is based on 2021 Cal. Stat. ch. 527, § 3.

28 EDUCATION CODE

29 **Educ. Code § 10872 (amended). Nondisclosure of records or source data in data system**

30 SEC. 17. Section 10872 of the Education Code is amended to read:

31 10872. Notwithstanding any other law, records or source data contained in the
32 data system shall not be subject to disclosure under the California Public Records
33 Act ~~(Chapter 3.5 (commencing with Section 6250) of Division 7 (Division 10~~
34 ~~(commencing with Section 7920.000) of Title 1 of the Government Code).~~

35 **Comment.** Section 10872 is amended to reflect nonsubstantive recodification of the California
36 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
37 Reports 207 (2019).

38 [This Comment is new.]

39 **Note.** Section 10872 was just added to the Education Code by 2021 Cal. Stat. ch. 144, § 8 (AB
40 132 (Committee on Budget)), a budget-related bill enacted on 7/27/21. The CPRA cross-reference
41 in that section needs to be updated to reflect the CPRA recodification.

1 **Educ. Code § 22228 (amended). Status report for Legislature**

2 SEC. 18. Section 22228 of the Education Code is amended to read:

3 22228. (a) Commencing March 1, 2023, and annually thereafter, the board shall
4 submit a report to the Legislature on the status of achieving appropriate objectives
5 and initiatives, as defined by the board, regarding participation of emerging or
6 diverse managers responsible for asset management within its portfolio of
7 investments. The report shall be based on contracts that the system enters into on
8 and after January 1, 2022.

9 (b) The report shall also identify and include both of the following:

10 (1) The name of each emerging or diverse manager providing investment
11 portfolio or asset management services at the end of the prior fiscal year,
12 including, but not limited to, fund of funds contracts, for all asset classes, as
13 applicable. The board shall also report the year the emerging or diverse manager
14 was first engaged or contracted to provide investment portfolio or asset
15 management services.

16 (2) The amount managed by each emerging or diverse manager by asset class at
17 the end of the prior fiscal year, as well as the total amount allocated by the system
18 in the applicable asset class during the year and the total amount of the asset class
19 in the system’s investment portfolio.

20 (c) The board shall define the term “emerging manager” and “diverse manager”
21 for purposes of this section.

22 (d) The report required by this section shall be submitted in compliance with
23 Section 9795 of the Government Code.

24 (e) Nothing in this section shall require the board to take action unless the board
25 determines in good faith that the action described in this section is consistent with
26 the fiduciary responsibilities of the board as described in Section 17 of Article
27 XVI of the California Constitution.

28 (f) This section shall not require the board to disclose information that is
29 excepted from disclosure under Section ~~6254.26~~ 7928.710 of the Government
30 Code.

31 (g) This section shall remain in effect only until January 1, 2028, and as of that
32 date is repealed, unless a later enacted statute that is enacted before January 1,
33 2028, deletes or extends that date.

34 **Comment.** Section 22228 is amended to reflect nonsubstantive recodification of the California
35 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
36 Reports 207 (2019).

37 [This Comment is new.]

38 **Note.** Education Code Section 22228 was just added to the codes by 2021 Cal. Stat. ch. 472, §
39 1 (AB 890 (Cervantes)). The CPRA cross-reference in this new provision needs to be updated to
40 reflect the CPRA recodification.

41 **Educ. Code § 32090 (amended). Notification of local health officer about school employee or**
42 **pupil with positive COVID-19 test**

43 SEC. 19. Section 32090 of the Education Code is amended to read:

1 32090. (a) (1) Upon learning that a school employee or pupil at a public or
2 private school campus maintaining kindergarten or any of grades 1 to 12,
3 inclusive, in the state has tested positive for COVID-19 and was present on
4 campus while infectious, the school administrator or other person in charge of the
5 public or private school shall immediately, and in no case later than 24 hours after
6 learning of the positive case, notify the local health officer or the local health
7 officer's representative about the positive case.

8 (2) For purposes of this subdivision, the required notification to the local health
9 officer or the local health officer's representative shall include all of the following
10 information, if known:

11 (A) Identifying information of the individual who tested positive, including full
12 name, address, telephone number, and date of birth.

13 (B) The date of the positive test, the school or schools at which the individual
14 was present onsite, and the date the individual was last onsite at the applicable
15 school or schools.

16 (C) The name, address, and telephone number of the person making the report.

17 (3) The school administrator or other person in charge of the school shall notify
18 the local health officer or the local health officer's representative, as required by
19 this subdivision, even if the individual who tested positive has not provided prior
20 consent to the disclosure of personally identifiable information. For any school
21 subject to the federal Family Educational Rights and Privacy Act of 1974 (20
22 U.S.C. Sec. 1232g), the school administrator or other person in charge of the
23 school shall notify the local health officer or the local health officer's
24 representative, even without prior written consent, as a disclosure that is necessary
25 to protect the health or safety of the student or other individuals pursuant to
26 Section 99.36 of Title 34 of the Code of Federal Regulations.

27 (4) (A) Information reported pursuant to this subdivision shall not be disclosed
28 by a local public health department, except in any of the following circumstances:

29 (i) To the State Department of Public Health to the extent deemed necessary by
30 the local health officer for an investigation to determine the source of infection
31 and to prevent the spread of COVID-19.

32 (ii) If required by state or federal law.

33 (iii) With the written consent of the individual to whom the information pertains
34 or the legal representative of the individual.

35 (iv) If the source of infection or exposure of other persons is believed to be
36 outside the local jurisdiction, in which case the local health officer shall notify and
37 share necessary information with local or government public health officials for
38 the relevant jurisdictions to monitor, investigate, prevent, and control the spread of
39 COVID-19.

40 (B) Upon receiving a report made pursuant to this article, the local health officer
41 shall take the steps necessary to investigate, prevent, and control the spread of
42 COVID-19.

1 (C) Information reported under this subdivision is not subject to disclosure
2 under the California Public Records Act (~~Chapter 3.5 (commencing with Section~~
3 ~~6250) of Division 7 (Division 10 (commencing with Section 7920.000)~~ of Title 1
4 of the Government Code) pursuant to ~~subdivision (e) of Section 6254~~ Section
5 7927.700 of the Government Code.

6 (5) The requirements of this subdivision shall be in addition to any other legal
7 requirements related to the reporting of a communicable disease.

8 (b) Beginning March 15, 2021, a single schoolsite of a local educational agency
9 with two or more outbreaks of COVID-19, as identified by the local health officer
10 or the State Department of Public Health, shall be subject to a safety review by the
11 State Department of Public Health.

12 **Comment.** Section 32090 is amended to reflect nonsubstantive recodification of the California
13 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
14 Reports 207 (2019).

15 [This Comment is new.]

16 **Note.** Education Code Section 32090 was just added to the codes by 2021 Cal. Stat. ch. 10, § 1
17 (AB 86 (Committee on Budget), a budget-related bill enacted on 3/5/21). It is scheduled to be
18 repealed on 1/1/23, pursuant to Education Code Section 32095.

19 The operative date for the CPRA recodification is 1/1/23 (see Gov't Code §§ 6276.50,
20 7931.000). If Education Code Section 32090 is repealed on 1/1/23 as scheduled, it will not be
21 necessary to update its CPRA cross-references to reflect the CPRA recodification. If the repeal
22 date is extended, however, the CPRA cross-references in Education Code Section 32090 will
23 need to be updated as shown above.

24 **Educ. Code § 69996.9 (amended). KIDS Accounts for pupils**

25 SEC. 20. Section 69996.9 of the Education Code is amended to read:

26 69996.9. (a) (1) For the 2021–22 fiscal year, through the program, all of the
27 following shall occur:

28 (A) Each pupil entering grades 1 to 12, inclusive, in the 2021–22 fiscal year who
29 meets the requirements to be considered an unduplicated pupil for purposes of
30 paragraph (1) of subdivision (b) of Section 2574 or paragraph (1) of subdivision
31 (b) of Section 42238.02 and who is enrolled at a school district, public charter
32 school, state special school, or other local educational agency, shall have a KIDS
33 Account established on the pupil's behalf, unless the pupil's KIDS Account has
34 already been established pursuant to Section 69996.3, and shall receive an
35 enhanced deposit into the pupil's KIDS Account in the amount of five hundred
36 dollars (\$500).

37 (B) In addition to the amount allocated pursuant to subparagraph (A), the KIDS
38 Account of each eligible pupil who is also a foster youth, as defined under
39 subdivision (b) of Section 42238.01, shall receive an enhanced deposit of an
40 additional five hundred dollars (\$500).

41 (C) In addition to the amount allocated pursuant to subparagraphs (A) and (B),
42 the KIDS Account of each eligible pupil who is also a homeless pupil meeting the
43 definition of "homeless children and youths" in subsection (2) of Section 725 of

1 the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11434a(2))
2 shall receive an enhanced deposit of an additional five hundred dollars (\$500).

3 (2) Commencing with the 2022–23 fiscal year, through the program, all of the
4 following shall occur:

5 (A) Each pupil who meets all of the following conditions shall have a KIDS
6 Account opened on their behalf, unless their account has already been established
7 pursuant to Section 69996.3, and shall receive an enhanced deposit into their
8 KIDS Account in the amount of five hundred dollars (\$500):

9 (i) The pupil is entering first grade in the applicable fiscal year.

10 (ii) The pupil meets the requirements to be considered an unduplicated pupil for
11 purposes of paragraph (1) of subdivision (b) of Section 2574 or paragraph (1) of
12 subdivision (b) of Section 42238.02.

13 (iii) The pupil is enrolled at a school district, public charter school, state special
14 school, or other local educational agency.

15 (B) In addition to the amount allocated pursuant to subparagraph (A), the KIDS
16 Account of each pupil who meets the requirements of subparagraph (A) and is also
17 a foster youth, as defined under subdivision (b) of Section 42238.01, shall receive
18 an enhanced deposit of an additional five hundred dollars (\$500).

19 (C) In addition to the amount allocated pursuant to subparagraphs (A) and (B),
20 the KIDS Account of each pupil who meets the requirements of subparagraph (A)
21 and is also a homeless pupil under the definition of “homeless children and
22 youths” in subsection (2) of Section 725 of the federal McKinney-Vento Homeless
23 Assistance Act (42 U.S.C. Sec. 11434a(2)) shall receive an enhanced deposit of an
24 additional five hundred dollars (\$500).

25 (D) For pupils for whom a KIDS Account has already been established pursuant
26 to Section 69996.3 and who are also eligible for an enhanced deposit pursuant to
27 this paragraph, the enhanced deposit shall be deposited in the KIDS Account in
28 which funding for that pupil is currently held.

29 (3) A pupil who receives an enhanced deposit into their KIDS Account pursuant
30 to paragraph (1) or (2) may only have one enhanced deposit made into their
31 existing or newly established KIDS Account pursuant to this article. A pupil shall
32 not have more than one KIDS Account established for them pursuant to this
33 article.

34 (b) (1) The board shall collaborate with the State Department of Education, or
35 other relevant governmental agencies, to identify eligible pupils for the purpose of
36 establishing KIDS Accounts or making an enhanced deposit into existing KIDS
37 Accounts pursuant to this section. To the extent feasible, the State Department of
38 Education shall annually provide necessary data using census day data in a secure
39 manner for the board to fulfill its obligations pursuant to this article, including, but
40 not necessarily limited to, eligible pupils’ names, pupil identification, birth dates,
41 grade levels, contact information of parents or legal guardians, and eligibility
42 information. For purposes of this subdivision, the information received by the
43 board shall be considered necessary to facilitate the establishment or enhancement

1 of KIDS Accounts, or the establishment of a notification process for parents or
2 legal guardians of eligible pupils.

3 (2) The board shall comply with federal and state laws to protect individual
4 privacy, including, but not limited to, the Information Practices Act of 1977
5 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of
6 the Civil Code) and all of the following federal statutes:

7 (A) The Family Educational Rights and Privacy Act of 1974 (Public Law 93-
8 380, as amended).

9 (B) The Health Insurance Portability and Accountability Act of 1996 (Public
10 Law 104-191, as amended).

11 (C) The Higher Education Act of 1965 (Public Law 89-329, as amended).

12 (3) Notwithstanding any other law, individual records or source data associated
13 with the establishment of a KIDS Account pursuant to this article shall not be
14 subject to disclosure under the California Public Records Act (~~Chapter 3.5~~
15 ~~(commencing with Section 6250) of Division 7~~ (Division 10 (commencing with
16 Section 7920.000) of Title 1 of the Government Code).

17 (c) The Legislature finds and declares that undocumented persons are eligible
18 for KIDS Accounts within the meaning of subsection (d) of Section 1621 of Title
19 8 of the United States Code.

20 (d) It is the intent of the Legislature to appropriate state funding in the annual
21 Budget Act to support the establishment of a KIDS Account for any eligible pupil
22 who meets, or could meet in a future year, the requirements to be exempt from
23 nonresident tuition pursuant to subdivision (a) of Section 68130.5.

24 **Comment.** Section 69996.9 is amended to reflect nonsubstantive recodification of the
25 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
26 Comm'n Reports 207 (2019).

27 [This Comment is new.]

28 **Note.** Section 69996.9 was just added to the Education Code by 2021 Cal. Stat. ch. 144, § 56
29 (AB 132 (Committee on Budget)), a budget-related bill enacted on 7/27/21. The section was
30 amended by 2021 Cal. Stat. ch. 262, § 10 (SB 169 (Committee on Budget & Fiscal Review)), a
31 budget-related bill enacted on 9/23/21. The CPRA cross-reference in this new provision needs to
32 be updated to reflect the CPRA recodification.

33 ELECTIONS CODE

34 **Elec. Code § 2194 (amended). Affidavit of voter registration**

35 SEC. 21. Section 2194 of the Elections Code is amended to read:

36 2194. (a) Except as provided in Section 2194.1, the affidavit of voter registration
37 information identified in Section ~~6254.4~~ 7924.000 of the Government Code:

38 (1) Shall be confidential and shall not appear on any computer terminal, list,
39 affidavit, duplicate affidavit, or other medium routinely available to the public at
40 the county elections official's office.

1 (2) Shall not be used for any personal, private, or commercial purpose,
2 including, but not limited to:

3 (A) The harassment of any voter or voter’s household.

4 (B) The advertising, solicitation, sale, or marketing of products or services to
5 any voter or voter’s household.

6 (C) Reproduction in print, broadcast visual or audio, or display on the internet or
7 any computer terminal unless pursuant to paragraph (3).

8 (3) Shall be provided with respect to any voter, subject to the provisions of
9 Sections 2166, 2166.5, 2166.7, and 2188, to any candidate for federal, state, or
10 local office, to any committee for or against any initiative or referendum measure
11 for which legal publication is made, and to any person for election, scholarly,
12 journalistic, or political purposes, or for governmental purposes, as determined by
13 the Secretary of State.

14 (4) May be used by the Secretary of State for the purpose of educating voters
15 pursuant to Section 12173 of the Government Code.

16 (b) (1) Notwithstanding any other law, the California driver’s license number,
17 the California identification card number, the social security number, and any
18 other unique identifier used by the State of California for purposes of voter
19 identification shown on the affidavit of voter registration of a registered voter, or
20 added to voter registration records to comply with the requirements of the federal
21 Help America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.), are confidential
22 and shall not be disclosed to any person.

23 (2) Notwithstanding any other law, the signature of the voter shown on the
24 affidavit of voter registration or an image thereof is confidential and shall not be
25 disclosed to any person, except as provided in subdivision (c).

26 (c) (1) The home address or signature of any voter shall be released whenever
27 the person’s vote is challenged pursuant to Sections 15105 to 15108, inclusive, or
28 Article 3 (commencing with Section 14240) of Chapter 3 of Division 14. The
29 address or signature shall be released only to the challenger, to elections officials,
30 and to other persons as necessary to make, defend against, or adjudicate the
31 challenge.

32 (2) An elections official shall permit a person to view the signature of a voter for
33 the purpose of determining whether the signature compares with a signature on an
34 affidavit of registration or an image thereof or a petition, but shall not permit a
35 signature to be copied.

36 (d) A governmental entity, or officer or employee thereof, shall not be held
37 civilly liable as a result of disclosure of the information referred to in this section,
38 unless by a showing of gross negligence or willfulness.

39 (e) For the purposes of this section, “voter’s household” is defined as the voter’s
40 place of residence or mailing address or any persons who reside at the place of
41 residence or use the mailing address as supplied on the affidavit of registration
42 pursuant to paragraphs (3) and (4) of subdivision (a) of Section 2150.

1 (f) Notwithstanding any other law, information regarding voters who did not
2 sign a vote by mail ballot identification envelope or whose signature on the vote
3 by mail ballot identification envelope did not compare with the voter’s signature
4 on file shall be treated as confidential voter registration information pursuant to
5 this section and Section ~~6254.4~~ 7924.000 of the Government Code. This
6 information shall not be disclosed to any person except as provided in this section.
7 Any disclosure of this information shall be accompanied by a notice to the
8 recipient regarding Sections 18109 and 18540. Voter information provided
9 pursuant to this subdivision shall be updated daily, include the name of the voter,
10 and be provided in a searchable electronic format.

11 **Comment.** Section 2194 is amended to reflect nonsubstantive recodification of the California
12 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
13 Reports 207 (2019).

14 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
15 Reports 207 (2019).]

16 **Note.** In 2021, Elections Code Section 2194 was amended by the CPRA conforming revisions
17 bill. See 2021 Cal. Stat. ch. 615, § 92 (AB 474 (Chau)). The section was also amended by 2021
18 Cal. Stat. ch. 319, § 1 (SB 503 (Becker)).

19 Due to the subordination clause in the CPRA conforming revisions bill, the amendment made
20 by that bill was chaptered out by SB 503. See Gov’t Code § 9605 (“In the absence of any *express*
21 *provision to the contrary* in the statute that is enacted last, it shall be conclusively presumed that
22 the statute which is enacted last is intended to prevail over statutes that are enacted earlier at the
23 same session” (emphasis added)).

24 Consequently, the CPRA cross-references in Elections Code Section 2194 still need to be
25 updated to reflect the CPRA recodification. The new conforming revision of Elections Code
26 Section 2194 (shown above) is based on 2021 Cal. Stat. ch. 319, § 1.

27 **Elec. Code § 2269 (amended). Confidentiality of voter registration or preregistration**
28 **information**

29 SEC. 22. Section 2269 of the Elections Code is amended to read:

30 2269. This chapter does not affect the confidentiality of a person’s voter
31 registration or preregistration information, which remains confidential pursuant to
32 Section 2194 of this code and Section ~~6254.4~~ 7924.000 of the Government Code
33 and for all of the following persons:

34 (a) A victim of domestic violence, sexual assault, or stalking pursuant to Section
35 2166.5.

36 (b) A reproductive health care service provider, employee, volunteer, or patient
37 pursuant to Section 2166.5.

38 (c) A public safety officer pursuant to Section 2166.7.

39 (d) A person with a life-threatening circumstance upon court order pursuant to
40 Section 2166.

41 **Comment.** Section 2269 is amended to reflect nonsubstantive recodification of the California
42 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
43 Reports 207 (2019).

44 [This Comment is new.]

1 **Note.** In 2021, former Elections Code Section 2267 was amended by the CPRA conforming
2 revisions bill. See 2021 Cal. Stat. ch. 615, § 95 (AB 474 (Chau)). The section was also amended
3 *and renumbered as Elections Code Section 2269* by 2021 Cal. Stat. ch. 314, § 8 (AB 796
4 (Berman)).

5 Due to the subordination clause in the CPRA conforming revisions bill, the amendment made
6 by that bill was chaptered out by AB 796. See Gov't Code § 9605 ("In the absence of any *express*
7 *provision to the contrary* in the statute that is enacted last, it shall be conclusively presumed that
8 the statute which is enacted last is intended to prevail over statutes that are enacted earlier at the
9 same session" (emphasis added)).

10 Consequently, the CPRA cross-reference in new Elections Code Section 2269 (former
11 Elections Code Section 2267) still needs to be updated to reflect the CPRA recodification. The
12 conforming revision of Elections Code Section 2269 (shown above) is based on 2021 Cal. Stat.
13 ch. 314, § 8.

14 **Elec. Code § 13300.7 (amended). Option to opt out of receiving election materials by mail**

15 SEC. 23. Section 13300.7 of the Elections Code is amended to read:

16 13300.7. Notwithstanding any other law, county and city elections officials may
17 establish procedures designed to permit a voter to opt out of receiving the voter's
18 county voter information guide, state voter information guide, notice of polling
19 place, and associated materials by mail, and instead obtain them electronically via
20 email or by accessing them on the county's or city's internet website, if all of the
21 following conditions are met:

22 (a) The procedures establish a method of providing notice of and an opportunity
23 by which a voter can notify elections officials of the voter's desire to obtain ballot
24 materials electronically in lieu of receiving them by mail.

25 (b) The voter email address or any other information provided by the voter
26 under this section remains confidential pursuant to Section ~~6254.4~~ 7924.000 of the
27 Government Code and Section 2194 of this code.

28 (c) The procedures provide notice and opportunity for a voter who has opted out
29 of receiving a county voter information guide and other materials by mail to opt
30 back into receiving them by mail.

31 (d) The procedures establish a process by which a voter can apply electronically
32 to become a vote by mail voter.

33 (e) A voter may only opt out of, or opt back into, receiving the voter's county
34 voter information guide and other ballot materials by mail if the elections official
35 receives the request and can process it before the statutory deadline for the mailing
36 of those materials for the next election, pursuant to Section 13303. If a voter
37 misses this deadline, the request shall take effect the following election.

38 (f) The procedures shall include a verification process to confirm the voter's
39 identity in any of the following manners:

40 (1) In writing with a signature card that can be matched to the one on file with
41 the elections official.

42 (2) Electronically with the electronic transmission containing the voter's
43 California driver's license number, California identification number, or a partial
44 social security number.

1 (3) By telephone or in person, upon confirmation of the voter’s date of birth,
2 residence address, and California driver’s license number, California identification
3 number, or a partial social security number.

4 (g) Information made available over the internet pursuant to this section shall
5 meet or exceed the most current, ratified standards under Section 508 of the
6 federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794d), as amended, and the
7 Web Content Accessibility Guidelines 2.0 adopted by the World Wide Web
8 Consortium for accessibility. Election officials may also implement
9 recommendations of the Voting Accessibility Advisory Committee made pursuant
10 to paragraph (4) of subdivision (b) of Section 2053, and of any local Voting
11 Accessibility Advisory Committee created pursuant to the guidelines promulgated
12 by the Secretary of State related to the accessibility of polling places by the
13 physically handicapped.

14 **Comment.** Section 13300.7 is amended to reflect nonsubstantive recodification of the
15 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
16 Comm’n Reports 207 (2019).

17 [This revised Comment replaces the one in *California Public Records Act Clean-Up*, 46 Cal.
18 L. Revision Comm’n Reports 207 (2019).]

19 **Note.** In 2021, Elections Code Section 13300.7 was amended by the CPRA conforming
20 revisions bill. See 2021 Cal. Stat. ch. 615, § 98 (AB 474 (Chau)). The section was also amended
21 by 2021 Cal. Stat. ch. 100, § 2 (AB 1591 (Committee on Elections)).

22 Due to the subordination clause in the CPRA conforming revisions bill, the amendment made
23 by that bill was chaptered out by AB 1591. See Gov’t Code § 9605 (“In the absence of any
24 *express provision to the contrary* in the statute that is enacted last, it shall be conclusively
25 presumed that the statute which is enacted last is intended to prevail over statutes that are enacted
26 earlier at the same session” (emphasis added)).

27 Consequently, the CPRA cross-reference in Elections Code Section 13300.7 still needs to be
28 updated to reflect the CPRA recodification. The conforming revision of Elections Code Section
29 13300.7 (shown above) is based on 2021 Cal. Stat. ch. 100, § 2.

30 FOOD AND AGRICULTURAL CODE

31 **Food & Agric. Code § 9269 (amended). Confidentiality of records relating to commercial**
32 **blood banks for animals and biologics**

33 SEC. 24. Section 9269 of the Food and Agricultural Code is amended to read:

34 9269. (a) Except as provided in subdivision (b), the California Public Records
35 Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7 (Division 10~~
36 ~~(commencing with Section 7920.000)~~ of Title 1 of the Government Code) shall
37 apply to all records held by the department relating to this chapter, including, but
38 not limited to, records relating to applications, fees, or inspections required by this
39 chapter.

40 (b) (1) Except as provided in subdivisions (c) and (d), identifying personal
41 information that is contained in records described in subdivision (a) shall be
42 confidential and not subject to disclosure under the California Public Records Act

1 ~~(Chapter 3.5 (commencing with Section 6250) of Division 7 (Division 10~~
2 ~~(commencing with Section 7920.000) of Title 1 of the Government Code).~~

3 (2) This subdivision does not prevent the disclosure by the department of data
4 regarding age, race, ethnicity, national origin, or gender of individuals whose
5 personal information is protected pursuant to this section, so long as the data does
6 not contain individually identifiable information.

7 (c) Records held by the department relating to this chapter shall be accessible to
8 law enforcement officers and state and local agencies with jurisdiction over any
9 matter covered by this chapter.

10 (d) The department shall, upon request, disclose information in records relating
11 to this chapter that is already in the public domain.

12 (e) (1) For purposes of this section, “identifying personal information” means
13 the following information pertaining to the owner of an animal donor that is
14 collected for purposes of coordinating, conducting, or documenting a donation
15 from the animal owned by that person and is maintained by the department in
16 relation to this chapter:

17 (A) Social security number.

18 (B) Date of birth.

19 (C) Physical description.

20 (D) Home address.

21 (E) Statements of personal worth or personal financial data.

22 (F) Personal medical history.

23 (G) Employment history.

24 (H) Email address.

25 (I) Information that reveals any electronic network location or identity.

26 (2) For purposes of this subdivision, a person who owns, operates, maintains, or
27 oversees a commercial blood bank for animals shall not be considered the owner
28 of an animal donor.

29 **Comment.** Section 9269 is amended to reflect nonsubstantive recodification of the California
30 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
31 Reports 207 (2019).

32 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
33 Reports 207 (2019).]

34 **Note.** In 2021, Food and Agricultural Code Section 9269 was amended by the CPRA
35 conforming revisions bill. See 2021 Cal. Stat. ch. 615, § 120 (AB 474 (Chau)). The section was
36 also amended by 2021 Cal. Stat. ch. 752, § 23 (AB 1282 (Bloom)).

37 The amendment made by the CPRA conforming revisions bill was chaptered out by AB 1282.
38 See Gov’t Code § 9605 (in general, last-chaptered bill prevails).

39 Consequently, the CPRA cross-references in Food and Agricultural Code Section 9269 still
40 need to be updated to reflect the CPRA recodification. The conforming revision of Food and
41 Agricultural Code Section 9269 (shown above) is based on 2021 Cal. Stat. ch. 752, § 23.

1

GOVERNMENT CODE

2 **Gov't Code § 925.6 (amended). Controller's warrant for claim**

3 SEC. 25. Section 925.6 of the Government Code is amended to read:

4 925.6. (a) Except as otherwise provided in subdivisions (b) and (e), the
5 Controller shall not draw their warrant for any claim until the Controller has
6 audited that claim in conformity with law and the general rules and regulations
7 adopted by the department, governing the presentation and audit of claims. If the
8 Controller is directed by law to draw their warrant for any purpose, the direction is
9 subject to this section.

10 (b) Notwithstanding subdivision (a), the Assembly Committee on Rules, the
11 Senate Committee on Rules, and the Joint Rules Committee, in cooperation with
12 the Controller, shall adopt rules and regulations to govern the presentation of
13 claims of the committees to the Controller. The Controller, in cooperation with the
14 committees, shall adopt rules and regulations governing the audit and
15 recordkeeping of claims of the committees. All rules and regulations shall be
16 adopted by January 31, 1990, shall be published in the Assembly and Senate
17 Journals, and shall be made available to the public.

18 (c) Rules and regulations adopted pursuant to subdivision (b) shall not be subject
19 to the review by or approval of the Office of Administrative Law.

20 (d) Records of claims kept by the Controller pursuant to subdivision (b) shall be
21 open to public inspection as permitted by the California Public Records Act
22 (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division 10
23 (commencing with Section 7920.000 of Title 1)).

24 (e) (1) Notwithstanding subdivision (a), the Controller shall draw their warrant
25 for any claim submitted by the Department of Housing and Community
26 Development to advance the payment of funds to a vendor selected pursuant to
27 Section 50897.3 of the Health and Safety Code, based on approved applicants
28 associated with Chapter 17 (commencing with Section 50897) of Part 2 of
29 Division 31 of the Health and Safety Code. Funds made available for advance
30 payment pursuant to this subdivision shall not exceed 25 percent of the original
31 amount allocated for the program described in Chapter 17 (commencing with
32 Section 50897) of Part 2 of Division 31 of the Health and Safety Code at any
33 given time.

34 (2) The vendor described in paragraph (1) shall be the fiscal agent on behalf of
35 the Department of Housing and Community Development and shall be responsible
36 for maintaining all records of claims for audit purposes.

37 (3) Unless otherwise expressly provided, this subdivision shall remain operative
38 so long as funds are made available pursuant to Chapter 17 (commencing with
39 Section 50897) of Part 2 of Division 31 of the Health and Safety Code or as
40 otherwise provided under federal law.

1 **Comment.** Section 925.6 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
3 Reports 207 (2019).

4 [This revised Comment replaces the one in *California Public Records Act Clean-Up*, 46 Cal.
5 L. Revision Comm’n Reports 207 (2019).]

6 **Note.** In 2021, Government Code Section 925.6 was amended by the CPRA conforming
7 revisions bill. See 2021 Cal. Stat. ch. 615, § 135 (AB 474 (Chau)). The section was also amended
8 by a budget-related bill, which took effect upon enactment: 2021 Cal. Stat. ch. 2, § 23 (SB 91
9 (Committee on Budget & Fiscal Review)), enacted on 1/29/21.

10 Due to Government Code Sections 9600 and 9605, and the subordination clause in the CPRA
11 conforming revisions bill, the amendment made by that bill was chaptered out by SB 91.

12 Consequently, the CPRA cross-reference in Government Code Section 925.6 still needs to be
13 updated to reflect the CPRA recodification. The new conforming revision of Government Code
14 Section 925.6 (shown above) is based on 2021 Cal. Stat. ch. 2, § 23.

15 **Gov’t Code § 1029 (amended). Disqualification**

16 SEC. 26. Section 1029 of the Government Code is amended to read:

17 1029. (a) Except as provided in subdivision (b), (c), (d), or (e), each of the
18 following persons is disqualified from holding office as a peace officer or being
19 employed as a peace officer of the state, county, city, city and county or other
20 political subdivision, whether with or without compensation, and is disqualified
21 from any office or employment by the state, county, city, city and county or other
22 political subdivision, whether with or without compensation, which confers upon
23 the holder or employee the powers and duties of a peace officer:

24 (1) Any person who has been convicted of a felony.

25 (2) Any person who has been convicted of any offense in any other jurisdiction
26 which would have been a felony if committed in this state.

27 (3) Any person who has been discharged from the military for committing an
28 offense, as adjudicated by a military tribunal, which would have been a felony if
29 committed in this state.

30 (4) (A) Any person who, after January 1, 2004, has been convicted of a crime
31 based upon a verdict or finding of guilt of a felony by the trier of fact, or upon the
32 entry of a plea of guilty or nolo contendere to a felony. This paragraph applies
33 regardless of whether, pursuant to subdivision (b) of Section 17 of the Penal Code,
34 the court declares the offense to be a misdemeanor or the offense becomes a
35 misdemeanor by operation of law.

36 (B) For purposes of this paragraph, a person has been “convicted of a crime”
37 immediately upon entry of a plea of guilty or nolo contendere to, or upon being
38 found guilty by a trier of fact of, a felony offense, including an offense that may be
39 charged as a misdemeanor or felony and that was charged as a felony at the time
40 of the conviction.

41 (C) Effective January 1, 2022, any person who has been convicted of a crime in
42 accordance with this paragraph shall not regain eligibility for peace officer
43 employment based upon the nature of any sentence ordered or imposed. In
44 addition, no such person shall regain eligibility for peace officer employment

1 based upon any later order of the court setting aside, vacating, withdrawing,
2 expunging or otherwise dismissing or reversing the conviction, unless the court
3 finds the person to be factually innocent of the crime for which they were
4 convicted at the time of entry of the order.

5 (5) Any person who has been charged with a felony and adjudged by a superior
6 court to be mentally incompetent under Chapter 6 (commencing with Section
7 1367) of Title 10 of Part 2 of the Penal Code.

8 (6) Any person who has been found not guilty by reason of insanity of any
9 felony.

10 (7) Any person who has been determined to be a mentally disordered sex
11 offender pursuant to Article 1 (commencing with Section 6300) of Chapter 2 of
12 Part 2 of Division 6 of the Welfare and Institutions Code.

13 (8) Any person adjudged addicted or in danger of becoming addicted to
14 narcotics, convicted, and committed to a state institution as provided in Section
15 3051 of the Welfare and Institutions Code.

16 (9) Any person who, following exhaustion of all available appeals, has been
17 convicted of, or adjudicated through an administrative, military, or civil judicial
18 process requiring not less than clear and convincing evidence, including a hearing
19 that meets the requirements of the administrative adjudication provisions of the
20 Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of
21 Part 1 of Division 3 of Title 2), as having committed, any act that is a violation of
22 Section 115, 115.3, 116, 116.5, or 117 of, or of any offense described in Chapter 1
23 (commencing with Section 92), Chapter 5 (commencing with Section 118),
24 Chapter 6 (commencing with Section 132), or Chapter 7 (commencing with
25 Section 142) of Title 7 of Part 1 of the Penal Code, including any act committed in
26 another jurisdiction that would have been a violation of any of those sections if
27 committed in this state.

28 (10) Any person who has been issued the certification described in Section
29 13510.1 of the Penal Code, and has had that certification revoked by the
30 Commission on Peace Officer Standards and Training, has voluntarily surrendered
31 that certification pursuant to subdivision (f) of Section 13510.8, or having met the
32 minimum requirement for issuance of certification, has been denied issuance of
33 certification.

34 (11) Any person previously employed in law enforcement in any state or United
35 States territory or by the federal government, whose name is listed in the National
36 Decertification Index of the International Association of Directors of Law
37 Enforcement Standards and Training or any other database designated by the
38 federal government whose certification as a law enforcement officer in that
39 jurisdiction was revoked for misconduct, or who, while employed as a law
40 enforcement officer, engaged in serious misconduct that would have resulted in
41 their certification being revoked by the commission if employed as a peace officer
42 in this state.

1 (b) (1) A plea of guilty to a felony pursuant to a deferred entry of judgment
2 program as set forth in Sections 1000 to 1000.4, inclusive, of the Penal Code shall
3 not alone disqualify a person from being a peace officer unless a judgment of
4 guilty is entered pursuant to Section 1000.3 of the Penal Code.

5 (2) A person who pleads guilty or nolo contendere to, or who is found guilty by
6 a trier of fact of, an alternate felony-misdemeanor drug possession offense and
7 successfully completes a program of probation pursuant to Section 1210.1 of the
8 Penal Code shall not be disqualified from being a peace officer solely on the basis
9 of the plea or finding if the court deems the offense to be a misdemeanor or
10 reduces the offense to a misdemeanor.

11 (c) Any person who has been convicted of a felony, other than a felony
12 punishable by death, in this state or any other state, or who has been convicted of
13 any offense in any other state which would have been a felony, other than a felony
14 punishable by death, if committed in this state, and who demonstrates the ability to
15 assist persons in programs of rehabilitation may hold office and be employed as a
16 parole officer of the Department of Corrections and Rehabilitation or the Division
17 of Juvenile Justice, or as a probation officer in a county probation department, if
18 the person has been granted a full and unconditional pardon for the felony or
19 offense of which they were convicted. Notwithstanding any other provision of
20 law, the Department of Corrections and Rehabilitation or the Division of Juvenile
21 Justice, or a county probation department, may refuse to employ that person
22 regardless of their qualifications.

23 (d) This section does not limit or curtail the power or authority of any board of
24 police commissioners, chief of police, sheriff, mayor, or other appointing authority
25 to appoint, employ, or deputize any person as a peace officer in time of disaster
26 caused by flood, fire, pestilence or similar public calamity, or to exercise any
27 power conferred by law to summon assistance in making arrests or preventing the
28 commission of any criminal offense.

29 (e) This section does not prohibit any person from holding office or being
30 employed as a superintendent, supervisor, or employee having custodial
31 responsibilities in an institution operated by a probation department, if at the time
32 of the person's hire a prior conviction of a felony was known to the person's
33 employer, and the class of office for which the person was hired was not declared
34 by law to be a class prohibited to persons convicted of a felony, but as a result of a
35 change in classification, as provided by law, the new classification would prohibit
36 employment of a person convicted of a felony.

37 (f) The Department of Justice shall supply the commission with necessary
38 disqualifying felony and misdemeanor conviction data for all persons known by
39 the department to be current or former peace officers. The commission shall be
40 permitted to use the information for decertification purposes. The data, once
41 received by the commission, shall be made available for public inspection
42 pursuant to the California Public Records Act (~~Chapter 3.5 (commencing with~~
43 ~~Section 6250) of Division 7 (Division 10 (commencing with Section 7920.000)) of~~

1 Title 1), including documentation of the person’s appointment, promotion, and
2 demotion dates, as well as certification or licensing status and the reason or
3 disposition for the person leaving service.

4 **Comment.** Section 1029 is amended to reflect nonsubstantive recodification of the California
5 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
6 Reports 207 (2019).

7 [This Comment is new.]

8 **Note.** Government Code Section 1029 was just amended by 2021 Cal. Stat. ch. 409, § 4 (SB 2
9 (Bradford)). Among other things, the amendment inserted a CPRA cross-reference, which now
10 needs to be updated to reflect the CPRA recodification.

11 **Gov’t Code § 3558 (amended). Information that public employer must provide to exclusive**
12 **representative**

13 SEC. 27. Section 3558 of the Government Code is amended to read:

14 3558. (a) Subject to the exceptions provided here, the public employer shall
15 provide the exclusive representative with the name, job title, department, work
16 location, work, home, and personal cellular telephone numbers, personal email
17 addresses on file with the employer, and home address of any newly hired
18 employee within 30 days of the date of hire or by the first pay period of the month
19 following hire, and the public employer shall also provide the exclusive
20 representative with a list of that information for all employees in the bargaining
21 unit at least every 120 days unless more frequent or more detailed lists are
22 required by an agreement with the exclusive representative. The information
23 identified in this section shall be provided to the exclusive representative
24 regardless of whether the newly hired public employee was previously employed
25 by the public employer. The information under this section shall be provided in a
26 manner consistent with Section ~~6254.3~~ 7928.300 and in a manner consistent with
27 Section 6207 for a participant in the address confidentiality program established
28 pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7. The
29 provision of information under this section shall be consistent with the employee
30 privacy requirements described in *County of Los Angeles v. Los Angeles County*
31 *Employee Relations Com.* (2013) 56 Cal.4th 905. This section does not preclude a
32 public employer and exclusive representative from agreeing to a different interval
33 within which the public employer provides the exclusive representative with the
34 name, job title, department, work location, work, home, and personal cellular
35 telephone numbers, personal email addresses, and home address of any newly
36 hired employee or member of the bargaining unit.

37 (b) An exclusive representative may file a charge of an unfair labor practice,
38 pursuant to subdivision (d), alleging a violation of subdivision (a) only after the
39 following requirements have been met:

40 (1) The aggrieved exclusive representative gives written notice to the public
41 employer, or a designated representative of the public employer, of an alleged
42 violation of subdivision (a), including the facts and theories to support the alleged
43 violation. The designated representative to receive written notice of an alleged

1 violation of subdivision (a) shall be the proper recipient under Public Employment
2 Relations Board regulations for filing or service of Public Employment Relations
3 Board matters.

4 (2) The public employer fails to comply with the requirements prescribed in
5 subdivision (c), if applicable.

6 (c) (1) If the alleged violation is that a public employer has provided an
7 inaccurate or incomplete list of employees to the exclusive representative, the
8 public employer has 20 calendar days to cure the alleged violation by complying
9 with the requirements of this subdivision. For purposes of this subdivision, a cure
10 is the provision of an accurate and complete list to the exclusive representative.
11 The opportunity to cure does not apply to any other violation of subdivision (a),
12 including, but not limited to, the failure to submit a list of newly hired employees
13 or a list of bargaining unit members within the time periods prescribed by
14 subdivision (a). The public employer shall give written notice by either certified
15 mail or electronically within the 20-calendar day period to the applicable exclusive
16 representative of the actions taken. The aggrieved exclusive representative may
17 file an unfair practice charge with the board if the alleged violation is not cured.

18 (2) A public employer may avail itself of the opportunity to cure pursuant to this
19 subdivision not more than three times in any 12-month period.

20 (d) (1) Subject to the limit described in paragraph (2) of subdivision (c) of
21 Section 3555.5, the exclusive representative may file an unfair practice charge
22 with the Public Employment Relations Board for violations of subdivision (a), as
23 described in subdivisions (b) and (c).

24 (2) In addition to any other remedy provided by law, a public employer found to
25 have violated subdivision (a) shall be subject to a civil penalty not to exceed ten
26 thousand dollars (\$10,000), which shall be determined by the Public Employment
27 Relations Board through application of the following criteria:

28 (A) The public employer's annual budget.

29 (B) The severity of the violation.

30 (C) Any prior history of violations by the public employer.

31 (3) This penalty shall be paid to the General Fund.

32 (4) The Public Employment Relations Board shall award to a prevailing party
33 attorney's fees and costs that accrue from the inception of proceedings before the
34 board's Division of Administrative Law until final disposition of the charge by the
35 board. The board, however, shall not award attorney's fees and costs under this
36 section for any proceedings before the board itself that challenge the dismissal of
37 an unfair practice charge by the board's Office of the General Counsel. If the
38 board initiates proceedings with a superior court to enforce or achieve compliance
39 with a board order, or is required to defend a decision of the board involving this
40 section after a party seeks judicial review, the court shall award the board
41 attorney's fees and costs if the board is the prevailing party.

42 (e) The amendments made to this section by the act adding this subdivision shall
43 be operative on July 1, 2022.

1 **Comment.** Section 3558 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
3 Reports 207 (2019).

4 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
5 Reports 207 (2019).]

6 **Note.** In 2021, Government Code Section 3558 was amended by the CPRA conforming
7 revisions bill. See 2021 Cal. Stat. ch. 615, § 138 (AB 474 (Chau)). The section was also amended
8 by 2021 Cal. Stat. ch. 330, § 1 (SB 270 (Durazo)), operative 7/1/22.

9 Due to the subordination clause in the CPRA conforming revisions bill, the amendment made
10 by that bill was chaptered out by SB 270. See Gov’t Code § 9605 (“In the absence of any *express*
11 *provision to the contrary* in the statute that is enacted last, it shall be conclusively presumed that
12 the statute which is enacted last is intended to prevail over statutes that are enacted earlier at the
13 same session ...” (emphasis added)).

14 Consequently, the CPRA cross-reference in Government Code Section 3558 still needs to be
15 updated to reflect the CPRA recodification, which will become operative on 1/1/23 (see Gov’t
16 Code § 7931.000 (2021 Cal. Stat. ch. 614, § 2)). Due to Government Code Section 9605 and the
17 7/1/22 sunrise clause in 2021 Cal. Stat. ch. 330, § 1, the new conforming revision of Government
18 Code Section 3558 (shown above) is based on 2021 Cal. Stat. ch. 330, § 1.

19 **Gov’t Code § 11019.7 (amended). Personal information in mail sent by state agency**

20 SEC. 28. Section 11019.7 of the Government Code is amended to read:

21 11019.7. (a) A state agency shall not send any outgoing United States mail to an
22 individual that contains personal information about that individual, including, but
23 not limited to, the individual’s social security number, telephone number, driver’s
24 license number, or credit card account number, unless that personal information is
25 contained within sealed correspondence and cannot be viewed from the outside of
26 that sealed correspondence.

27 (b) (1) Notwithstanding any other law, commencing on or before January 1,
28 2023, a state agency shall not send any outgoing United States mail to an
29 individual that contains the individual’s social security number unless the number
30 is truncated to its last four digits, except in the following circumstances:

31 (A) Federal law requires inclusion of the social security number.

32 (B) The documents are mailed to a current or prospective state employee.

33 (C) An individual erroneously mailed a document containing a social security
34 number to a state agency, and the state agency is returning the original document
35 by certified or registered United States mail.

36 (D) The Controller is returning documents to an individual previously submitted
37 by the individual pursuant to Chapter 7 (commencing with Section 1500) of Title
38 10 of Part 3 of the Code of Civil Procedure.

39 (E) The document is sent in response to a valid request for access to personal
40 information, pursuant to Section 1798.34 of the Civil Code.

41 (2) (A) On or before September 1, 2021, each state agency that mails an
42 individual’s full or truncated part of a social security number to that individual,
43 other than as permitted by paragraph (1), shall report to the Legislature regarding
44 when and why it does so.

1 (B) A state agency that is unable to comply with the requirements of paragraph
2 (1) of this subdivision shall submit an annual corrective action plan to the
3 Legislature by December 15 of each year until it is in compliance with that
4 paragraph. The annual corrective action plan shall include, at a minimum, all of
5 the following:

6 (i) The steps the agency has taken to stop including full social security numbers
7 on outgoing United States mail.

8 (ii) The number of documents sent as outgoing United States mail from which
9 the agency has successfully removed full social security numbers and the
10 approximate mailing volume corresponding with those documents.

11 (iii) The remaining steps that the agency plans to take to remove or replace full
12 social security numbers it includes on documents sent as outgoing United States
13 mail.

14 (iv) The number of documents and approximate mailing volume associated with
15 those documents that the agency has yet to address.

16 (v) The expected date by which the agency will stop sending documents that
17 contain full social security numbers as outgoing United States mail to individuals.

18 (C) A report required by subparagraph (A) of this paragraph or corrective action
19 plan required by subparagraph (B) of this paragraph and communications made in
20 connection with these documents that bear on what mailings do and do not contain
21 an individual's social security number, are confidential and shall not be disclosed
22 to the public pursuant to any state law, including, but not limited to, the California
23 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
24 ~~of Title 1 of the Government Code~~) (Division 10 (commencing with Section
25 7920.000 of Title 1)).

26 (3) (A) The requirement for submitting a report imposed under subparagraph
27 (A) of paragraph (2) is inoperative on January 1, 2024, pursuant to Section
28 10231.5 ~~of the Government Code~~.

29 (B) A report to be submitted pursuant to subparagraph (A) or (B) of paragraph
30 (2) shall be submitted in compliance with Section 9795 ~~of the Government Code~~.

31 (c) Upon appropriation by the Legislature, if the Employment Development
32 Department fails to comply with paragraph (1) of subdivision (b) by January 1,
33 2023, the department shall provide access to and pay for identity theft monitoring
34 for any individual who receives outgoing United States mail from the department
35 that contains the individual's social security number in violation of paragraph (1)
36 of subdivision (b).

37 (d) "Outgoing United States mail" for the purposes of this section includes
38 correspondence sent via a common carrier, including, but not limited to, a package
39 express service and a courier service.

40 (e) Notwithstanding subdivision (a) of Section 11000, "state agency" includes
41 the California State University.

1 **Comment.** Section 11019.7 is amended to reflect nonsubstantive recodification of the
2 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
3 Comm’n Reports 207 (2019).

4 The section is also amended to make technical changes.

5 [This Comment is from *Report of the California Law Revision Commission on Chapter 615 of*
6 *the Statutes of 2021 (Assembly Bill 474)*, 48 Cal. L. Revision Comm’n Reports __ (2021).]

7 **Note.** In 2021, Government Code Section 11019.7 was amended by the CPRA conforming
8 revisions bill. See 2021 Cal. Stat. ch. 615, § 159 (AB 474 (Chau)). The section was also amended
9 by the following bills:

10 (1) 2021 Cal. Stat. ch. 509, § 2 (AB 12 (Seyarto)), urgency bill enacted on 10/5/21.

11 (2) 2021 Cal. Stat. ch. 510, § 1 (AB 56 (Salas)).

12 Due to the subordination clause in the CPRA conforming revisions bill, the amendment made
13 by that bill was chaptered out by AB 56. See Gov’t Code § 9605 (“In the absence of any *express*
14 *provision to the contrary* in the statute that is enacted last, it shall be conclusively presumed that
15 the statute which is enacted last is intended to prevail over statutes that are enacted earlier at the
16 same session ...” (emphasis added)).

17 Consequently, the CPRA cross-reference in Government Code Section 11019.7 still needs to
18 be updated to reflect the CPRA recodification. The conforming revision of Government Code
19 Section 11019.7 (shown above) is based on 2021 Cal. Stat. ch. 510, § 1.

20 **Gov’t Code § 11546.45 (amended). Reports from Department of Technology to Legislature**

21 SEC. 29. Section 11546.45 of the Government Code is amended to read:

22 11546.45. (a) (1) The Department of Technology shall identify, assess, and
23 prioritize high-risk, critical information technology services and systems across
24 state government, as determined by the Department of Technology, for
25 modernization, stabilization or remediation.

26 (2) The Department of Technology shall submit an annual report to the
27 Legislature that includes all of the following:

28 (A) An explanation of how the Department of Technology is prioritizing these
29 efforts across state government.

30 (B) The impediments and risks that could, or issues that already have, led to
31 changes in how the Department of Technology identifies, assesses, and prioritizes
32 these efforts.

33 (3) In accordance with Section ~~6254.19~~ 7929.210, nothing in this section shall
34 be construed to require the disclosure of information relating to high-risk, critical
35 information technology services and systems by the Department of Technology, if,
36 on the facts of the particular case, disclosure of that record would reveal
37 vulnerabilities to, or otherwise increase the potential for an attack on, an
38 information technology system of a public agency.

39 (b) (1) Notwithstanding any other law, all state agencies and state entities shall
40 submit information relating to their information technology service contracts, as
41 defined, to the Department of Technology before February 1, 2022, and annually
42 thereafter, in a manner determined by the Department of Technology.

43 (2) The Department of Technology shall analyze the information submitted
44 pursuant to subparagraph (1).

1 (3) After completing the analysis, the Department of Technology shall submit a
2 report to the Legislature, as part of its annual information technology report
3 submitted pursuant to subdivision (e) of Section 11545, that does all of the
4 following:

5 (A) Identifies each service that the Department of Technology believes would be
6 appropriately centralized as shared services contracts.

7 (B) Summarizes market research the department would conduct to estimate the
8 one-time and ongoing costs to the state of each service.

9 (C) Calculates potential offsetting savings to the state from reduced overlap and
10 redundancy of services.

11 (4) After submitting the report, the Department of Technology shall create a
12 plan, coordinate with, and assist state agencies and state entities in, the
13 implementation of a plan to establish centralized contracts for identified shared
14 services, as defined. The plan may include, but is not limited to, a list of existing
15 service contracts of state agencies and state entities that may be replaced with
16 centralized service contracts managed by the Department of Technology and a
17 proposed strategy and timeline for the transition from existing service contracts to
18 centralized service contracts. The Department of Technology shall submit the plan
19 to the Joint Legislative Budget Committee no later than February 1, 2023.

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

21 (1) “Information technology services and systems contracts” means contracts for
22 services and systems, including, but not limited to, cloud services, including
23 “Software as a Service,” “Infrastructure as a Service,” and “Platform as a
24 Service,” on-premises services and systems, information technology personal
25 services, and information technology consulting services for not less than five
26 hundred thousand dollars (\$500,000) annually, or such amounts determined by the
27 Department of Technology pursuant to its policy.

28 (2) “Shared services” means information technology services commonly used
29 across state agencies that may be consolidated under a single contract to achieve
30 cost savings and process efficiencies.

31 **Comment.** Section 11546.45 is amended to reflect nonsubstantive recodification of the
32 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
33 Comm’n Reports 207 (2019).

34 [This Comment is new.]

35 **Note.** Government Code Section 11546.45 was just added to the codes by 2021 Cal. Stat. ch.
36 77, § 10 (AB 137 (Committee on Budget), a budget-related bill enacted on 7/16/21), and amended
37 by 2021 Cal. Stat. ch. 251, § 7 (AB 163 (Committee on Budget), a budget-related bill enacted on
38 9/23/21). The CPRA cross-reference in this new provision needs to be updated to reflect the
39 CPRA recodification.

40 **Gov’t Code § 11549.3 (amended). Information security program**

41 SEC. 30. Section 11549.3 of the Government Code is amended to read:

42 11549.3. (a) The chief shall establish an information security program. The
43 program responsibilities include, but are not limited to, all of the following:

1 (1) The creation, updating, and publishing of information security and privacy
2 policies, standards, and procedures for state agencies in the State Administrative
3 Manual.

4 (2) The creation, issuance, and maintenance of policies, standards, and
5 procedures directing state agencies to effectively manage security and risk for both
6 of the following:

7 (A) Information technology, which includes, but is not limited to, all electronic
8 technology systems and services, automated information handling, system design
9 and analysis, conversion of data, computer programming, information storage and
10 retrieval, telecommunications, requisite system controls, simulation, electronic
11 commerce, and all related interactions between people and machines.

12 (B) Information that is identified as mission critical, confidential, sensitive, or
13 personal, as defined and published by the office.

14 (3) The creation, issuance, and maintenance of policies, standards, and
15 procedures directing state agencies for the collection, tracking, and reporting of
16 information regarding security and privacy incidents.

17 (4) The creation, issuance, and maintenance of policies, standards, and
18 procedures directing state agencies in the development, maintenance, testing, and
19 filing of each state agency's disaster recovery plan.

20 (5) Coordination of the activities of state agency information security officers,
21 for purposes of integrating statewide security initiatives and ensuring compliance
22 with information security and privacy policies and standards.

23 (6) Promotion and enhancement of the state agencies' risk management and
24 privacy programs through education, awareness, collaboration, and consultation.

25 (7) Representing the state before the federal government, other state agencies,
26 local government entities, and private industry on issues that have statewide
27 impact on information security and privacy.

28 (b) All state entities defined in Section 11546.1 shall implement the policies and
29 procedures issued by the office, including, but not limited to, performing both of
30 the following duties:

31 (1) Comply with the information security and privacy policies, standards, and
32 procedures issued pursuant to this chapter by the office.

33 (2) Comply with filing requirements and incident notification by providing
34 timely information and reports as required by the office.

35 (c) (1) The office may conduct, or require to be conducted, an independent
36 security assessment of every state agency, department, or office. The cost of the
37 independent security assessment shall be funded by the state agency, department,
38 or office being assessed.

39 (2) In addition to the independent security assessments authorized by paragraph
40 (1), the office, in consultation with the Office of Emergency Services, shall
41 perform all the following duties:

1 (A) Annually require no fewer than 35 state entities to perform an independent
2 security assessment, the cost of which shall be funded by the state agency,
3 department, or office being assessed.

4 (B) Determine criteria and rank state entities based on an information security
5 risk index that may include, but not be limited to, analysis of the relative amount
6 of the following factors within state agencies:

7 (i) Personally identifiable information protected by law.

8 (ii) Health information protected by law.

9 (iii) Confidential financial data.

10 (iv) Self-certification of compliance and indicators of unreported noncompliance
11 with security provisions in the following areas:

12 (I) Information asset management.

13 (II) Risk management.

14 (III) Information security program management.

15 (IV) Information security incident management.

16 (V) Technology recovery planning.

17 (C) Determine the basic standards of services to be performed as part of
18 independent security assessments required by this subdivision.

19 (3) The Military Department may perform an independent security assessment
20 of any state agency, department, or office, the cost of which shall be funded by the
21 state agency, department, or office being assessed.

22 (d) State agencies and entities required to conduct or receive an independent
23 security assessment pursuant to subdivision (c) shall transmit the complete results
24 of that assessment and recommendations for mitigating system vulnerabilities, if
25 any, to the office and the Office of Emergency Services.

26 (e) The office shall report to the Department of Technology and the Office of
27 Emergency Services any state entity found to be noncompliant with information
28 security program requirements.

29 (f) (1) Notwithstanding any other law, during the process of conducting an
30 independent security assessment pursuant to subdivision (c), information and
31 records concerning the independent security assessment are confidential and shall
32 not be disclosed, except that the information and records may be transmitted to
33 state employees and state contractors who have been approved as necessary to
34 receive the information and records to perform that independent security
35 assessment, subsequent remediation activity, or monitoring of remediation
36 activity.

37 (2) The results of a completed independent security assessment performed
38 pursuant to subdivision (c) or (i), and any related information shall be subject to
39 all disclosure and confidentiality provisions pursuant to any state law, including,
40 but not limited to, the California Public Records Act (~~Chapter 3.5 (commencing~~
41 ~~with Section 6250) of Division 7 (Division 10 (commencing with Section~~
42 7920.000) of Title 1), including, but not limited to, Section 6254.19 7929.210.

1 (g) The office may conduct or require to be conducted an audit of information
2 security to ensure program compliance.

3 (h) The office shall notify the Office of Emergency Services, Department of the
4 California Highway Patrol, and the Department of Justice regarding any criminal
5 or alleged criminal cyber activity affecting any state entity or critical infrastructure
6 of state government.

7 (i) (1) At the request of a local educational agency, and in consultation with the
8 California Cybersecurity Integration Center, the Military Department may perform
9 an independent security assessment of the local educational agency, or an
10 individual schoolsite under its jurisdiction, the cost of which shall be funded by
11 the local educational agency.

12 (2) The criteria for the independent security assessment shall be established by
13 the Military Department in coordination with the local educational agency.

14 (3) The Military Department shall disclose the results of an independent security
15 assessment only to the local educational agency and the California Cybersecurity
16 Integration Center.

17 (4) For purposes of this subdivision, “local educational agency” means a school
18 district, county office of education, charter school, or state special school.

19 **Comment.** Section 11549.3 is amended to reflect nonsubstantive recodification of the
20 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
21 Comm’n Reports 207 (2019).

22 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
23 Reports 207 (2019).]

24 **Note.** In 2021, Government Code Section 11549.3 was amended by the CPRA conforming
25 revisions bill. See 2021 Cal. Stat. ch. 615, § 166 (AB 474 (Chau)). The section was also amended
26 by the following bills:

27 (1) 2021 Cal. Stat. ch. 77, § 11 (AB 137 (Committee on Budget)), a budget-related bill enacted
28 on 7/16/21.

29 (2) 2021 Cal. Stat. ch. 593, § 1 (AB 1352 (Chau)).

30 Due to Government Code Sections 9600 and 9605, and the subordination clause in the CPRA
31 conforming revisions bill, the amendment made by that bill was chaptered out by AB 1352.

32 Consequently, the CPRA cross-references in Government Code Section 11549.3 still need to
33 be updated to reflect the CPRA recodification. The conforming revision of Government Code
34 Section 11549.3 (shown above) is based on 2021 Cal. Stat. ch. 593, § 1.

35 **Gov’t Code § 12100.63 (amended). California Small Business Technical Assistance**
36 **Expansion Program**

37 SEC. 31. Section 12100.63 of the Government Code is amended to read:

38 12100.63. (a) The California Small Business Technical Assistance Expansion
39 Program is hereby created within the California Office of the Small Business
40 Advocate.

41 (b) The program shall be under the direct authority of the Small Business
42 Advocate.

1 (c) The purpose of the program is to assist small businesses through free or low-
2 cost one-on-one consulting and low-cost training by entering into grant
3 agreements with one or more small business technical assistance centers.

4 (d) In implementing the program, the office shall consult with local, regional,
5 federal, and other state public and private entities that share a similar mission to
6 support the needs of small businesses in California.

7 (e) An applicant pursuant to this article shall be a small business technical
8 assistance center operating as a group, including a regional or statewide network,
9 or as an individual center.

10 (1) A small business technical assistance center operating as a group consisting
11 of centers organized under a coordinating administrative or fiscal entity shall
12 apply by submitting a single consolidated application to the office.

13 (2) A small business technical assistance center operating as an individual center
14 shall apply by submitting a single application for that center to the office.

15 (f) The office shall administer the program to provide grants to expand the
16 capacity of small business development technical assistance centers in California,
17 administered by and primarily funded by federal agencies, but may also include
18 other nonprofit small business technical assistance centers, that provide one-on-
19 one confidential consulting and training to small businesses and entrepreneurs in
20 this state. An applicant shall be eligible to participate in the program if the office
21 determines that the applicant meets all of the following criteria:

22 (1) At the time of applying for funds, the applicant has an active contract with a
23 federal funding partner to administer a program in this state, or has received a
24 letter of intent from a federal funding partner to administer a federal small
25 business technical assistance center program in this state within the next fiscal
26 year. Alternatively, if the applicant is not a federally contracted small business
27 technical assistance center, the applicant shall document a private funding source
28 with similar intent and meet the criteria defined in subdivision (s) of Section
29 12100.62.

30 (2) (A) The applicant provided a plan of action and commitment to fully draw
31 down all of the federal funds available using local cash match and state funds not
32 described in Section 12100.65 during the duration of the award period.
33 Alternatively, if the applicant is not a federally contracted small business technical
34 assistance center, the applicant shall present a plan of action for drawing down any
35 match required by those private funding sources using local cash match outside of
36 state funds not described in Section 12100.65 during the award period. The office
37 may request that the applicant provide details relating to the source and amount of
38 these nonstate local match funds.

39 (B) If the applicant is a new small business technical assistance center, the
40 applicant has demonstrated the ability to fully draw down substantially all federal
41 funds available to it.

42 (3) The requested funding amount does not exceed the total federal award
43 specified in the contract with the federal funding partner contract, or the private

1 funding sources specified, but in any event is no less than twenty five thousand
2 dollars (\$25,000).

3 (4) The applicant seeks funding for one or more years, but no more than five
4 years in duration.

5 (5) The grant agreements authorized by this article are not subject to the model
6 contract provisions developed pursuant to Chapter 14.27 (commencing with
7 Section 67325) of Part 40 of Division 5 of Title 3 of the Education Code.

8 (6) The applicant has a fiscal agent that is able to receive nonfederal funds.

9 (g) The office shall issue a request for proposal for grants under the program,
10 which may contain the following information:

11 (1) The eligibility requirements described in subdivision (e).

12 (2) The available funding range.

13 (3) Funding instruments.

14 (4) The local cash match requirement described in subdivision (f).

15 (5) Operational capacity.

16 (6) The duration of the program.

17 (7) The start date of the program.

18 (8) Narrative requirements.

19 (9) Reporting requirements.

20 (10) Required attachments.

21 (11) Submission requirements.

22 (12) Application evaluation criteria.

23 (13) An announcement of an awards timeline.

24 (h) (1) The office shall evaluate applications received based on the following
25 factors:

26 (A) The proposed use of the requested funding, including the specificity,
27 measurability, and ability of the applicant to document and achieve the goals and
28 objectives identified in its application.

29 (B) The proposed management strategy of the applicant to achieve its goals and
30 objectives identified in its application.

31 (C) The applicant's ability to complement and leverage the work of other local,
32 state, federal, nonprofit, or private business technical assistance resource
33 providers.

34 (D) The applicant's historical performance with federal funding partner
35 contracts or private funding sources and the strength of its fiscal controls.

36 (2) The office shall prioritize funding for applications that best meet the factors
37 listed in paragraph (1) and give preference to applications that propose new or
38 enhanced services to underserved business groups, including women, minority,
39 and veteran-owned businesses, and businesses in low-wealth, rural, and disaster-
40 impacted communities included in a state or federal emergency declaration or
41 proclamation.

42 (i) State funds provided pursuant to the program shall be used to expand
43 consulting and training services through existing and new centers, including

1 satellite offices. State funds provided pursuant to the program shall not supplant
2 nonstate local cash match dollars included in a federal small business technical
3 assistance center’s plan described in subparagraph (A) of paragraph (2) of
4 subdivision (f) or in any nonfederal small business technical assistance center’s
5 plan.

6 (j) Subject to appropriation of necessary funds by the Legislature, a
7 supplemental grant program designated as the California Dream Fund Program
8 shall be established by the office to provide microgrants as described in this
9 subdivision. The microgrants shall be disbursed through California Small Business
10 Technical Assistance Expansion Program grantees. California Small Business
11 Technical Assistance Expansion Program applicants, as prescribed by the office,
12 may also request state funds designated as the California Dream Fund Program
13 moneys to provide microgrants up to ten thousand dollars (\$10,000) to seed
14 entrepreneurship and small business creation in underserved small business groups
15 that are facing capital and opportunity gaps. These microgrants shall be made
16 available to startup clients participating in intensive startup training and consulting
17 with the center networks.

18 (k) For purposes of implementing the California Dream Fund Program, a person
19 or entity shall not seek information that is unnecessary to determine eligibility,
20 including whether the individual is undocumented. Information that may be
21 collected from individuals participating in the California Dream Fund Program
22 shall not constitute a record subject to disclosure under ~~Chapter 3.5 (commencing~~
23 ~~with Section 6250) of Division 7~~ Division 10 (commencing with Section
24 7920.000) of Title 1.

25 **Comment.** Section 12100.63 is amended to reflect nonsubstantive recodification of the
26 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
27 Comm’n Reports 207 (2019).

28 [This Comment is new.]

29 **Note.** Government Code Section 12100.63 was just amended by 2021 Cal. Stat. ch. 74, § 12
30 (SB 151 (Committee on Budget & Fiscal Review), a budget-related bill enacted on 7/12/21) and
31 2021 Cal. Stat. ch. 256, §2 (AB 176 (Committee on Budget), a budget-related bill enacted on
32 9/23/21). Among other things, the SB 151 amendment inserted a CPRA cross-reference, which
33 now needs to be updated to reflect the CPRA recodification.

34 **Gov’t Code § 12100.93 (amended). County program administered by grantmaking entity**

35 SEC. 32. Section 12100.93 of the Government Code is amended to read:

36 12100.93. (a) Subject to appropriation by the Legislature, a grantmaking entity
37 that receives an allocation shall administer a county program that includes all of
38 the following:

39 (1) The development and implementation of an outreach and marketing plan to
40 identify and engage eligible microbusiness that face systemic barriers to accessing
41 capital, including, but not limited to, businesses owned by women, minorities,
42 veterans, individuals without documentation, individuals with limited English
43 proficiency, and business owners located in low-wealth and rural communities.

1 The office shall review the plan and may make recommendations for additional
2 measures or modifications to the plan.

3 (2) Individual grant awards to qualified microbusinesses shall be two thousand
4 five hundred dollars (\$2,500).

5 (3) The grantmaking entity shall accept applications for a period of at least four
6 weeks.

7 (4) The grantmaking entity shall prioritize outreach efforts to qualified
8 microbusinesses which meet one or both of the following criteria:

9 (A) The owner of the microbusiness is a member of a group that has faced
10 historic barriers in accessing capital, and is defined as business majority owned
11 and operated on a daily basis by women, minorities or persons of color, veterans,
12 undocumented individuals, and individuals living in low-wealth or rural areas on
13 low incomes.

14 (B) The microbusiness has suffered economic impacts or revenue losses due to
15 the COVID-19 pandemic, as determined by the fiscal agent.

16 (5) A grantmaking entity may, in addition to the priorities in paragraph (4),
17 prioritize applications from qualified microbusinesses that are sidewalk vendors.

18 (6) The grantmaking entity shall request, but shall not mandate, each
19 microbusiness applying for a grant to self-identify the race, gender, and ethnicity
20 of its owner.

21 (7) The grantmaking entity shall require a microbusiness owner who is a
22 recipient of a grant pursuant to this article to self-certify that grant funds will be
23 used for one or more of the following eligible uses:

24 (A) The purchase of new certified equipment including, but not limited to, a
25 cart.

26 (B) Investment in working capital.

27 (C) Application for, or renewal of, a local permit including, but not limited to, a
28 permit to operate as a sidewalk vendor.

29 (D) Payment of business debt accrued due to the COVID-19 pandemic.

30 (E) Costs resulting from the COVID-19 pandemic and related health and safety
31 restrictions, or business interruptions or closures incurred as a result of the
32 COVID-19 pandemic, as defined in subdivision (l) of Section 12100.83.

33 (b) For purposes of implementing the program, a person or entity shall not seek
34 information that is unnecessary to determine eligibility, including whether the
35 individual is an undocumented immigrant. Information, including documents,
36 collected from a microbusiness applying to or participating in the program shall
37 not constitute a record subject to disclosure under ~~Chapter 3.5 (commencing with~~
38 ~~Section 6250) of Division 7~~ Division 10 (commencing with Section 7920.000) of
39 Title 1.

40 (c) The fiscal agent and grantmaking entity shall separately track and report
41 funding used for the administration and marketing of the county program pursuant
42 to subdivision (d) of Section 12100.92.

1 (d) The grantmaking entity shall provide the office with aggregate-level data
2 necessary to meet the reporting requirements of this article, as the requirements
3 relate to the county designated in the grantmaking agreement.

4 (e) The fiscal agent and grantmaking entity shall provide the office, at minimum,
5 two narrative reports during and after the awards process.

6 (f) The office shall provide a periodic update on the use of the funds awarded
7 pursuant to Section 12100.92, in accordance with the following:

8 (1) The first report shall be made within 15 days of the funds being awarded and
9 shall identify the fiscal agents who were awarded funding, how much each fiscal
10 agent received, key outreach activities committed to in each grantmaking
11 agreement, and the county served.

12 (2) The second report shall be made within 120 days of the funds being
13 awarded. The office shall report every 60 days following the second report until all
14 funds allocated to each county have been awarded.

15 (3) The office shall post each report on its internet website and provide an
16 electronic copy of the information to the relevant fiscal and policy committees of
17 the Legislature.

18 (4) The second and subsequent reports shall identify by county, the number of
19 applications received, the number of grant awards made, the outreach and
20 technical assistance provided, and other information determined by the office as
21 appropriate and necessary. The second and subsequent reports shall, to the extent
22 that the information is available, include the number of applications, grant awards,
23 and the dollar amounts awarded for each county in each of the following
24 categories:

25 (A) Race and ethnicity.

26 (B) Women owned.

27 (C) Veteran owned.

28 (D) Located in a rural area.

29 (E) County.

30 (g) It is the intent of the Legislature to allow persons who are undocumented to
31 receive grants pursuant to this article. The Legislature finds and declares that this
32 article is a state law that provides payments or assistance for persons who are
33 undocumented within the meaning of Section 1621(d) of Title 8 of the United
34 States Code.

35 **Comment.** Section 12100.93 is amended to reflect nonsubstantive recodification of the
36 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
37 Comm'n Reports 207 (2019).

38 [This Comment is new.]

39 **Note.** Section 12100.93 was just added to the Government Code by 2021 Cal. Stat. ch. 256, §
40 10 (AB 176 (Committee on Budget), a budget-related bill enacted 9/23/21). It is scheduled to be
41 repealed on 12/31/22, pursuant to Government Code Section 12100.95.

42 The operative date for the CPRA recodification is 1/1/23 (see Gov't Code §§ 6276.50,
43 7931.000). If Government Code Section 12100.93 is repealed on 12/31/22 as scheduled, it will
44 not be necessary to update its CPRA cross-reference to reflect the CPRA recodification. If the

1 repeal date is extended, however, the CPRA cross-reference in Government Code Section
2 12100.93 will need to be updated as shown above.

3 **Gov’t Code § 12271 (amended). Definitions**

4 SEC. 33. Section 12271 of the Government Code is amended to read:

5 12271. For the purposes of this article, the following terms shall have the
6 following meanings:

7 (a) “Acquire” includes acquisition by gift, purchase, lease, eminent domain, or
8 otherwise.

9 (b) “Archival value” means the ongoing usefulness or significance of a record
10 based on the administrative, legal, fiscal, evidential, or historical information it
11 contains, justifying its permanent preservation.

12 (c) “Public record plant” means the plant, or any part thereof, or a record
13 therein, of a person engaged in the business of searching or publishing public
14 records or insuring or guaranteeing titles to real property, including copies of
15 public records or abstracts and memoranda taken from public records that are
16 owned by or in possession of that person or that are used by that person in that
17 person’s business.

18 (d) “Public use form” means a form used by the state to obtain or to solicit facts,
19 opinions, or other information from the public or a private citizen, partnership,
20 corporation, organization, business trust, or nongovernmental entity or legal
21 representative thereof.

22 (e) “Record” has the same meaning as “public records” as defined in ~~subdivision~~
23 ~~(e) of Section 6252~~ Section 7920.530, and includes, but is not limited to, a writing
24 containing information relating to the conduct of the public’s business prepared,
25 owned, used, or retained by a state or local agency regardless of physical form or
26 characteristics. Library and museum materials made or acquired and preserved
27 solely for reference or exhibition purposes and stocks of publications and of
28 processed documents are not included within the definition of the term “record” as
29 used in this article.

30 **Comment.** Section 12271 is amended to reflect nonsubstantive recodification of the California
31 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
32 Reports 207 (2019).

33 [This revised Comment replaces the one in *California Public Records Act Clean-Up*, 46 Cal.
34 L. Revision Comm’n Reports 207 (2019).]

35 **Note.** In 2021, Government Code Section 12271 was amended by the CPRA conforming
36 revisions bill. See 2021 Cal. Stat. ch. 615, § 171 (AB 474 (Chau)). The section was also amended
37 by 2021 Cal. Stat. ch. 50, § 58 (AB 378 (Bauer-Kahan)).

38 Like the CPRA conforming revisions bill, AB 378 included a subordination clause. See 2021
39 Cal. Stat. ch. 50, § 262.

40 There is an important difference between these two subordination clauses. The one in AB 474
41 is subject to an exception:

42 “Any section of any act enacted by the Legislature during the 2021 calendar year, *other than a*
43 *section of the annual maintenance of the codes bill or another bill with a subordination clause,*
44 that takes effect on or before January 1, 2022, and that amends, amends and renumbers, amends

1 and repeals, adds, repeals and adds, or repeals a section that is amended, amended and
2 renumbered, amended and repealed, added, repealed and added, or repealed by this act, shall
3 prevail over this act, whether that act is chaptered before or after this act.”

4 2021 Cal. Stat. ch. 615, § 465 (emphasis added.)

5 In contrast, the subordination clause in AB 378 is not subject to any exception:

6 “Any section of any act enacted by the Legislature during the 2021 calendar year that takes
7 effect on or before January 1, 2022, and that amends, amends and renumbers, adds, repeals and
8 adds, or repeals a section that is amended by this act, shall prevail over this act, whether that act is
9 enacted before, or subsequent to, the enactment of this act.”

10 2021 Cal. Stat. ch. 50 § 262.

11 Given this difference between the subordination clauses, AB 474’s amendment of Government
12 Code Section 12271 would seem to prevail over the amendment made by AB 378. As of January
13 10, 2022, however, Legislative Counsel’s database of California law includes only the version of
14 Government Code Section 12271 enacted by AB 378.

15 That might be due to confusion between the *effective* date of AB 474 and its *operative* date.
16 The *effective* date of AB 474 is 1/1/22, the date on which it officially became law. See, e.g.,
17 Preston v. State Bd. of Equalization (2001) 25 Cal.4th 197, 223. The *operative* date of AB 474 is
18 not until 1/1/23. See 2021 Cal. Stat. ch. 615, § 463; see also Preston, 25 Cal.4th at 223-24.

19 Whatever the reason for omitting AB 474’s version of Government Code Section 12271 from
20 the database, the key point now is to update the CPRA cross-reference in that section before the
21 CPRA recodification becomes operative on 1/1/23.

22 Consistent with the content of Legislative Counsel’s database, a conforming revision of
23 Government Code Section 12271 is included in this draft, as shown above. It is based on 2021
24 Cal. Stat. ch. 50, § 58.

25 **Gov’t Code § 16429.5 (amended). California Arrearage Payment Program (CAPP)**

26 SEC. 34. Section 16429.5 of the Government Code is amended to read:

27 16429.5. (a) The California Arrearage Payment Program (CAPP) is established
28 in the Department of Community Services and Development.

29 (b) For purposes of this section, the following definitions apply:

30 (1) “COVID-19 pandemic bill relief period” means the period starting March 4,
31 2020, and ending June 15, 2021.

32 (2) “Department” means the Department of Community Services and
33 Development.

34 (3) “Past due bills” means customer utility bills that are 60 days or more past
35 due and includes both active and inactive accounts, as well as customer accounts
36 that have payment plans or payment arrangements.

37 (4) “Program notice” means official guidance issued by the department
38 regarding CAPP implementation and administration.

39 (5) “Utility applicant” means any of the following:

40 (A) A local publicly owned electric utility, as defined Section 224.3 of the
41 Public Utilities Code.

42 (B) An electrical corporation or a gas corporation utility, as defined in Section
43 218 or 222 of the Public Utilities Code, respectively.

44 (C) An electrical cooperative, as defined in Section 2776 of the Public Utilities
45 Code.

1 (c) All residential and commercial energy utility customers are considered
2 eligible for CAPP assistance and shall be included in a utility applicant's request
3 for CAPP funding. Within 90 days of receiving funds pursuant to an appropriation
4 in the annual budget for this purpose, the department shall survey utility applicants
5 to obtain data pertaining to the total number of residential and commercial
6 customer accounts in arrears to determine the total statewide energy utility
7 arrearage and shall develop an allocation formula for determining an individual
8 utility applicant's share of CAPP funds. In order to receive CAPP funding a utility
9 applicant must complete both the utility survey and CAPP application including
10 submitting all necessary data and information to support the utility applicant's
11 request for CAPP funding. A utility applicant's CAPP allocation shall be based on
12 the proportional share of the total statewide energy utility arrearages of the
13 applicable category identified in subdivision (d) and as established from all survey
14 responses received by the department. The department shall release a program
15 notice informing utility applicants of CAPP allocation determinations.

16 (1) The department shall release program notices that detail CAPP application,
17 participation, and reporting requirements for energy utilities to receive CAPP
18 funds and issue CAPP assistance to eligible customer accounts. There shall be a
19 60-day application timeframe in which a utility applicant may apply to the
20 department for CAPP funds. The department shall contact any utility company that
21 does not respond during the initial application period to inquire as to the status of
22 the utility's CAPP application.

23 (2) In applying for funds on behalf of its customers, a utility applicant shall
24 provide a calculation of the total amount of outstanding customer arrearages that
25 were incurred during the COVID-19 pandemic bill relief period and shall include
26 documentation, which shall include an account number, to support the amount of
27 outstanding customer arrearages that were incurred during that period. In addition,
28 the utility application shall identify for each utility account the corresponding past
29 due bill balance accumulated during the COVID-19 pandemic bill relief period for
30 which the utility applicant is seeking CAPP financial assistance, as defined by the
31 department in a program notice. The general manager, utility director, or a
32 designee shall certify that the application is true and accurate, and offer agreement
33 on CAPP application benefit delivery, reporting, and post audit review
34 requirements.

35 (d) Of the nine hundred ninety-three million five hundred thousand dollars
36 (\$993,500,000) appropriated in Item 4700-162-8506 of the Budget Act of 2021
37 (Ch. 21, Statutes of 2021), the following specified amounts shall be allocated for
38 each category of utility. Funding allocated to one of the categories that is not
39 necessary for assistance for that category may be reallocated to another category.
40 The allocations within the categories may be adjusted for the purposes of
41 administrative costs.

1 (1) Two hundred ninety-eight million five hundred forty-six thousand seven
2 hundred fifty dollars (\$298,546,750) shall be allocated for financial assistance to
3 customers of local publicly owned electric utilities and electrical cooperatives.

4 (2) Six hundred ninety-four million nine hundred fifty-three thousand two
5 hundred fifty dollars (\$694,953,250) shall be allocated for financial assistance to
6 all distribution customers of investor-owned utilities, including customers served
7 by a community choice aggregator.

8 (e) The department shall review the application for completeness and confirm
9 that the utility applicant's submission supports the total amount of financial
10 assistance requested by the utility applicant on behalf of its customers. The
11 department shall confirm the total amount of CAPP assistance does not exceed the
12 utility applicant's CAPP allocation amount. The department shall disburse funds
13 within 30 days after completing review and approval of the utility applicant's
14 CAPP application. Incomplete CAPP applications shall be returned to the utility
15 applicant for corrections or amendments consistent with department notes or
16 directives. The department shall disburse funds as expeditiously as possible to
17 utility applicants, but no later than January 31, 2022.

18 (f) (1) Within 60 days of receiving CAPP funds, a utility applicant shall issue
19 CAPP assistance benefits to customers as bill credits to help address the eligible
20 past due balance and shall include a statement that the credits are a result of
21 California's CAPP funding. Utility applicants shall ensure all available active and
22 inactive residential and commercial accounts are included in CAPP applications. If
23 CAPP funding is not sufficient to meet utility applicant requests, utility applicants
24 shall prioritize the issuance of CAPP assistance in the following order: (A) active
25 residential customers who are past due and who, absent the CAPP assistance
26 might be subject to service disconnection, consistent with current law, due to
27 nonpayment of balances incurred during the COVID-19 pandemic bill relief
28 period, (B) active residential customers with delinquent balances incurred during
29 the COVID-19 pandemic bill relief period, (C) inactive residential accounts with
30 delinquent balances incurred during the COVID-19 pandemic bill relief period,
31 and (D) commercial customers with delinquent balances incurred during the
32 COVID-19 pandemic bill relief period. An energy utility shall not disconnect a
33 CAPP recipient's utility service, regardless of balance owed after applying a
34 CAPP benefit, for 90 days after a CAPP benefit is applied.

35 (2) If a customer has a remaining balance after a CAPP benefit is applied, the
36 utility applicant shall notify the customer of the option to enter into an extended
37 payment plan with late fees and penalties waived. The utility applicant shall not
38 discontinue service to the customer while the customer remains current on the
39 repayment plan.

40 (3) Service shall not be discontinued due to nonpayment for those customers
41 with arrearages accrued during the COVID-19 pandemic bill relief period while
42 the department reviews and approves all pending CAPP applications, and the

1 utility applicant shall waive any associated late fees and accrued interest for
2 customers that are awarded CAPP benefits.

3 (4) An electrical corporation, as defined in Section 218 of the Public Utilities
4 Code, shall use existing proportional payment processes adopted by the Public
5 Utilities Commission in response to the COVID-19 pandemic to allocate any
6 partial payments made by customers to the utility and other load serving entities in
7 proportion to their respective shares of the outstanding customer charges.

8 (g) An electrical corporation, as defined in Section 218 of the Public Utilities
9 Code, shall credit funding received through CAPP against customer charges owing
10 the utility and other load-serving entities serving the customer in proportion to
11 their respective shares of customer arrearages.

12 (h) Customer information shall be subject to the provisions of Section ~~6254.16~~
13 7927.410.

14 (i) Within six months of a utility applicant's receipt of its CAPP allocation, the
15 utility applicant shall submit all reporting required by the department detailed in a
16 program notice. The utility applicant shall remit payment to the department in the
17 total amount of any unapplied CAPP benefits as part of its final reporting to the
18 department.

19 (j) Within 60 days of receiving final reporting from utility applicants pursuant to
20 subdivision (i), the department shall provide to the Legislature, and make available
21 on its public-facing internet website, a report that includes all of the following:

22 (1) Total arrearage amount applied for statewide.

23 (2) Total residential customers in arrears applied for statewide.

24 (3) Total CAPP funds applied for, by utility applicant.

25 (4) Total CAPP funds approved by the department and disbursed to utility
26 applicants statewide.

27 (5) Total CAPP funds distributed, by utility applicant.

28 (6) Total CAPP funds not expended and returned to the department, by utility
29 applicant.

30 (7) Total residential customers, statewide, included in CAPP applications
31 received by the department.

32 (8) Total residential customers, by utility applicant, included in CAPP
33 applications received by the department.

34 (9) Total active and inactive residential customers, statewide, that received a
35 CAPP benefit.

36 (10) Total commercial customers, statewide, that received a CAPP benefit.

37 (11) Total commercial customers, by utility applicant, that received a CAPP
38 benefit.

39 (12) Average CAPP benefit, statewide, received by residential and commercial
40 customers.

41 (13) Total residential customers, by utility applicant, that received a CAPP
42 benefit.

1 (14) Average CAPP benefit, by utility applicant, received by residential
2 customers.

3 (15) Total expenditures by the department for the administration of CAPP.

4 (k) Utility applicants shall provide all documents and data necessary for the
5 department to complete its review and audit. The department shall provide 30
6 days' notice to utility applicants of any document requests to support departmental
7 review and audit.

8 (l) The department shall coordinate with the State Water Resources Control
9 Board to allocate funding to publicly owned utilities that provide both electric and
10 water services.

11 (m) All actions to implement section, including entering into contracts for
12 services or equipment, shall be exempt from Chapter 2 (commencing with Section
13 10290) of Part 2 of Division 2 of the Public Contract Code. The department may
14 award contracts under this section on a noncompetitive bid basis as necessary to
15 implement the purposes of CAPP.

16 (n) (1) All actions to implement CAPP and expend an appropriation for this
17 purpose, including the adoption or development of a plan, requirements,
18 guidelines, subgrantee contract provisions, or reporting requirements, shall be
19 exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with
20 Section 11340) of Part 1 of Division 3). The department shall release program
21 notices that detail CAPP application, participation, and reporting requirements by
22 utility applicants in order to receive CAPP funds and issue CAPP assistance to
23 eligible residential customer accounts.

24 (2) The department shall post all program notices related to CAPP
25 administration on its public-facing internet website.

26 **Comment.** Section 16429.5 is amended to reflect nonsubstantive recodification of the
27 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
28 Comm'n Reports 207 (2019).

29 [This Comment is new.]

30 **Note.** Government Code Section 16429.5 was just added to the codes by 2021 Cal. Stat. ch. 85,
31 § 9 (AB 890 (Cervantes)). The CPRA cross-reference in this new provision needs to be updated
32 to reflect the CPRA recodification.

33 **Gov't Code § 20136 (amended). Report to Legislature regarding participation of emerging**
34 **and diverse managers**

35 SEC. 35. Section 20136 of the Government Code is amended to read:

36 20136. (a) Commencing March 1, 2023, and annually thereafter, the board shall
37 submit a report to the Legislature on the status of achieving appropriate objectives
38 and initiatives, as defined by the board, regarding participation of emerging and
39 diverse managers responsible for asset management within its portfolio of
40 investments. The report shall be based on contracts that the system enters into on
41 and after January 1, 2022.

42 (b) The report shall also identify and include both of the following:

1 (1) The name of each emerging and diverse manager providing investment
2 portfolio or asset management services at the end of the prior fiscal year,
3 including, but not limited to, fund of funds contracts, for all asset classes, as
4 applicable. The board shall also report the year the emerging or diverse manager
5 was first engaged or contracted to provide investment portfolio or asset
6 management services.

7 (2) The amount managed by each emerging and diverse manager by asset class
8 at the end of the prior fiscal year, as well as the total amount allocated by the
9 system in the applicable asset class during the year and the total amount of the
10 asset class in the system’s investment portfolio.

11 (c) The board shall define the term “emerging and diverse manager” for
12 purposes of this section.

13 (d) The report required by this section shall be submitted in compliance with
14 Section 9795.

15 (e) Nothing in this section shall require the board to take action unless the board
16 determines in good faith that the action described in this section is consistent with
17 the fiduciary responsibilities of the board as described in Section 17 of Article
18 XVI of the California Constitution.

19 (f) This section shall not require the board to disclose information that is
20 excepted from disclosure under Section ~~6254.26~~ 7928.710.

21 (g) This section shall remain in effect only until January 1, 2028, and as of that
22 date is repealed, unless a later enacted statute that is enacted before January 1,
23 2028, deletes or extends that date.

24 **Comment.** Section 20136 is amended to reflect nonsubstantive recodification of the California
25 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
26 Reports 207 (2019).

27 [This Comment is new.]

28 **Note.** Government Code Section 20136 was just added to the codes by 2021 Cal. Stat. ch. 472,
29 § 2 (AB 890 (Cervantes)). The CPRA cross-reference in this new provision needs to be updated
30 to reflect the CPRA recodification.

31 **Gov’t Code § 53398.51.1 (amended). Public financing authority**

32 SEC. 36. Section 53398.51.1 of the Government Code is amended to read:

33 53398.51.1. (a) The public financing authority shall have a membership
34 consisting of one of the following, as appropriate:

35 (1) If a district has only one participating affected taxing entity, the public
36 financing authority’s membership shall consist of three members of the legislative
37 body of the participating entity, and two members of the public chosen by the
38 legislative body. The legislative body may appoint one of its members to be an
39 alternate member of the legislative body who may serve and vote in place of a
40 member who is absent or disqualifies themselves from participating in a meeting
41 of the authority. The appointment of the public members shall be subject to the
42 provisions of Sections 54970 and 54972.

1 (2) If a district has two or more participating affected taxing entities, the public
2 financing authority’s membership shall consist of a majority of members from the
3 legislative bodies of the participating entities, and a minimum of two members of
4 the public chosen by the legislative bodies of the participating entities. A
5 legislative body of a participating affected taxing entity may appoint one of its
6 members to be an alternate member of the legislative body who may serve and
7 vote in place of a member who is absent or disqualifies themselves from
8 participating in a meeting of the authority. The appointment of the public members
9 shall be subject to the provisions of Sections 54970 and 54972.

10 (3) If a district has more than three participating affected taxing entities, the
11 legislative bodies of the taxing entities may, upon agreement by all participating
12 affected taxing entities, appoint only one member and one alternate member of
13 their respective legislative bodies to the public financing authority, and a
14 minimum of two members of the public chosen by the legislative bodies of the
15 participating entities. The appointment of the public members shall be subject to
16 the provisions of Sections 54970 and 54972.

17 (4) For purposes of this subdivision, “legislative body” may include a directly
18 elected mayor of a charter city who is not a member of the city’s legislative body
19 under the city’s adopted charter.

20 (b) The legislative body shall ensure the public financing authority is established
21 at the same time that it adopts a resolution of intention pursuant to Section
22 53398.59.

23 (c) Members of the public financing authority established pursuant to this
24 chapter shall not receive compensation but may receive reimbursement for actual
25 and necessary expenses incurred in the performance of official duties pursuant to
26 Article 2.3 (commencing with Section 53232) of Chapter 2.

27 (d) Members of the public financing authority are subject to Article 2.4
28 (commencing with Section 53234) of Chapter 2.

29 (e) The public financing authority created pursuant to this chapter shall be a
30 local public agency subject to the Ralph M. Brown Act (Chapter 9 (commencing
31 with Section 54950)), the California Public Records Act (~~Chapter 3.5~~
32 ~~(commencing with Section 6250)~~ of Division 7 (Division 10 (commencing with
33 Section 7920.000) of Title 1), and the Political Reform Act of 1974 (Title 9
34 (commencing with Section 81000)).

35 (f) Notwithstanding any other law, any member of the legislative body of a
36 participating affected taxing entity who serves as a member of the public financing
37 authority pursuant to this section may also serve as a member of the governing
38 body of an agency or entity formed pursuant to an agreement for the joint exercise
39 of power that the participating affected taxing entity has entered into in accordance
40 with the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500)
41 of Division 7 of Title 1).

1 **Comment.** Section 53398.51.1 is amended to reflect nonsubstantive recodification of the
2 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
3 Comm'n Reports 207 (2019).

4 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
5 Reports 207 (2019).]

6 **Note.** In 2021, Government Code Section 53398.51.1 was amended by the CPRA conforming
7 revisions bill. See 2021 Cal. Stat. ch. 615, § 198 (AB 474 (Chau)). The section was also amended
8 by the following bills:

9 (1) 2021 Cal. Stat. ch. 22, § 1 (AB 336 (Villapudua)).

10 (2) 2021 Cal. Stat. ch. 293, §§ 1, 1.5 (SB 780 (Cortese)).

11 Due to Government Code Section 9605, the bill coordination amendments in SB 780, and the
12 subordination clause in the CPRA conforming revisions bill, the amendment made by the CPRA
13 conforming revisions bill was chaptered out by 2021 Cal. Stat. ch. 293, § 1.5.

14 Consequently, the CPRA cross-reference in Government Code Section 53398.51.1 still needs
15 to be updated to reflect the CPRA recodification. The conforming revision of Government Code
16 Section 53398.51.1 (shown above) is based on 2021 Cal. Stat. ch. 293, § 1.5.

17 **Gov't Code § 54953 (as amended by 2021 Cal. Stat. ch. 165, § 3) (operative until Jan. 1,**
18 **2024) (amended). Teleconference of legislative body of local agency**

19 SEC. 37. Section 54953 of the Government Code (as amended by Section 3 of
20 Chapter 165 of the Statutes of 2021) is amended to read:

21 54953. (a) All meetings of the legislative body of a local agency shall be open
22 and public, and all persons shall be permitted to attend any meeting of the
23 legislative body of a local agency, except as otherwise provided in this chapter.

24 (b) (1) Notwithstanding any other provision of law, the legislative body of a
25 local agency may use teleconferencing for the benefit of the public and the
26 legislative body of a local agency in connection with any meeting or proceeding
27 authorized by law. The teleconferenced meeting or proceeding shall comply with
28 all otherwise applicable requirements of this chapter and all otherwise applicable
29 provisions of law relating to a specific type of meeting or proceeding.

30 (2) Teleconferencing, as authorized by this section, may be used for all purposes
31 in connection with any meeting within the subject matter jurisdiction of the
32 legislative body. All votes taken during a teleconferenced meeting shall be by
33 rollcall.

34 (3) If the legislative body of a local agency elects to use teleconferencing, it
35 shall post agendas at all teleconference locations and conduct teleconference
36 meetings in a manner that protects the statutory and constitutional rights of the
37 parties or the public appearing before the legislative body of a local agency. Each
38 teleconference location shall be identified in the notice and agenda of the meeting
39 or proceeding, and each teleconference location shall be accessible to the public.
40 During the teleconference, at least a quorum of the members of the legislative
41 body shall participate from locations within the boundaries of the territory over
42 which the local agency exercises jurisdiction, except as provided in subdivisions
43 (d) and (e). The agenda shall provide an opportunity for members of the public to

1 address the legislative body directly pursuant to Section 54954.3 at each
2 teleconference location.

3 (4) For the purposes of this section, “teleconference” means a meeting of a
4 legislative body, the members of which are in different locations, connected by
5 electronic means, through either audio or video, or both. Nothing in this section
6 shall prohibit a local agency from providing the public with additional
7 teleconference locations.

8 (c) (1) No legislative body shall take action by secret ballot, whether preliminary
9 or final.

10 (2) The legislative body of a local agency shall publicly report any action taken
11 and the vote or abstention on that action of each member present for the action.

12 (3) Prior to taking final action, the legislative body shall orally report a summary
13 of a recommendation for a final action on the salaries, salary schedules, or
14 compensation paid in the form of fringe benefits of a local agency executive, as
15 defined in subdivision (d) of Section 3511.1, during the open meeting in which the
16 final action is to be taken. This paragraph shall not affect the public’s right under
17 the California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~
18 ~~of Division 7~~ (Division 10 (commencing with Section 7920.000)) of Title 1) to
19 inspect or copy records created or received in the process of developing the
20 recommendation.

21 (d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of
22 subdivision (b), if a health authority conducts a teleconference meeting, members
23 who are outside the jurisdiction of the authority may be counted toward the
24 establishment of a quorum when participating in the teleconference if at least 50
25 percent of the number of members that would establish a quorum are present
26 within the boundaries of the territory over which the authority exercises
27 jurisdiction, and the health authority provides a teleconference number, and
28 associated access codes, if any, that allows any person to call in to participate in
29 the meeting and the number and access codes are identified in the notice and
30 agenda of the meeting.

31 (2) Nothing in this subdivision shall be construed as discouraging health
32 authority members from regularly meeting at a common physical site within the
33 jurisdiction of the authority or from using teleconference locations within or near
34 the jurisdiction of the authority. A teleconference meeting for which a quorum is
35 established pursuant to this subdivision shall be subject to all other requirements
36 of this section.

37 (3) For purposes of this subdivision, a health authority means any entity created
38 pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and
39 14087.9605 of the Welfare and Institutions Code, any joint powers authority
40 created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of
41 Division 7 for the purpose of contracting pursuant to Section 14087.3 of the
42 Welfare and Institutions Code, and any advisory committee to a county-sponsored
43 health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of

1 Division 2 of the Health and Safety Code if the advisory committee has 12 or
2 more members.

3 (e) (1) A local agency may use teleconferencing without complying with the
4 requirements of paragraph (3) of subdivision (b) if the legislative body complies
5 with the requirements of paragraph (2) of this subdivision in any of the following
6 circumstances:

7 (A) The legislative body holds a meeting during a proclaimed state of
8 emergency, and state or local officials have imposed or recommended measures to
9 promote social distancing.

10 (B) The legislative body holds a meeting during a proclaimed state of
11 emergency for the purpose of determining, by majority vote, whether as a result of
12 the emergency, meeting in person would present imminent risks to the health or
13 safety of attendees.

14 (C) The legislative body holds a meeting during a proclaimed state of
15 emergency and has determined, by majority vote, pursuant to subparagraph (B),
16 that, as a result of the emergency, meeting in person would present imminent risks
17 to the health or safety of attendees.

18 (2) A legislative body that holds a meeting pursuant to this subdivision shall do
19 all of the following:

20 (A) The legislative body shall give notice of the meeting and post agendas as
21 otherwise required by this chapter.

22 (B) The legislative body shall allow members of the public to access the meeting
23 and the agenda shall provide an opportunity for members of the public to address
24 the legislative body directly pursuant to Section 54954.3. In each instance in
25 which notice of the time of the teleconferenced meeting is otherwise given or the
26 agenda for the meeting is otherwise posted, the legislative body shall also give
27 notice of the means by which members of the public may access the meeting and
28 offer public comment. The agenda shall identify and include an opportunity for all
29 persons to attend via a call-in option or an internet-based service option. This
30 subparagraph shall not be construed to require the legislative body to provide a
31 physical location from which the public may attend or comment.

32 (C) The legislative body shall conduct teleconference meetings in a manner that
33 protects the statutory and constitutional rights of the parties and the public
34 appearing before the legislative body of a local agency.

35 (D) In the event of a disruption which prevents the public agency from
36 broadcasting the meeting to members of the public using the call-in option or
37 internet-based service option, or in the event of a disruption within the local
38 agency's control which prevents members of the public from offering public
39 comments using the call-in option or internet-based service option, the body shall
40 take no further action on items appearing on the meeting agenda until public
41 access to the meeting via the call-in option or internet-based service option is
42 restored. Actions taken on agenda items during a disruption which prevents the

1 public agency from broadcasting the meeting may be challenged pursuant to
2 Section 54960.1.

3 (E) The legislative body shall not require public comments to be submitted in
4 advance of the meeting and must provide an opportunity for the public to address
5 the legislative body and offer comment in real time. This subparagraph shall not
6 be construed to require the legislative body to provide a physical location from
7 which the public may attend or comment.

8 (F) Notwithstanding Section 54953.3, an individual desiring to provide public
9 comment through the use of an internet website, or other online platform, not
10 under the control of the local legislative body, that requires registration to log in to
11 a teleconference may be required to register as required by the third-party internet
12 website or online platform to participate.

13 (G) (i) A legislative body that provides a timed public comment period for each
14 agenda item shall not close the public comment period for the agenda item, or the
15 opportunity to register, pursuant to subparagraph (F), to provide public comment
16 until that timed public comment period has elapsed.

17 (ii) A legislative body that does not provide a timed public comment period, but
18 takes public comment separately on each agenda item, shall allow a reasonable
19 amount of time per agenda item to allow public members the opportunity to
20 provide public comment, including time for members of the public to register
21 pursuant to subparagraph (F), or otherwise be recognized for the purpose of
22 providing public comment.

23 (iii) A legislative body that provides a timed general public comment period that
24 does not correspond to a specific agenda item shall not close the public comment
25 period or the opportunity to register, pursuant to subparagraph (F), until the timed
26 general public comment period has elapsed.

27 (3) If a state of emergency remains active, or state or local officials have
28 imposed or recommended measures to promote social distancing, in order to
29 continue to teleconference without compliance with paragraph (3) of subdivision
30 (b), the legislative body shall, not later than 30 days after teleconferencing for the
31 first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30
32 days thereafter, make the following findings by majority vote:

33 (A) The legislative body has reconsidered the circumstances of the state of
34 emergency.

35 (B) Any of the following circumstances exist:

36 (i) The state of emergency continues to directly impact the ability of the
37 members to meet safely in person.

38 (ii) State or local officials continue to impose or recommend measures to
39 promote social distancing.

40 (4) For the purposes of this subdivision, “state of emergency” means a state of
41 emergency proclaimed pursuant to Section 8625 of the California Emergency
42 Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division
43 1 of Title 2).

1 (f) This section shall remain in effect only until January 1, 2024, and as of that
2 date is repealed.

3 **Comment.** Section 54953 (as amended by 2021 Cal. Stat. ch. 165, § 3) is amended to reflect
4 nonsubstantive recodification of the California Public Records Act. See *California Public*
5 *Records Act Clean-Up*, 46 Cal. L. Revision Comm’n Reports 207 (2019).

6 [This Comment for Section 54953 (as amended by 2021 Cal. Stat. ch. 165, § 3) and the
7 Comment for Section 54953 (as added by 2021 Cal. Stat. ch. 165, § 4) replace the Comment for
8 Section 54953 in *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n Reports
9 207 (2019).]

10 **Note.** In 2021, Government Code Section 54953 was amended by the CPRA conforming
11 revisions bill. See 2021 Cal. Stat. ch. 615, § 204 (AB 474 (Chau)). The section was also revised
12 in two ways by 2021 Cal. Stat. ch. 165, §§ 3, 4 (AB 361 (Rivas)), an urgency bill enacted on
13 9/16/21.

14 In particular, AB 361 inserted a 1/1/24 sunset clause into Government Code Section 54953.
15 See 2021 Cal. Stat. ch. 165, § 3. AB 361 also added a new version of Government Code Section
16 54953 to the codes, which will become operative on 1/1/24. See 2021 Cal. Stat. ch. 165, § 4.

17 Due to Government Code Section 9605 and the subordination clause in the CPRA conforming
18 revisions bill, AB 474’s amendment of Government Code Section 54953 was chaptered out by
19 2021 Cal. Stat. ch. 165, § 3.

20 Consequently, the CPRA cross-reference in Government Code Section 54953 still needs to be
21 updated to reflect the CPRA recodification. That should be done in *both* versions of Section
22 54953: (1) the version that will sunset on 1/1/24 (2021 Cal. Stat. ch. 165, § 3) and (2) the version
23 that will become operative on 1/1/24 (2021 Cal. Stat. ch. 165, § 4).

24 The conforming revision of Government Code Section 54953 shown above is based on 2021
25 Cal. Stat. ch. 165, § 3.

26 **Gov’t Code § 54953 (as added by 2021 Cal. Stat. ch. 165, § 4) (operative Jan. 1, 2024)**
27 **(amended). Teleconference of legislative body of local agency**

28 SEC. 38. Section 54953 of the Government Code (as added by Section 4 of
29 Chapter 165 of the Statutes of 2021) is amended to read:

30 54953. (a) All meetings of the legislative body of a local agency shall be open
31 and public, and all persons shall be permitted to attend any meeting of the
32 legislative body of a local agency, except as otherwise provided in this chapter.

33 (b) (1) Notwithstanding any other provision of law, the legislative body of a
34 local agency may use teleconferencing for the benefit of the public and the
35 legislative body of a local agency in connection with any meeting or proceeding
36 authorized by law. The teleconferenced meeting or proceeding shall comply with
37 all requirements of this chapter and all otherwise applicable provisions of law
38 relating to a specific type of meeting or proceeding.

39 (2) Teleconferencing, as authorized by this section, may be used for all purposes
40 in connection with any meeting within the subject matter jurisdiction of the
41 legislative body. All votes taken during a teleconferenced meeting shall be by
42 rollcall.

43 (3) If the legislative body of a local agency elects to use teleconferencing, it
44 shall post agendas at all teleconference locations and conduct teleconference
45 meetings in a manner that protects the statutory and constitutional rights of the
46 parties or the public appearing before the legislative body of a local agency. Each

1 teleconference location shall be identified in the notice and agenda of the meeting
2 or proceeding, and each teleconference location shall be accessible to the public.
3 During the teleconference, at least a quorum of the members of the legislative
4 body shall participate from locations within the boundaries of the territory over
5 which the local agency exercises jurisdiction, except as provided in subdivision
6 (d). The agenda shall provide an opportunity for members of the public to address
7 the legislative body directly pursuant to Section 54954.3 at each teleconference
8 location.

9 (4) For the purposes of this section, “teleconference” means a meeting of a
10 legislative body, the members of which are in different locations, connected by
11 electronic means, through either audio or video, or both. Nothing in this section
12 shall prohibit a local agency from providing the public with additional
13 teleconference locations

14 (c) (1) No legislative body shall take action by secret ballot, whether preliminary
15 or final.

16 (2) The legislative body of a local agency shall publicly report any action taken
17 and the vote or abstention on that action of each member present for the action.

18 (3) Prior to taking final action, the legislative body shall orally report a summary
19 of a recommendation for a final action on the salaries, salary schedules, or
20 compensation paid in the form of fringe benefits of a local agency executive, as
21 defined in subdivision (d) of Section 3511.1, during the open meeting in which the
22 final action is to be taken. This paragraph shall not affect the public’s right under
23 the California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~
24 ~~of Division 7 (Division 10 (commencing with Section 7920.000))~~ of Title 1) to
25 inspect or copy records created or received in the process of developing the
26 recommendation.

27 (d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of
28 subdivision (b), if a health authority conducts a teleconference meeting, members
29 who are outside the jurisdiction of the authority may be counted toward the
30 establishment of a quorum when participating in the teleconference if at least 50
31 percent of the number of members that would establish a quorum are present
32 within the boundaries of the territory over which the authority exercises
33 jurisdiction, and the health authority provides a teleconference number, and
34 associated access codes, if any, that allows any person to call in to participate in
35 the meeting and the number and access codes are identified in the notice and
36 agenda of the meeting.

37 (2) Nothing in this subdivision shall be construed as discouraging health
38 authority members from regularly meeting at a common physical site within the
39 jurisdiction of the authority or from using teleconference locations within or near
40 the jurisdiction of the authority. A teleconference meeting for which a quorum is
41 established pursuant to this subdivision shall be subject to all other requirements
42 of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

Comment. Section 54953 (as amended by 2021 Cal. Stat. ch. 165, § 3) is amended to reflect nonsubstantive recodification of the California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n Reports 207 (2019).

[This Comment for Section 54953 (as added by 2021 Cal. Stat. ch. 165, § 4) and the Comment for Section 54953 (as amended by 2021 Cal. Stat. ch. 165, § 3) replace the Comment for Section 54953 in *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n Reports 207 (2019).]

Note. In 2021, Government Code Section 54953 was amended by the CPRA conforming revisions bill. See 2021 Cal. Stat. ch. 615, § 204 (AB 474 (Chau)). The section was also revised in two ways by 2021 Cal. Stat. ch. 165, §§ 3, 4 (AB 361 (Rivas)), an urgency bill enacted on 9/16/21.

In particular, AB 361 inserted a 1/1/24 sunset clause into Government Code Section 54953. See 2021 Cal. Stat. ch. 165, § 3. AB 361 also added a new version of Government Code Section 54953 to the codes, which will become operative on 1/1/24. See 2021 Cal. Stat. ch. 165, § 4.

Due to Government Code Section 9605 and the subordination clause in the CPRA conforming revisions bill, AB 474’s amendment of Government Code Section 54953 was chaptered out by 2021 Cal. Stat. ch. 165, § 3.

Consequently, the CPRA cross-reference in Government Code Section 54953 still needs to be updated to reflect the CPRA recodification. That should be done in *both* versions of Section 54953: (1) the version that will sunset on 1/1/24 (2021 Cal. Stat. ch. 165, § 3) and (2) the version that will become operative on 1/1/24 (2021 Cal. Stat. ch. 165, § 4).

The conforming revision of Government Code Section 54953 shown above is based on 2021 Cal. Stat. ch. 165, § 4.

Gov’t Code § 62001 (amended). Destruction or disposition of record by legislative body of district

SEC. 39. Section 62001 of the Government Code is amended to read:

62001. (a) A community revitalization and investment authority is a public body, corporate and politic, with jurisdiction to carry out a community revitalization plan within a community revitalization and investment area. The authority shall be deemed to be the “agency” described in subdivision (b) of Section 16 of Article XVI of the California Constitution for purposes of receiving tax increment revenues. The authority shall have only those powers and duties specifically set forth in Section 62002.

(b) (1) An authority may be created in any one of the following ways:

1 (A) A city, county, or city and county may adopt a resolution creating an
2 authority. The composition of the governing board shall be comprised as set forth
3 in subdivision (c).

4 (B) A city, county, city and county, and special district, as special district is
5 defined in subdivision (m) of Section 95 of the Revenue and Taxation Code, or
6 any combination thereof, may create an authority by entering into a joint powers
7 agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7
8 of Title 1.

9 (2) (A) A school entity, as defined in subdivision (f) of Section 95 of the
10 Revenue and Taxation Code, may not participate in an authority created pursuant
11 to this part.

12 (B) A successor agency, as defined in subdivision (j) of Section 34171 of the
13 Health and Safety Code, may not participate in an authority created pursuant to
14 this part, and an entity created pursuant to this part shall not receive any portion of
15 the property tax revenues or other moneys distributed pursuant to Section 34188 of
16 the Health and Safety Code.

17 (3) An authority formed by a city or county that created a redevelopment agency
18 that was dissolved pursuant to Part 1.85 (commencing with Section 34170) of
19 Division 24 of the Health and Safety Code shall not become effective until the
20 successor agency or designated local authority for the former redevelopment
21 agency has adopted findings of fact stating all of the following:

22 (A) The agency has received a finding of completion from the Department of
23 Finance pursuant to Section 34179.7 of the Health and Safety Code.

24 (B) Former redevelopment agency assets ~~which~~ that are the subject of litigation
25 against the state, where the city or county or its successor agency or designated
26 local authority are a named plaintiff, have not been or will not be used to benefit
27 any efforts of an authority formed under this part unless the litigation has been
28 resolved by entry of a final judgment by any court of competent jurisdiction and
29 any appeals have been exhausted.

30 (C) The agency has complied with all orders of the Controller pursuant to
31 Section 34167.5 of the Health and Safety Code.

32 (c) (1) The governing board of an authority created pursuant to subparagraph
33 (A) of paragraph (1) of subdivision (b) shall be appointed by the legislative body
34 of the city, county, or city and county that created the authority and shall include
35 three members of the legislative body of the city, county, or city and county that
36 created the authority and two public members. The legislative body may appoint
37 one of its members to be an alternate member of the legislative body who may
38 serve and vote in place of a member who is absent or disqualifies themselves from
39 participating in a meeting of the authority. The appointment of the two public
40 members shall be subject to Sections 54970 and 54972. The two public members
41 shall live or work within the community revitalization and investment area.

42 (2) The governing body of the authority created pursuant to subparagraph (B) of
43 paragraph (1) of subdivision (b) shall be comprised of a majority of members from

1 the legislative bodies of the public agencies that created the authority, and a
2 minimum of two public members who live or work within the community
3 revitalization and investment area. A legislative body of a participating affected
4 taxing entity may appoint one of its members to be an alternate member of the
5 legislative body who may serve and vote in place of a member who is absent or
6 disqualifies themselves from participating in a meeting of the authority. The
7 majority of the board shall appoint the public members to the governing body. The
8 appointment of the public members shall be subject to Sections 54970 and 54972.

9 (3) If an authority has more than three participating affected taxing entities, the
10 legislative bodies of the taxing entities may, upon agreement by all participating
11 affected taxing entities appoint only one member of their respective legislative
12 bodies, and one alternate member, to the authority, and a minimum of two
13 members of the public chosen by the legislative bodies of the participating entities.
14 The appointment of the public members shall be subject to Sections 54970 and
15 54972.

16 (4) For purposes of this subdivision, “legislative body” may include a directly
17 elected mayor of a charter city who is not a member of the city’s legislative body
18 under the city’s adopted charter.

19 (d) An authority may carry out a community revitalization plan within a
20 community revitalization and investment area. Not less than 70 percent of the land
21 calculated by census tracts, census block groups, as defined by the United States
22 Census Bureau, or any combination of both within the area shall be characterized
23 by both of the following conditions:

24 (1) An annual median household income that is less than, at the option of the
25 authority, 80 percent of the statewide, countywide, or citywide annual median
26 income.

27 (2) Three of the following four conditions:

28 (A) An unemployment rate that is at least 3 percentage points higher than the
29 statewide average annual unemployment rate, as defined by the report on labor
30 market information published by the Employment Development Department in
31 March of the year in which the community revitalization plan is prepared. In
32 determining the unemployment rate within the community revitalization and
33 investment area, an authority may use unemployment data from the periodic
34 American Community Survey published by the United States Census Bureau.

35 (B) Crime rates, as documented by records maintained by the law enforcement
36 agency that has jurisdiction in the proposed plan area for violent or property crime
37 offenses, that are at least 5 percent higher than the statewide average crime rate for
38 violent or property crime offenses, as defined by the most recent annual report of
39 the Criminal Justice Statistics Center within the Department of Justice, when data
40 is available on the Attorney General’s internet website. The crime rate shall be
41 calculated by taking the local crime incidents for violent or property crimes, or any
42 offense within those categories, for the most recent calendar year for which the
43 Department of Justice maintains data, divided by the total population of the

1 proposed plan area, multiplied by 100,000. If the local crime rate for the proposed
2 plan area exceeds the statewide average rate for either violent or property crime, or
3 any offense within these categories, by more than 5 percent, then the condition
4 described in this subparagraph shall be met.

5 (C) Deteriorated or inadequate infrastructure, including streets, sidewalks, water
6 supply, sewer treatment or processing, and parks.

7 (D) Deteriorated commercial or residential structures.

8 (e) As an alternative to subdivision (d), an authority may also carry out a
9 community revitalization plan within a community revitalization and investment
10 area if it meets any of the following conditions:

11 (1) The area is established within a former military base that is principally
12 characterized by deteriorated or inadequate infrastructure and structures.
13 Notwithstanding subdivision (c), the governing board of an authority established
14 within a former military base shall include a member of the military base closure
15 commission as a public member.

16 (2) The census tracts or census block groups, as defined by the United States
17 Census Bureau, within the area are situated within a disadvantaged community as
18 described in Section 39711 of the Health and Safety Code.

19 (3) Sites identified in the inventory of land in a city or county's housing element
20 that are suitable for residential development pursuant to paragraph (3) or (4) of
21 subdivision (a) of Section 65583.2, including parcels that are zoned to allow
22 transit priority projects, as defined under Chapter 4.2 (commencing with Section
23 21155) of Division 13 of the Public Resources Code, consistent with the general
24 use designation, density, building intensity, and applicable policies specified for
25 the project area in either a sustainable communities strategy or an alternative
26 planning strategy, for which the State Air Resources Board, pursuant to
27 subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080, has
28 accepted a metropolitan planning organization's determination of the sustainable
29 communities strategy or the alternative planning strategy.

30 (f) An authority created pursuant to this part shall be a local public agency
31 subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950)
32 of Part 1 of Division 2 of Title 5), the California Public Records Act (~~Chapter 3.5~~
33 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
34 Section 7920.000) of Title 1), and the Political Reform Act of 1974 (Title 9
35 (commencing with Section 81000)).

36 (g) (1) At any time after the authority is authorized to transact business and
37 exercise its powers, the legislative body or bodies of the local government or
38 governments that created the authority may appropriate the amounts the legislative
39 body or bodies deem necessary for the administrative expenses and overhead of
40 the authority.

41 (2) The money appropriated may be paid to the authority as a grant to defray the
42 expenses and overhead, or as a loan to be repaid upon the terms and conditions as
43 the legislative body may provide. If appropriated as a loan, the property owners

1 and residents within the plan area shall be made third-party beneficiaries of the
2 repayment of the loan. In addition to the common understanding and usual
3 interpretation of the term, “administrative expense” includes, but is not limited to,
4 expenses of planning and dissemination of information.

5 **Comment.** Section 62001 is amended to reflect nonsubstantive recodification of the California
6 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
7 Reports 207 (2019).

8 The section is also amended to make a technical change.

9 [This revised Comment replaces the one in *California Public Records Act Clean-Up*, 46 Cal.
10 L. Revision Comm’n Reports 207 (2019).]

11 **Note.** In 2021, Government Code Section 62001 was amended by the CPRA conforming
12 revisions bill. See 2021 Cal. Stat. ch. 615, § 210 (AB 474 (Chau)). The section was also amended
13 by 2021 Cal. Stat. ch. 391, § 7 (SB 780 (Cortese)).

14 Due to the subordination clause in the CPRA conforming revisions bill, the amendment made
15 by that bill was chaptered out by SB 780. See Gov’t Code § 9605 (“In the absence of any *express*
16 *provision to the contrary* in the statute that is enacted last, it shall be conclusively presumed that
17 the statute which is enacted last is intended to prevail over statutes that are enacted earlier at the
18 same session ...” (emphasis added)).

19 Consequently, the CPRA cross-reference in Government Code Section 62001 still needs to be
20 updated to reflect the CPRA recodification. The new conforming revision of Government Code
21 Section 62001 (shown above) is based on 2021 Cal. Stat. ch. 391, § 7.

22 **Gov’t Code § 65913.4 (amended). Streamlined, ministerial approval process for**
23 **development application**

24 SEC. 40. Section 65913.4 of the Government Code is amended to read:

25 65913.4. (a) A development proponent may submit an application for a
26 development that is subject to the streamlined, ministerial approval process
27 provided by subdivision (c) and is not subject to a conditional use permit if the
28 development complies with subdivision (b) and satisfies all of the following
29 objective planning standards:

30 (1) The development is a multifamily housing development that contains two or
31 more residential units.

32 (2) The development and the site on which it is located satisfy all of the
33 following:

34 (A) It is a legal parcel or parcels located in a city if, and only if, the city
35 boundaries include some portion of either an urbanized area or urban cluster, as
36 designated by the United States Census Bureau, or, for unincorporated areas, a
37 legal parcel or parcels wholly within the boundaries of an urbanized area or urban
38 cluster, as designated by the United States Census Bureau.

39 (B) At least 75 percent of the perimeter of the site adjoins parcels that are
40 developed with urban uses. For the purposes of this section, parcels that are only
41 separated by a street or highway shall be considered to be adjoined.

42 (C) It is zoned for residential use or residential mixed-use development, or has a
43 general plan designation that allows residential use or a mix of residential and
44 nonresidential uses, and at least two-thirds of the square footage of the
45 development is designated for residential use. Additional density, floor area, and

1 units, and any other concession, incentive, or waiver of development standards
2 granted pursuant to the Density Bonus Law in Section 65915 shall be included in
3 the square footage calculation. The square footage of the development shall not
4 include underground space, such as basements or underground parking garages.

5 (3) (A) The development proponent has committed to record, prior to the
6 issuance of the first building permit, a land use restriction or covenant providing
7 that any lower or moderate income housing units required pursuant to
8 subparagraph (B) of paragraph (4) shall remain available at affordable housing
9 costs or rent to persons and families of lower or moderate income for no less than
10 the following periods of time:

- 11 (i) Fifty-five years for units that are rented.
- 12 (ii) Forty-five years for units that are owned.

13 (B) The city or county shall require the recording of covenants or restrictions
14 implementing this paragraph for each parcel or unit of real property included in
15 the development.

16 (4) The development satisfies subparagraphs (A) and (B) below:

17 (A) Is located in a locality that the department has determined is subject to this
18 subparagraph on the basis that the number of units that have been issued building
19 permits, as shown on the most recent production report received by the
20 department, is less than the locality's share of the regional housing needs, by
21 income category, for that reporting period. A locality shall remain eligible under
22 this subparagraph until the department's determination for the next reporting
23 period.

24 (B) The development is subject to a requirement mandating a minimum
25 percentage of below market rate housing based on one of the following:

26 (i) The locality did not submit its latest production report to the department by
27 the time period required by Section 65400, or that production report reflects that
28 there were fewer units of above moderate-income housing issued building permits
29 than were required for the regional housing needs assessment cycle for that
30 reporting period. In addition, if the project contains more than 10 units of housing,
31 the project does either of the following:

32 (I) The project dedicates a minimum of 10 percent of the total number of units to
33 housing affordable to households making at or below 80 percent of the area
34 median income. However, if the locality has adopted a local ordinance that
35 requires that greater than 10 percent of the units be dedicated to housing
36 affordable to households making below 80 percent of the area median income, that
37 local ordinance applies.

38 (II) (ia) If the project is located within the San Francisco Bay area, the project,
39 in lieu of complying with subclause (I), dedicates 20 percent of the total number of
40 units to housing affordable to households making below 120 percent of the area
41 median income with the average income of the units at or below 100 percent of the
42 area median income. However, a local ordinance adopted by the locality applies if
43 it requires greater than 20 percent of the units be dedicated to housing affordable

1 to households making at or below 120 percent of the area median income, or
2 requires that any of the units be dedicated at a level deeper than 120 percent. In
3 order to comply with this subclause, the rent or sale price charged for units that are
4 dedicated to housing affordable to households between 80 percent and 120 percent
5 of the area median income shall not exceed 30 percent of the gross income of the
6 household.

7 (ib) For purposes of this subclause, “San Francisco Bay area” means the entire
8 area within the territorial boundaries of the Counties of Alameda, Contra Costa,
9 Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and
10 County of San Francisco.

11 (ii) The locality’s latest production report reflects that there were fewer units of
12 housing issued building permits affordable to either very low income or low-
13 income households by income category than were required for the regional
14 housing needs assessment cycle for that reporting period, and the project seeking
15 approval dedicates 50 percent of the total number of units to housing affordable to
16 households making at or below 80 percent of the area median income. However, if
17 the locality has adopted a local ordinance that requires that greater than 50 percent
18 of the units be dedicated to housing affordable to households making at or below
19 80 percent of the area median income, that local ordinance applies.

20 (iii) The locality did not submit its latest production report to the department by
21 the time period required by Section 65400, or if the production report reflects that
22 there were fewer units of housing affordable to both income levels described in
23 clauses (i) and (ii) that were issued building permits than were required for the
24 regional housing needs assessment cycle for that reporting period, the project
25 seeking approval may choose between utilizing clause (i) or (ii).

26 (C) (i) A development proponent that uses a unit of affordable housing to satisfy
27 the requirements of subparagraph (B) may also use that unit to satisfy any other
28 local or state requirement for affordable housing, including local ordinances or the
29 Density Bonus Law in Section 65915, provided that the development proponent
30 complies with the applicable requirements in the state or local law.

31 (ii) A development proponent that uses a unit of affordable housing to satisfy
32 any other state or local affordability requirement may also use that unit to satisfy
33 the requirements of subparagraph (B), provided that the development proponent
34 complies with applicable requirements of subparagraph (B).

35 (iii) A development proponent may satisfy the affordability requirements of
36 subparagraph (B) with a unit that is restricted to households with incomes lower
37 than the applicable income limits required in subparagraph (B).

38 (5) The development, excluding any additional density or any other concessions,
39 incentives, or waivers of development standards granted pursuant to the Density
40 Bonus Law in Section 65915, is consistent with objective zoning standards,
41 objective subdivision standards, and objective design review standards in effect at
42 the time that the development is submitted to the local government pursuant to this
43 section, or at the time a notice of intent is submitted pursuant to subdivision (b),

1 whichever occurs earlier. For purposes of this paragraph, “objective zoning
2 standards,” “objective subdivision standards,” and “objective design review
3 standards” mean standards that involve no personal or subjective judgment by a
4 public official and are uniformly verifiable by reference to an external and uniform
5 benchmark or criterion available and knowable by both the development applicant
6 or proponent and the public official before submittal. These standards may be
7 embodied in alternative objective land use specifications adopted by a city or
8 county, and may include, but are not limited to, housing overlay zones, specific
9 plans, inclusionary zoning ordinances, and density bonus ordinances, subject to
10 the following:

11 (A) A development shall be deemed consistent with the objective zoning
12 standards related to housing density, as applicable, if the density proposed is
13 compliant with the maximum density allowed within that land use designation,
14 notwithstanding any specified maximum unit allocation that may result in fewer
15 units of housing being permitted.

16 (B) In the event that objective zoning, general plan, subdivision, or design
17 review standards are mutually inconsistent, a development shall be deemed
18 consistent with the objective zoning and subdivision standards pursuant to this
19 subdivision if the development is consistent with the standards set forth in the
20 general plan.

21 (C) It is the intent of the Legislature that the objective zoning standards,
22 objective subdivision standards, and objective design review standards described
23 in this paragraph be adopted or amended in compliance with the requirements of
24 Chapter 905 of the Statutes of 2004.

25 (D) The amendments to this subdivision made by ~~the act adding this~~
26 ~~subparagraph~~ Chapter 840 of the Statutes of 2018 do not constitute a change in,
27 but are declaratory of, existing law.

28 (6) The development is not located on a site that is any of the following:

29 (A) A coastal zone, as defined in Division 20 (commencing with Section 30000)
30 of the Public Resources Code.

31 (B) Either prime farmland or farmland of statewide importance, as defined
32 pursuant to United States Department of Agriculture land inventory and
33 monitoring criteria, as modified for California, and designated on the maps
34 prepared by the Farmland Mapping and Monitoring Program of the Department of
35 Conservation, or land zoned or designated for agricultural protection or
36 preservation by a local ballot measure that was approved by the voters of that
37 jurisdiction.

38 (C) Wetlands, as defined in the United States Fish and Wildlife Service Manual,
39 Part 660 FW 2 (June 21, 1993).

40 (D) Within a very high fire hazard severity zone, as determined by the
41 Department of Forestry and Fire Protection pursuant to Section 51178, or within a
42 high or very high fire hazard severity zone as indicated on maps adopted by the
43 Department of Forestry and Fire Protection pursuant to Section 4202 of the Public

1 Resources Code. This subparagraph does not apply to sites excluded from the
2 specified hazard zones by a local agency, pursuant to subdivision (b) of Section
3 51179, or sites that have adopted fire hazard mitigation measures pursuant to
4 existing building standards or state fire mitigation measures applicable to the
5 development.

6 (E) A hazardous waste site that is listed pursuant to Section 65962.5 or a
7 hazardous waste site designated by the Department of Toxic Substances Control
8 pursuant to Section 25356 of the Health and Safety Code, unless the State
9 Department of Public Health, State Water Resources Control Board, or
10 Department of Toxic Substances Control has cleared the site for residential use or
11 residential mixed uses.

12 (F) Within a delineated earthquake fault zone as determined by the State
13 Geologist in any official maps published by the State Geologist, unless the
14 development complies with applicable seismic protection building code standards
15 adopted by the California Building Standards Commission under the California
16 Building Standards Law (Part 2.5 (commencing with Section 18901) of Division
17 13 of the Health and Safety Code), and by any local building department under
18 Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

19 (G) Within a special flood hazard area subject to inundation by the 1 percent
20 annual chance flood (100-year flood) as determined by the Federal Emergency
21 Management Agency in any official maps published by the Federal Emergency
22 Management Agency. If a development proponent is able to satisfy all applicable
23 federal qualifying criteria in order to provide that the site satisfies this
24 subparagraph and is otherwise eligible for streamlined approval under this section,
25 a local government shall not deny the application on the basis that the
26 development proponent did not comply with any additional permit requirement,
27 standard, or action adopted by that local government that is applicable to that site.
28 A development may be located on a site described in this subparagraph if either of
29 the following are met:

30 (i) The site has been subject to a Letter of Map Revision prepared by the Federal
31 Emergency Management Agency and issued to the local jurisdiction.

32 (ii) The site meets Federal Emergency Management Agency requirements
33 necessary to meet minimum flood plain management criteria of the National Flood
34 Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part
35 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the
36 Code of Federal Regulations.

37 (H) Within a regulatory floodway as determined by the Federal Emergency
38 Management Agency in any official maps published by the Federal Emergency
39 Management Agency, unless the development has received a no-rise certification
40 in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal
41 Regulations. If a development proponent is able to satisfy all applicable federal
42 qualifying criteria in order to provide that the site satisfies this subparagraph and is
43 otherwise eligible for streamlined approval under this section, a local government

1 shall not deny the application on the basis that the development proponent did not
2 comply with any additional permit requirement, standard, or action adopted by
3 that local government that is applicable to that site.

4 (I) Lands identified for conservation in an adopted natural community
5 conservation plan pursuant to the Natural Community Conservation Planning Act
6 (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game
7 Code), habitat conservation plan pursuant to the federal Endangered Species Act
8 of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection
9 plan.

10 (J) Habitat for protected species identified as candidate, sensitive, or species of
11 special status by state or federal agencies, fully protected species, or species
12 protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et
13 seq.), the California Endangered Species Act (Chapter 1.5 (commencing with
14 Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant
15 Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the
16 Fish and Game Code).

17 (K) Lands under conservation easement.

18 (7) The development is not located on a site where any of the following apply:

19 (A) The development would require the demolition of the following types of
20 housing:

21 (i) Housing that is subject to a recorded covenant, ordinance, or law that restricts
22 rents to levels affordable to persons and families of moderate, low, or very low
23 income.

24 (ii) Housing that is subject to any form of rent or price control through a public
25 entity's valid exercise of its police power.

26 (iii) Housing that has been occupied by tenants within the past 10 years.

27 (B) The site was previously used for housing that was occupied by tenants that
28 was demolished within 10 years before the development proponent submits an
29 application under this section.

30 (C) The development would require the demolition of a historic structure that
31 was placed on a national, state, or local historic register.

32 (D) The property contains housing units that are occupied by tenants, and units
33 at the property are, or were, subsequently offered for sale to the general public by
34 the subdivider or subsequent owner of the property.

35 (8) The development proponent has done both of the following, as applicable:

36 (A) Certified to the locality that either of the following is true, as applicable:

37 (i) The entirety of the development is a public work for purposes of Chapter 1
38 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

39 (ii) If the development is not in its entirety a public work, that all construction
40 workers employed in the execution of the development will be paid at least the
41 general prevailing rate of per diem wages for the type of work and geographic
42 area, as determined by the Director of Industrial Relations pursuant to Sections
43 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs

1 approved by the Chief of the Division of Apprenticeship Standards may be paid at
2 least the applicable apprentice prevailing rate. If the development is subject to this
3 subparagraph, then for those portions of the development that are not a public
4 work all of the following shall apply:

5 (I) The development proponent shall ensure that the prevailing wage
6 requirement is included in all contracts for the performance of the work.

7 (II) All contractors and subcontractors shall pay to all construction workers
8 employed in the execution of the work at least the general prevailing rate of per
9 diem wages, except that apprentices registered in programs approved by the Chief
10 of the Division of Apprenticeship Standards may be paid at least the applicable
11 apprentice prevailing rate.

12 (III) Except as provided in subclause (V), all contractors and subcontractors
13 shall maintain and verify payroll records pursuant to Section 1776 of the Labor
14 Code and make those records available for inspection and copying as provided
15 therein.

16 (IV) Except as provided in subclause (V), the obligation of the contractors and
17 subcontractors to pay prevailing wages may be enforced by the Labor
18 Commissioner through the issuance of a civil wage and penalty assessment
19 pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to
20 Section 1742 of the Labor Code, within 18 months after the completion of the
21 development, by an underpaid worker through an administrative complaint or civil
22 action, or by a joint labor-management committee through a civil action under
23 Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is
24 issued, the contractor, subcontractor, and surety on a bond or bonds issued to
25 secure the payment of wages covered by the assessment shall be liable for
26 liquidated damages pursuant to Section 1742.1 of the Labor Code.

27 (V) Subclauses (III) and (IV) shall not apply if all contractors and subcontractors
28 performing work on the development are subject to a project labor agreement that
29 requires the payment of prevailing wages to all construction workers employed in
30 the execution of the development and provides for enforcement of that obligation
31 through an arbitration procedure. For purposes of this clause, “project labor
32 agreement” has the same meaning as set forth in paragraph (1) of subdivision (b)
33 of Section 2500 of the Public Contract Code.

34 (VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the
35 requirement that employer payments not reduce the obligation to pay the hourly
36 straight time or overtime wages found to be prevailing shall not apply if otherwise
37 provided in a bona fide collective bargaining agreement covering the worker. The
38 requirement to pay at least the general prevailing rate of per diem wages does not
39 preclude use of an alternative workweek schedule adopted pursuant to Section 511
40 or 514 of the Labor Code.

41 (B) (i) For developments for which any of the following conditions apply,
42 certified that a skilled and trained workforce shall be used to complete the
43 development if the application is approved:

1 (I) On and after January 1, 2018, until December 31, 2021, the development
2 consists of 75 or more units with a residential component that is not 100 percent
3 subsidized affordable housing and will be located within a jurisdiction located in a
4 coastal or bay county with a population of 225,000 or more.

5 (II) On and after January 1, 2022, until December 31, 2025, the development
6 consists of 50 or more units with a residential component that is not 100 percent
7 subsidized affordable housing and will be located within a jurisdiction located in a
8 coastal or bay county with a population of 225,000 or more.

9 (III) On and after January 1, 2018, until December 31, 2019, the development
10 consists of 75 or more units with a residential component that is not 100 percent
11 subsidized affordable housing and will be located within a jurisdiction with a
12 population of fewer than 550,000 and that is not located in a coastal or bay county.

13 (IV) On and after January 1, 2020, until December 31, 2021, the development
14 consists of more than 50 units with a residential component that is not 100 percent
15 subsidized affordable housing and will be located within a jurisdiction with a
16 population of fewer than 550,000 and that is not located in a coastal or bay county.

17 (V) On and after January 1, 2022, until December 31, 2025, the development
18 consists of more than 25 units with a residential component that is not 100 percent
19 subsidized affordable housing and will be located within a jurisdiction with a
20 population of fewer than 550,000 and that is not located in a coastal or bay county.

21 (ii) For purposes of this section, “skilled and trained workforce” has the same
22 meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of
23 Division 2 of the Public Contract Code.

24 (iii) If the development proponent has certified that a skilled and trained
25 workforce will be used to complete the development and the application is
26 approved, the following shall apply:

27 (I) The applicant shall require in all contracts for the performance of work that
28 every contractor and subcontractor at every tier will individually use a skilled and
29 trained workforce to complete the development.

30 (II) Every contractor and subcontractor shall use a skilled and trained workforce
31 to complete the development.

32 (III) Except as provided in subclause (IV), the applicant shall provide to the
33 locality, on a monthly basis while the development or contract is being performed,
34 a report demonstrating compliance with Chapter 2.9 (commencing with Section
35 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report
36 provided to the locality pursuant to this subclause shall be a public record under
37 the California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~
38 of Division 7 (Division 10 (commencing with Section 7920.000)) of Title 1) and
39 shall be open to public inspection. An applicant that fails to provide a monthly
40 report demonstrating compliance with Chapter 2.9 (commencing with Section
41 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil
42 penalty of ten thousand dollars (\$10,000) per month for each month for which the
43 report has not been provided. Any contractor or subcontractor that fails to use a

1 skilled and trained workforce shall be subject to a civil penalty of two hundred
2 dollars (\$200) per day for each worker employed in contravention of the skilled
3 and trained workforce requirement. Penalties may be assessed by the Labor
4 Commissioner within 18 months of completion of the development using the same
5 procedures for issuance of civil wage and penalty assessments pursuant to Section
6 1741 of the Labor Code, and may be reviewed pursuant to the same procedures in
7 Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works
8 Enforcement Fund.

9 (IV) Subclause (III) shall not apply if all contractors and subcontractors
10 performing work on the development are subject to a project labor agreement that
11 requires compliance with the skilled and trained workforce requirement and
12 provides for enforcement of that obligation through an arbitration procedure. For
13 purposes of this subparagraph, “project labor agreement” has the same meaning as
14 set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract
15 Code.

16 (C) Notwithstanding subparagraphs (A) and (B), a development that is subject to
17 approval pursuant to this section is exempt from any requirement to pay prevailing
18 wages or use a skilled and trained workforce if it meets both of the following:

19 (i) The project includes 10 or fewer units.

20 (ii) The project is not a public work for purposes of Chapter 1 (commencing
21 with Section 1720) of Part 7 of Division 2 of the Labor Code.

22 (9) The development did not or does not involve a subdivision of a parcel that is,
23 or, notwithstanding this section, would otherwise be, subject to the Subdivision
24 Map Act (Division 2 (commencing with Section 66410)) or any other applicable
25 law authorizing the subdivision of land, unless the development is consistent with
26 all objective subdivision standards in the local subdivision ordinance, and either of
27 the following apply:

28 (A) The development has received or will receive financing or funding by means
29 of a low-income housing tax credit and is subject to the requirement that
30 prevailing wages be paid pursuant to subparagraph (A) of paragraph (8).

31 (B) The development is subject to the requirement that prevailing wages be paid,
32 and a skilled and trained workforce used, pursuant to paragraph (8).

33 (10) The development shall not be upon an existing parcel of land or site that is
34 governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with
35 Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational
36 Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of
37 Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part
38 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety
39 Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section
40 18860) of Division 13 of the Health and Safety Code).

41 (b) (1) (A) (i) Before submitting an application for a development subject to the
42 streamlined, ministerial approval process described in subdivision (c), the
43 development proponent shall submit to the local government a notice of its intent

1 to submit an application. The notice of intent shall be in the form of a preliminary
2 application that includes all of the information described in Section 65941.1, as
3 that section read on January 1, 2020.

4 (ii) Upon receipt of a notice of intent to submit an application described in
5 clause (i), the local government shall engage in a scoping consultation regarding
6 the proposed development with any California Native American tribe that is
7 traditionally and culturally affiliated with the geographic area, as described in
8 Section 21080.3.1 of the Public Resources Code, of the proposed development. In
9 order to expedite compliance with this subdivision, the local government shall
10 contact the Native American Heritage Commission for assistance in identifying
11 any California Native American tribe that is traditionally and culturally affiliated
12 with the geographic area of the proposed development.

13 (iii) The timeline for noticing and commencing a scoping consultation in
14 accordance with this subdivision shall be as follows:

15 (I) The local government shall provide a formal notice of a development
16 proponent's notice of intent to submit an application described in clause (i) to each
17 California Native American tribe that is traditionally and culturally affiliated with
18 the geographic area of the proposed development within 30 days of receiving that
19 notice of intent. The formal notice provided pursuant to this subclause shall
20 include all of the following:

21 (ia) A description of the proposed development.

22 (ib) The location of the proposed development.

23 (ic) An invitation to engage in a scoping consultation in accordance with this
24 subdivision.

25 (II) Each California Native American tribe that receives a formal notice pursuant
26 to this clause shall have 30 days from the receipt of that notice to accept the
27 invitation to engage in a scoping consultation.

28 (III) If the local government receives a response accepting an invitation to
29 engage in a scoping consultation pursuant to this subdivision, the local
30 government shall commence the scoping consultation within 30 days of receiving
31 that response.

32 (B) The scoping consultation shall recognize that California Native American
33 tribes traditionally and culturally affiliated with a geographic area have knowledge
34 and expertise concerning the resources at issue and shall take into account the
35 cultural significance of the resource to the culturally affiliated California Native
36 American tribe.

37 (C) The parties to a scoping consultation conducted pursuant to this subdivision
38 shall be the local government and any California Native American tribe
39 traditionally and culturally affiliated with the geographic area of the proposed
40 development. More than one California Native American tribe traditionally and
41 culturally affiliated with the geographic area of the proposed development may
42 participate in the scoping consultation. However, the local government, upon the
43 request of any California Native American tribe traditionally and culturally

1 affiliated with the geographic area of the proposed development, shall engage in a
2 separate scoping consultation with that California Native American tribe. The
3 development proponent and its consultants may participate in a scoping
4 consultation process conducted pursuant to this subdivision if all of the following
5 conditions are met:

6 (i) The development proponent and its consultants agree to respect the principles
7 set forth in this subdivision.

8 (ii) The development proponent and its consultants engage in the scoping
9 consultation in good faith.

10 (iii) The California Native American tribe participating in the scoping
11 consultation approves the participation of the development proponent and its
12 consultants. The California Native American tribe may rescind its approval at any
13 time during the scoping consultation, either for the duration of the scoping
14 consultation or with respect to any particular meeting or discussion held as part of
15 the scoping consultation.

16 (D) The participants to a scoping consultation pursuant to this subdivision shall
17 comply with all of the following confidentiality requirements:

18 (i) ~~Subdivision (r) of Section 6254~~ Section 7927.000.

19 (ii) ~~Section 6254.10~~ 7927.005.

20 (iii) Subdivision (c) of Section 21082.3 of the Public Resources Code.

21 (iv) Subdivision (d) of Section 15120 of Title 14 of the California Code of
22 Regulations.

23 (v) Any additional confidentiality standards adopted by the California Native
24 American tribe participating in the scoping consultation.

25 (E) The California Environmental Quality Act (Division 13 (commencing with
26 Section 21000) of the Public Resources Code) shall not apply to a scoping
27 consultation conducted pursuant to this subdivision.

28 (2) (A) If, after concluding the scoping consultation, the parties find that no
29 potential tribal cultural resource would be affected by the proposed development,
30 the development proponent may submit an application for the proposed
31 development that is subject to the streamlined, ministerial approval process
32 described in subdivision (c).

33 (B) If, after concluding the scoping consultation, the parties find that a potential
34 tribal cultural resource could be affected by the proposed development and an
35 enforceable agreement is documented between the California Native American
36 tribe and the local government on methods, measures, and conditions for tribal
37 cultural resource treatment, the development proponent may submit the
38 application for a development subject to the streamlined, ministerial approval
39 process described in subdivision (c). The local government shall ensure that the
40 enforceable agreement is included in the requirements and conditions for the
41 proposed development.

42 (C) If, after concluding the scoping consultation, the parties find that a potential
43 tribal cultural resource could be affected by the proposed development and an

1 enforceable agreement is not documented between the California Native American
2 tribe and the local government regarding methods, measures, and conditions for
3 tribal cultural resource treatment, the development shall not be eligible for the
4 streamlined, ministerial approval process described in subdivision (c).

5 (D) For purposes of this paragraph, a scoping consultation shall be deemed to be
6 concluded if either of the following occur:

7 (i) The parties to the scoping consultation document an enforceable agreement
8 concerning methods, measures, and conditions to avoid or address potential
9 impacts to tribal cultural resources that are or may be present.

10 (ii) One or more parties to the scoping consultation, acting in good faith and
11 after reasonable effort, conclude that a mutual agreement on methods, measures,
12 and conditions to avoid or address impacts to tribal cultural resources that are or
13 may be present cannot be reached.

14 (E) If the development or environmental setting substantially changes after the
15 completion of the scoping consultation, the local government shall notify the
16 California Native American tribe of the changes and engage in a subsequent
17 scoping consultation if requested by the California Native American tribe.

18 (3) A local government may only accept an application for streamlined,
19 ministerial approval pursuant to this section if one of the following applies:

20 (A) A California Native American tribe that received a formal notice of the
21 development proponent's notice of intent to submit an application pursuant to
22 subclause (I) of clause (iii) of subparagraph (A) of paragraph (1) did not accept the
23 invitation to engage in a scoping consultation.

24 (B) The California Native American tribe accepted an invitation to engage in a
25 scoping consultation pursuant to subclause (II) of clause (iii) of subparagraph (A)
26 of paragraph (1) but substantially failed to engage in the scoping consultation after
27 repeated documented attempts by the local government to engage the California
28 Native American tribe.

29 (C) The parties to a scoping consultation pursuant to this subdivision find that
30 no potential tribal cultural resource will be affected by the proposed development
31 pursuant to subparagraph (A) of paragraph (2).

32 (D) A scoping consultation between a California Native American tribe and the
33 local government has occurred in accordance with this subdivision and resulted in
34 agreement pursuant to subparagraph (B) of paragraph (2).

35 (4) A project shall not be eligible for the streamlined, ministerial process
36 described in subdivision (c) if any of the following apply:

37 (A) There is a tribal cultural resource that is on a national, state, tribal, or local
38 historic register list located on the site of the project.

39 (B) There is a potential tribal cultural resource that could be affected by the
40 proposed development and the parties to a scoping consultation conducted
41 pursuant to this subdivision do not document an enforceable agreement on
42 methods, measures, and conditions for tribal cultural resource treatment, as
43 described in subparagraph (C) of paragraph (2).

1 (C) The parties to a scoping consultation conducted pursuant to this subdivision
2 do not agree as to whether a potential tribal cultural resource will be affected by
3 the proposed development.

4 (5) (A) If, after a scoping consultation conducted pursuant to this subdivision, a
5 project is not eligible for the streamlined, ministerial process described in
6 subdivision (c) for any or all of the following reasons, the local government shall
7 provide written documentation of that fact, and an explanation of the reason for
8 which the project is not eligible, to the development proponent and to any
9 California Native American tribe that is a party to that scoping consultation:

10 (i) There is a tribal cultural resource that is on a national, state, tribal, or local
11 historic register list located on the site of the project, as described in subparagraph
12 (A) of paragraph (4).

13 (ii) The parties to the scoping consultation have not documented an enforceable
14 agreement on methods, measures, and conditions for tribal cultural resource
15 treatment, as described in subparagraph (C) of paragraph (2) and subparagraph (B)
16 of paragraph (4).

17 (iii) The parties to the scoping consultation do not agree as to whether a
18 potential tribal cultural resource will be affected by the proposed development, as
19 described in subparagraph (C) of paragraph (4).

20 (B) The written documentation provided to a development proponent pursuant to
21 this paragraph shall include information on how the development proponent may
22 seek a conditional use permit or other discretionary approval of the development
23 from the local government.

24 (6) This section is not intended, and shall not be construed, to limit consultation
25 and discussion between a local government and a California Native American
26 tribe pursuant to other applicable law, confidentiality provisions under other
27 applicable law, the protection of religious exercise to the fullest extent permitted
28 under state and federal law, or the ability of a California Native American tribe to
29 submit information to the local government or participate in any process of the
30 local government.

31 (7) For purposes of this subdivision:

32 (A) “Consultation” means the meaningful and timely process of seeking,
33 discussing, and considering carefully the views of others, in a manner that is
34 cognizant of all parties’ cultural values and, where feasible, seeking agreement.
35 Consultation between local governments and Native American tribes shall be
36 conducted in a way that is mutually respectful of each party’s sovereignty.
37 Consultation shall also recognize the tribes’ potential needs for confidentiality
38 with respect to places that have traditional tribal cultural importance. A lead
39 agency shall consult the tribal consultation best practices described in the “State of
40 California Tribal Consultation Guidelines: Supplement to the General Plan
41 Guidelines” prepared by the Office of Planning and Research.

42 (B) “Scoping” means the act of participating in early discussions or
43 investigations between the local government and California Native American

1 tribe, and the development proponent if authorized by the California Native
2 American tribe, regarding the potential effects a proposed development could have
3 on a potential tribal cultural resource, as defined in Section 21074 of the Public
4 Resources Code, or California Native American tribe, as defined in Section 21073
5 of the Public Resources Code.

6 (8) This subdivision shall not apply to any project that has been approved under
7 the streamlined, ministerial approval process provided under this section before
8 the effective date of the act adding this subdivision.

9 (c) (1) If a local government determines that a development submitted pursuant
10 to this section is in conflict with any of the objective planning standards specified
11 in subdivision (a), it shall provide the development proponent written
12 documentation of which standard or standards the development conflicts with, and
13 an explanation for the reason or reasons the development conflicts with that
14 standard or standards, as follows:

15 (A) Within 60 days of submittal of the development to the local government
16 pursuant to this section if the development contains 150 or fewer housing units.

17 (B) Within 90 days of submittal of the development to the local government
18 pursuant to this section if the development contains more than 150 housing units.

19 (2) If the local government fails to provide the required documentation pursuant
20 to paragraph (1), the development shall be deemed to satisfy the objective
21 planning standards specified in subdivision (a).

22 (3) For purposes of this section, a development is consistent with the objective
23 planning standards specified in subdivision (a) if there is substantial evidence that
24 would allow a reasonable person to conclude that the development is consistent
25 with the objective planning standards.

26 (d) (1) Any design review or public oversight of the development may be
27 conducted by the local government's planning commission or any equivalent
28 board or commission responsible for review and approval of development
29 projects, or the city council or board of supervisors, as appropriate. That design
30 review or public oversight shall be objective and be strictly focused on assessing
31 compliance with criteria required for streamlined projects, as well as any
32 reasonable objective design standards published and adopted by ordinance or
33 resolution by a local jurisdiction before submission of a development application,
34 and shall be broadly applicable to development within the jurisdiction. That design
35 review or public oversight shall be completed as follows and shall not in any way
36 inhibit, chill, or preclude the ministerial approval provided by this section or its
37 effect, as applicable:

38 (A) Within 90 days of submittal of the development to the local government
39 pursuant to this section if the development contains 150 or fewer housing units.

40 (B) Within 180 days of submittal of the development to the local government
41 pursuant to this section if the development contains more than 150 housing units.

42 (2) If the development is consistent with the requirements of subparagraph (A)
43 or (B) of paragraph (9) of subdivision (a) and is consistent with all objective

1 subdivision standards in the local subdivision ordinance, an application for a
2 subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with
3 Section 66410)) shall be exempt from the requirements of the California
4 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
5 Public Resources Code) and shall be subject to the public oversight timelines set
6 forth in paragraph (1).

7 (e) (1) Notwithstanding any other law, a local government, whether or not it has
8 adopted an ordinance governing automobile parking requirements in multifamily
9 developments, shall not impose automobile parking standards for a streamlined
10 development that was approved pursuant to this section in any of the following
11 instances:

12 (A) The development is located within one-half mile of public transit.

13 (B) The development is located within an architecturally and historically
14 significant historic district.

15 (C) When on-street parking permits are required but not offered to the occupants
16 of the development.

17 (D) When there is a car share vehicle located within one block of the
18 development.

19 (2) If the development does not fall within any of the categories described in
20 paragraph (1), the local government shall not impose automobile parking
21 requirements for streamlined developments approved pursuant to this section that
22 exceed one parking space per unit.

23 (f) (1) If a local government approves a development pursuant to this section,
24 then, notwithstanding any other law, that approval shall not expire if the project
25 satisfies both of the following requirements:

26 (A) The project includes public investment in housing affordability, beyond tax
27 credits.

28 (B) At least 50 percent of the units are affordable to households making at or
29 below 80 percent of the area median income.

30 (2) (A) If a local government approves a development pursuant to this section,
31 and the project does not satisfy the requirements of subparagraphs (A) and (B) of
32 paragraph (1), that approval shall remain valid for three years from the date of the
33 final action establishing that approval, or if litigation is filed challenging that
34 approval, from the date of the final judgment upholding that approval. Approval
35 shall remain valid for a project provided construction activity, including
36 demolition and grading activity, on the development site has begun pursuant to a
37 permit issued by the local jurisdiction and is in progress. For purposes of this
38 subdivision, “in progress” means one of the following:

39 (i) The construction has begun and has not ceased for more than 180 days.

40 (ii) If the development requires multiple building permits, an initial phase has
41 been completed, and the project proponent has applied for and is diligently
42 pursuing a building permit for a subsequent phase, provided that once it has been
43 issued, the building permit for the subsequent phase does not lapse.

1 (B) Notwithstanding subparagraph (A), a local government may grant a project a
2 one-time, one-year extension if the project proponent can provide documentation
3 that there has been significant progress toward getting the development
4 construction ready, such as filing a building permit application.

5 (3) If the development proponent requests a modification pursuant to
6 subdivision (g), then the time during which the approval shall remain valid shall
7 be extended for the number of days between the submittal of a modification
8 request and the date of its final approval, plus an additional 180 days to allow time
9 to obtain a building permit. If litigation is filed relating to the modification
10 request, the time shall be further extended during the pendency of the litigation.
11 The extension required by this paragraph shall only apply to the first request for a
12 modification submitted by the development proponent.

13 (4) The amendments made to this subdivision by the act that added this
14 paragraph shall also be retroactively applied to developments approved prior to
15 January 1, 2022.

16 (g) (1) (A) A development proponent may request a modification to a
17 development that has been approved under the streamlined, ministerial approval
18 process provided in subdivision (c) if that request is submitted to the local
19 government before the issuance of the final building permit required for
20 construction of the development.

21 (B) Except as provided in paragraph (3), the local government shall approve a
22 modification if it determines that the modification is consistent with the objective
23 planning standards specified in subdivision (a) that were in effect when the
24 original development application was first submitted.

25 (C) The local government shall evaluate any modifications requested pursuant to
26 this subdivision for consistency with the objective planning standards using the
27 same assumptions and analytical methodology that the local government originally
28 used to assess consistency for the development that was approved for streamlined,
29 ministerial approval pursuant to subdivision (c).

30 (D) A guideline that was adopted or amended by the department pursuant to
31 subdivision (l) after a development was approved through the streamlined,
32 ministerial approval process described in subdivision (c) shall not be used as a
33 basis to deny proposed modifications.

34 (2) Upon receipt of the development proponent's application requesting a
35 modification, the local government shall determine if the requested modification is
36 consistent with the objective planning standard and either approve or deny the
37 modification request within 60 days after submission of the modification, or
38 within 90 days if design review is required.

39 (3) Notwithstanding paragraph (1), the local government may apply objective
40 planning standards adopted after the development application was first submitted
41 to the requested modification in any of the following instances:

42 (A) The development is revised such that the total number of residential units or
43 total square footage of construction changes by 15 percent or more. The

1 calculation of the square footage of construction changes shall not include
2 underground space.

3 (B) The development is revised such that the total number of residential units or
4 total square footage of construction changes by 5 percent or more and it is
5 necessary to subject the development to an objective standard beyond those in
6 effect when the development application was submitted in order to mitigate or
7 avoid a specific, adverse impact, as that term is defined in subparagraph (A) of
8 paragraph (1) of subdivision (j) of Section 65589.5, upon the public health or
9 safety and there is no feasible alternative method to satisfactorily mitigate or avoid
10 the adverse impact. The calculation of the square footage of construction changes
11 shall not include underground space.

12 (C) (i) Objective building standards contained in the California Building
13 Standards Code (Title 24 of the California Code of Regulations), including, but
14 not limited to, building plumbing, electrical, fire, and grading codes, may be
15 applied to all modification applications that are submitted prior to the first building
16 permit application. Those standards may be applied to modification applications
17 submitted after the first building permit application if agreed to by the
18 development proponent.

19 (ii) The amendments made to clause (i) by the act that added clause (i) shall also
20 be retroactively applied to modification applications submitted prior to January 1,
21 2022.

22 (4) The local government's review of a modification request pursuant to this
23 subdivision shall be strictly limited to determining whether the modification,
24 including any modification to previously approved density bonus concessions or
25 waivers, modify the development's consistency with the objective planning
26 standards and shall not reconsider prior determinations that are not affected by the
27 modification.

28 (h) (1) A local government shall not adopt or impose any requirement,
29 including, but not limited to, increased fees or inclusionary housing requirements,
30 that applies to a project solely or partially on the basis that the project is eligible to
31 receive ministerial or streamlined approval pursuant to this section.

32 (2) (A) A local government shall issue a subsequent permit required for a
33 development approved under this section if the application substantially complies
34 with the development as it was approved pursuant to subdivision (c). Upon receipt
35 of an application for a subsequent permit, the local government shall process the
36 permit without unreasonable delay and shall not impose any procedure or
37 requirement that is not imposed on projects that are not approved pursuant to this
38 section. The local government shall consider the application for subsequent
39 permits based upon the objective standards specified in any state or local laws that
40 were in effect when the original development application was submitted, unless
41 the development proponent agrees to a change in objective standards. Issuance of
42 subsequent permits shall implement the approved development, and review of the
43 permit application shall not inhibit, chill, or preclude the development. For

1 purposes of this paragraph, a “subsequent permit” means a permit required
2 subsequent to receiving approval under subdivision (c), and includes, but is not
3 limited to, demolition, grading, encroachment, and building permits and final
4 maps, if necessary.

5 (B) The amendments made to subparagraph (A) by the act that added this
6 subparagraph shall also be retroactively applied to subsequent permit applications
7 submitted prior to January 1, 2022.

8 (3) (A) If a public improvement is necessary to implement a development that is
9 subject to the streamlined, ministerial approval pursuant to this section, including,
10 but not limited to, a bicycle lane, sidewalk or walkway, public transit stop,
11 driveway, street paving or overlay, a curb or gutter, a modified intersection, a
12 street sign or street light, landscape or hardscape, an above-ground or underground
13 utility connection, a water line, fire hydrant, storm or sanitary sewer connection,
14 retaining wall, and any related work, and that public improvement is located on
15 land owned by the local government, to the extent that the public improvement
16 requires approval from the local government, the local government shall not
17 exercise its discretion over any approval relating to the public improvement in a
18 manner that would inhibit, chill, or preclude the development.

19 (B) If an application for a public improvement described in subparagraph (A) is
20 submitted to a local government, the local government shall do all of the
21 following:

22 (i) Consider the application based upon any objective standards specified in any
23 state or local laws that were in effect when the original development application
24 was submitted.

25 (ii) Conduct its review and approval in the same manner as it would evaluate the
26 public improvement if required by a project that is not eligible to receive
27 ministerial or streamlined approval pursuant to this section.

28 (C) If an application for a public improvement described in subparagraph (A) is
29 submitted to a local government, the local government shall not do either of the
30 following:

31 (i) Adopt or impose any requirement that applies to a project solely or partially
32 on the basis that the project is eligible to receive ministerial or streamlined
33 approval pursuant to this section.

34 (ii) Unreasonably delay in its consideration, review, or approval of the
35 application.

36 (i) (1) This section shall not affect a development proponent’s ability to use any
37 alternative streamlined by right permit processing adopted by a local government,
38 including the provisions of subdivision (i) of Section 65583.2.

39 (2) This section shall not prevent a development from also qualifying as a
40 housing development project entitled to the protections of Section 65589.5. This
41 paragraph does not constitute a change in, but is declaratory of, existing law.

42 (j) The California Environmental Quality Act (Division 13 (commencing with
43 Section 21000) of the Public Resources Code) does not apply to actions taken by a

1 state agency, local government, or the San Francisco Bay Area Rapid Transit
2 District to:

3 (1) Lease, convey, or encumber land owned by the local government or the San
4 Francisco Bay Area Rapid Transit District or to facilitate the lease, conveyance, or
5 encumbrance of land owned by the local government, or for the lease of land
6 owned by the San Francisco Bay Area Rapid Transit District in association with
7 an eligible TOD project, as defined pursuant to Section 29010.1 of the Public
8 Utilities Code, nor to any decisions associated with that lease, or to provide
9 financial assistance to a development that receives streamlined approval pursuant
10 to this section that is to be used for housing for persons and families of very low,
11 low, or moderate income, as defined in Section 50093 of the Health and Safety
12 Code.

13 (2) Approve improvements located on land owned by the local government or
14 the San Francisco Bay Area Rapid Transit District that are necessary to implement
15 a development that receives streamlined approval pursuant to this section that is to
16 be used for housing for persons and families of very low, low, or moderate
17 income, as defined in Section 50093 of the Health and Safety Code.

18 (k) For purposes of this section, the following terms have the following
19 meanings:

20 (1) “Affordable housing cost” has the same meaning as set forth in Section
21 50052.5 of the Health and Safety Code.

22 (2) (A) Subject to the qualification provided by subparagraph (B), “affordable
23 rent” has the same meaning as set forth in Section 50053 of the Health and Safety
24 Code.

25 (B) For a development for which an application pursuant to this section was
26 submitted prior to January 1, 2019, that includes 500 units or more of housing, and
27 that dedicates 50 percent of the total number of units to housing affordable to
28 households making at, or below, 80 percent of the area median income, affordable
29 rent for at least 30 percent of these units shall be set at an affordable rent as
30 defined in subparagraph (A) and “affordable rent” for the remainder of these units
31 shall mean a rent that is consistent with the maximum rent levels for a housing
32 development that receives an allocation of state or federal low-income housing tax
33 credits from the California Tax Credit Allocation Committee.

34 (3) “Department” means the Department of Housing and Community
35 Development.

36 (4) “Development proponent” means the developer who submits an application
37 for streamlined approval pursuant to this section.

38 (5) “Completed entitlements” means a housing development that has received all
39 the required land use approvals or entitlements necessary for the issuance of a
40 building permit.

41 (6) “Locality” or “local government” means a city, including a charter city, a
42 county, including a charter county, or a city and county, including a charter city
43 and county.

1 (7) “Moderate income housing units” means housing units with an affordable
2 housing cost or affordable rent for persons and families of moderate income, as
3 that term is defined in Section 50093 of the Health and Safety Code.

4 (8) “Production report” means the information reported pursuant to
5 subparagraph (H) of paragraph (2) of subdivision (a) of Section 65400.

6 (9) “State agency” includes every state office, officer, department, division,
7 bureau, board, and commission, but does not include the California State
8 University or the University of California.

9 (10) “Subsidized” means units that are price or rent restricted such that the units
10 are affordable to households meeting the definitions of very low and lower
11 income, as defined in Sections 50079.5 and 50105 of the Health and Safety Code.

12 (11) “Reporting period” means either of the following:

13 (A) The first half of the regional housing needs assessment cycle.

14 (B) The last half of the regional housing needs assessment cycle.

15 (12) “Urban uses” means any current or former residential, commercial, public
16 institutional, transit or transportation passenger facility, or retail use, or any
17 combination of those uses.

18 (l) The department may review, adopt, amend, and repeal guidelines to
19 implement uniform standards or criteria that supplement or clarify the terms,
20 references, or standards set forth in this section. Any guidelines or terms adopted
21 pursuant to this subdivision shall not be subject to Chapter 3.5 (commencing with
22 Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

23 (m) The determination of whether an application for a development is subject to
24 the streamlined ministerial approval process provided by subdivision (c) is not a
25 “project” as defined in Section 21065 of the Public Resources Code.

26 (n) It is the policy of the state that this section be interpreted and implemented in
27 a manner to afford the fullest possible weight to the interest of, and the approval
28 and provision of, increased housing supply.

29 (o) This section shall remain in effect only until January 1, 2026, and as of that
30 date is repealed.

31 **Comment.** Section 65913.4 is amended to reflect nonsubstantive recodification of the
32 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
33 Comm’n Reports 207 (2019).

34 The section is also amended to make some technical changes that were (1) enacted by 2020
35 Cal. Stat. ch. 370, § 178 (SB 1371) but chaptered out by 2020 Cal. Stat. ch. 194, § 1.5 (AB 831),
36 and (2) enacted again by 2021 Cal. Stat. ch. 615, § 215 (AB 474) but chaptered out by 2021 Cal.
37 Stat. ch. 160, § 1 (AB 1174).

38 [This Comment replaces the revised Comment in *Report of the California Law Revision*
39 *Commission on Chapter 615 of the Statutes of 2021 (Assembly Bill 474)*, 48 Cal. L. Revision
40 Comm’n Reports __ (2021).]

41 **Note.** In 2021, Government Code Section 65913.4 was amended by the CPRA conforming
42 revisions bill. See 2021 Cal. Stat. ch. 615, § 215 (AB 474 (Chau)). The section was also amended
43 by an urgency bill, which took effect upon enactment: 2021 Cal. Stat. ch. 160, § 1 (AB 1174
44 (Grayson)), enacted on 9/16/21.

1 Due to Government Code Sections 9600 and 9605, and the subordination clause in the CPRA
2 conforming revisions bill, the amendment made by that bill was chaptered out by AB 1174.

3 Consequently, the CPRA cross-reference in Government Code Section 65913.4 still needs to
4 be updated to reflect the CPRA recodification. The new conforming revision of Government
5 Code Section 65913.4 (shown above) is based on 2021 Cal. Stat. ch. 160, § 1.

6 **Gov’t Code § 68109 (amended). Cooperation with Department of Homeland Security**

7 SEC. 41. Section 68109 of the Government Code is amended to read:

8 68109. (a) Every court of this state shall cooperate with the United States
9 Department of Homeland Security (DHS) to identify and place a deportation hold
10 on any defendant convicted of a felony who is determined to be an undocumented
11 immigrant subject to deportation.

12 (b) As used in this section, “cooperate” means to provide the DHS and its agents
13 with access to all court records available to the public pursuant to ~~Chapter 3.5~~
14 ~~(commencing with Section 6250) of Division 7~~ Division 10 (commencing with
15 Section 7920.000) of Title 1 of the Government Code and to provide any
16 necessary paperwork within a reasonable time.

17 (c) As used in this section, “immigrant” means a person who is not a citizen or
18 national of the United States.

19 **Comment.** Section 68109 is amended to reflect nonsubstantive recodification of the California
20 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
21 Reports 207 (2019).

22 [This Comment is new.]

23 **Note.** Section 68109 was just amended by 2021 Cal. Stat. ch. 296, § 32 (AB 1096 (Luz
24 Rivas)). The CPRA cross-reference in that section needs to be updated to reflect the CPRA
25 recodification.

26 **Gov’t Code § 93026 (amended). Operative date and applicable law**

27 SEC. 42. Section 93026 of the Government Code is amended to read:

28 93026. (a) The agency shall be subject to the Ralph M. Brown Act (Chapter 9
29 (commencing with Section 54950) of Part 1 of Division 2 of Title 5) and the
30 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of~~
31 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1).

32 (b) This section shall become operative on March 1, 2022.

33 **Comment.** Section 93026 is amended to reflect nonsubstantive recodification of the California
34 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
35 Reports 207 (2019).

36 [This Comment is new.]

37 **Note.** Section 93026 was just added to the Government Code by 2021 Cal. Stat. ch. 423, § 22
38 (SB 69 (McGuire)). The CPRA cross-reference in that section needs to be updated to reflect the
39 CPRA recodification.

40 **Gov’t Code § 100104 (amended). Market analysis of feasibility of CalAccount Program**

41 SEC. 43. Section 100104 of the Government Code is amended to read:

1 100104. (a) (1) On or before July 1, 2024, the commission shall conduct,
2 pursuant to subdivision (b), and deliver, pursuant to subdivision (f), a market
3 analysis to determine if it is feasible to implement a “CalAccount Program,”
4 which, if implemented, would have all of the following characteristics:

5 (A) Would be a program established by the state for the purpose of protecting
6 consumers who lack access to traditional banking services from predatory,
7 discriminatory, and costly alternatives, which offers Californians access to a
8 voluntary, zero-fee, zero-penalty, federally insured transaction account, known as
9 a CalAccount, and related payment services at no cost to accountholders,
10 including robust and geographically diverse mechanisms for accessing account
11 funds and account management tools that facilitate the automation of basic
12 financial transactions designed to serve the needs of individuals with low or
13 fluctuating income.

14 (B) Would be administered by a board consisting of all of the following
15 members:

16 (i) The Treasurer or the Treasurer’s designee.

17 (ii) The Commissioner of the Department of Financial Protection and Innovation
18 or that person’s designee.

19 (iii) An individual with banking expertise, particularly expertise in transaction
20 accounts and debit cards, appointed by the Senate Committee on Rules.

21 (iv) An individual with expertise in economic and racial justice and cultural
22 competence appointed by the Speaker of the Assembly.

23 (v) An employee representative appointed by the Governor.

24 (vi) An individual with expertise in banking or consumer financial services
25 affiliated with an academic institution appointed by the Governor.

26 (vii) An individual with banking expertise appointed by the Governor.

27 (viii) A public banking advocate appointed by the Senate Committee on Rules.

28 (ix) A consumer representative or advocate with expertise in banking access and
29 financial empowerment, including within historically unbanked and underbanked
30 communities, appointed by the Speaker of the Assembly.

31 (C) Would require the board to establish a process by which an individual may
32 open a CalAccount, which process shall be designed to maximize program
33 participation.

34 (D) Would require the board to establish the mechanisms by which an
35 accountholder may deposit funds into a CalAccount for no fee, which mechanisms
36 shall include, but not be limited to, electronic fund transfers arranged through an
37 employer’s or hiring entity’s payroll direct deposit arrangement and cash loading
38 through in-network partners.

39 (E) Would require the board to establish the process through which an
40 accountholder may elect to have a portion, up to the entirety, of the
41 accountholder’s paycheck or earnings due for labor or services performed directly
42 deposited by electronic fund transfer into the accountholder’s CalAccount.

1 (F) Would require the board to establish the process through which employers
2 and hiring entities shall be required to remit through a payroll direct deposit
3 arrangement each worker's elected payroll contribution to the worker's
4 CalAccount in accordance with the worker's election.

5 (G) Would require the board to establish mechanisms by which an
6 accountholder can withdraw funds from a CalAccount using a CalAccount debit
7 card for no fee, which mechanisms shall include, but not be limited to,
8 withdrawals through point-of-sale purchases using a CalAccount debit card and
9 through cash withdrawals at a robust and geographically expansive network of
10 participating ATMs, bank or credit union branches, and other in-network partners
11 of designated financial institution partners.

12 (H) Would require the board to establish a process, available to all
13 accountholders for no fee, through which an accountholder may arrange for
14 payment to a registered payee using a preauthorized electronic fund transfer from
15 a CalAccount.

16 (I) Would require the board to establish the process and terms and conditions for
17 becoming a registered payee, which shall at a minimum require the payee's
18 agreement to specified terms and conditions to be established by the board in
19 exchange for the benefits of transparency and accountability afforded by
20 participation in an automated payment system and which shall be designed to
21 incentivize accountholders' preauthorized electronic fund transfers to registered
22 payees and application of voluntary automatic disbursement rules by limiting the
23 late payment fees and penalties that registered payees can impose on
24 accountholders who pay them using preauthorized electronic fund transfers from
25 their CalAccounts.

26 (J) Would require the board to establish voluntary automatic disbursement rules
27 to assist an accountholder in managing automated payments to registered payees
28 based on the availability of funds in the accountholder's account, which an
29 accountholder may voluntarily elect to apply or to stop applying to the
30 accountholder's CalAccount at any time, and which shall be designed to maximize
31 consumer protection and may include, but not be limited to, rules governing the
32 prioritization and timing of payments, rules limiting payments to a percentage of
33 funds available in the CalAccount, and rules limiting disbursement to designated
34 registered payees only upon satisfaction of specified conditions of the CalAccount.

35 (K) Would provide that the board, in establishing processes for enrollment in the
36 CalAccount Program:

37 (i) Shall facilitate the opening of a CalAccount by individuals who may not have
38 federal or state government-issued photo identification while taking all reasonable
39 steps to maintain the confidentiality of personal information consistent with all
40 applicable law.

41 (ii) Shall design and establish rules governing the enrollment and participation
42 in the program of individuals who do not have permanent housing.

1 (iii) May design and establish rules governing the enrollment and participation
2 in the program of individuals who are under 18 years of age, including rules
3 governing the opening of a CalAccount by a person who is at least 14 years of age
4 without a cosigner or guarantor on the account consistent with all applicable law.

5 (L) Would require the board to select a program administrator, which may
6 consist of one or more contractors or program staff or a combination thereof,
7 whose duties shall include, but not be limited to, all of the following:

8 (i) Provide a secure internet web-based portal and mobile application through
9 which individuals can enroll in the program and entities can become registered
10 payees and through which accountholders can access and manage their
11 CalAccounts, including their direct deposits, preauthorized electronic fund
12 transfers to registered payees, and automatic disbursement rule elections.

13 (ii) Provide a method that enables employers and hiring entities to remit each
14 worker participant's elected direct deposit payroll contribution to the worker's
15 CalAccount in accordance with the worker's election.

16 (iii) Facilitate enrollment of accountholders in the program through coordination
17 with government, employers and hiring entities, and nonprofit partners.

18 (iv) Facilitate and manage connectivity with other state and local government
19 programs providing individuals with financial accounts to enable program
20 accountholders to transfer funds between their CalAccounts and their other state-
21 managed or locally managed accounts, as authorized by the board and in
22 accordance with all applicable laws and regulations.

23 (v) Facilitate and manage connectivity with other state and local government
24 agencies and entities to enable and streamline remittance of local, state, and
25 federal benefit and public assistance payments and other disbursements to
26 accountholders who are entitled to those payments and who authorize those
27 payments to be directly deposited by electronic fund transfer into a CalAccount, as
28 authorized by the board and in accordance with all applicable laws and
29 regulations.

30 (M) Would require the board to contract with a financial services network
31 administrator whose duties may include, but not be limited to, all of the following:

32 (i) Contract with, manage, and coordinate the financial services vendors for the
33 program, which shall provide accountholders access to their CalAccounts and
34 services provided in concert with at least one qualifying participating depository
35 financial institution that meets the requirements established by the board.

36 (ii) Add additional participating depository financial institutions meeting the
37 requirements established by the board, especially including qualifying credit
38 unions and other local financial institutions, as program scope and scale permits,
39 in accordance with the board's specifications as set forth in the contract between
40 the board and the financial services network administrator.

41 (iii) Issue to each accountholder a secure debit card, or other secure means of
42 access to the accountholder's CalAccount, which shall utilize current security and
43 antifraud technology consistent with industry standards.

1 (iv) Provide a robust and geographically expansive financial services network of
2 partners through which an accountholder can load or withdraw funds from a
3 CalAccount using a CalAccount debit card, or other secure means of access to a
4 CalAccount, for no fee, including ATMs, bank or credit union branches, and other
5 in-network partners, minimize or eliminate out-of-network fees for
6 accountholders, and ensure that accountholders are not charged out-of-network
7 fees that are not reasonable and actually incurred by the program vendor.

8 (N) Would require the board to develop and negotiate a fair and equitable
9 program fee and program revenue sharing structure between the state and the
10 financial services network administrator in furtherance of attaining a financially
11 self-sustaining program, which agreement shall be reevaluated annually and
12 renegotiated as appropriate based on program scope and scale.

13 (O) Would require an employer with more than 25 employees and a hiring entity
14 with more than 25 independent contractors performing the same or similar labor or
15 service, excluding the federal government, to do all of the following:

16 (i) Have and maintain a payroll direct deposit arrangement that enables
17 voluntary worker participation in the program.

18 (ii) Deposit all wages and other payments due a worker that the worker has
19 authorized to be directly deposited by electronic fund transfer into the worker's
20 CalAccount in accordance with the worker's authorization.

21 (iii) Coordinate its payroll process with the program administrator's application
22 program interface to facilitate accurate and seamless payment by direct deposit in
23 accordance with the authorization of each worker participant.

24 (iv) Cooperate with the program administrator in providing all requested
25 information available to the employer or hiring entity necessary for the opening
26 and administration of a worker's CalAccount.

27 (v) Upon request of the administrator, provide additional forms or notifications
28 to a worker.

29 (vi) Refrain from discharging, disciplining, threatening to discharge or
30 discipline, or in any other manner retaliating or taking an adverse action against a
31 worker or applicant because of the individual's participation or manner of
32 participation in the CalAccount Program.

33 (P) Would require a landlord or a landlord's agent to allow a tenant to pay rent
34 and deposit of security by an electronic funds transfer from a CalAccount, except
35 as provided in paragraph (2) of subdivision (a) of Section 1947.3 of the Civil
36 Code, and would provide that a landlord's, or a landlord's agent's, receipt of
37 payment from a CalAccount pursuant to the requirements of the CalAccount
38 Program shall not be considered a waiver of any right the landlord or landlord's
39 agent may otherwise have to establish the base rent on, or to raise rent for, the
40 rental unit.

41 (2) If it is not feasible to implement the CalAccount Program, as described in
42 paragraph (1), the market analysis required by this subdivision shall also include

1 whether there are modifications to the CalAccount Program that can ease the
2 implementation burdens.

3 (3) (A) The market analysis required by this subdivision shall also include
4 whether or not CalAccount Program revenue is more likely than not to be
5 sufficient to pay for CalAccount Program costs within six years of the CalAccount
6 Program's implementation.

7 (B) The analysis required by this paragraph shall include detailed financial
8 projections and key assumptions upon which the determination required by this
9 paragraph relies.

10 (4) The market analysis required by this subdivision shall also include an
11 analysis of the population of California residents who are unbanked and the
12 reasons they are unbanked.

13 (5) The market analysis required by this subdivision shall also include an
14 analysis of the low-cost or no-cost options of federally insured transaction
15 accounts that are available or marketed to unbanked California residents.

16 (6) The market analysis required by this subdivision shall also include an
17 evaluation of all of the following:

18 (A) Alternatives to the CalAccount Program that the state could implement or
19 enact that would accomplish the essential policy objectives, as described in
20 subparagraph (A) of paragraph (1), of the CalAccount Program.

21 (B) The estimated risks and costs of alternatives evaluated pursuant to
22 subparagraph (A).

23 (C) The expected effectiveness and scalability of alternatives evaluated pursuant
24 to subparagraph (A).

25 (7) The market analysis required by this subdivision shall also include
26 recommendations for how the state can maximize the number of unbanked
27 California residents who become banked at the lowest cost and risk to the state.

28 (8) The market analysis required by this subdivision shall also include an
29 analysis of relative advantages and disadvantages, compared to private sector
30 alternatives, that the state may have in identifying, reaching, or persuading
31 unbanked California residents to enroll in a state-administered banking program.

32 (9) The market analysis required by this subdivision shall also include
33 recommendations related to the appropriate governance structure for a public-
34 private partnership such as the CalAccount Program.

35 (10) The market analysis required by this subdivision shall also include an
36 analysis of costs, benefits, and impacts on all affected parties, including, but not
37 limited to, landlords, employers, state government, low-wage workers, and
38 consumers.

39 (b) (1) The commission shall contract with one or more independent entities
40 with the appropriate expertise to conduct the market analysis required by
41 subdivision (a).

42 (2) A contract entered into pursuant to this subdivision shall require any entity
43 conducting the market analysis to provide progress reports to, and receive

1 feedback from, the commission at regular intervals or by request and be available
2 to provide testimony and answer questions at any legislative hearings held within
3 12 months of the delivery of the market analysis to the Legislature.

4 (c) The market analysis required by subdivision (a) shall consider all of the
5 following:

6 (1) The number of potential accountholders.

7 (2) The availability of qualified participating depository financial institutions.

8 (3) Potential accountholders' comfort with various banking products.

9 (4) How individuals without federal or state photo identification can participate.

10 (5) Potential CalAccount Program revenue streams.

11 (6) The presence and effectiveness of private sector or nonprofit competitors to
12 the CalAccount Program.

13 (7) State fiscal risk from the CalAccount Program during economic downturns
14 or economic shocks.

15 (8) Any other factor the commission deems relevant to making the feasibility
16 determination pursuant to paragraph (1) of subdivision (a).

17 (9) The risks and costs of the CalAccount Program.

18 (10) The expected effectiveness and scalability of the CalAccount Program.

19 (11) The likely impact of the CalAccount Program on existing California
20 depository institutions.

21 (12) (A) The existence of possible financial services network administrators.

22 (B) If any possibilities include an out-of-state entity, the anticipated impact on
23 California consumers, businesses, and financial institutions and how an out-of-
24 state financial services network administrator could or should be regulated.

25 (d) (1) Within 12 months of entering into a contract for the market analysis
26 required by subdivision (a), the commission shall hold at least one public hearing
27 to solicit input from members of the public.

28 (2) A hearing, including input from members of the public, held pursuant to this
29 subdivision shall be recorded and made available on the Treasurer's internet
30 website consistent with the California Public Records Act (~~Chapter 3.5~~
31 ~~(commencing with Section 6250) of Division 7 (Division 10 (commencing with~~
32 ~~Section 7920.000) of Title 1).~~

33 (e) (1) The commission shall hold a public hearing to review the market
34 analysis.

35 (2) After the public hearing required by paragraph (1), the commission may
36 issue a report to accompany the market analysis. The report may include the
37 commission's assessment of the market analysis, feedback from the public hearing
38 held pursuant to paragraph (1), and recommendations related to the
39 implementation of the CalAccount Program.

40 (3) The commission shall make a determination as to whether the CalAccount
41 Program can be implemented as described in paragraph (1) of subdivision (a) and,
42 if not, what modifications to the CalAccount Program could be made to implement
43 it.

1 (4) The commission shall make a determination as to whether CalAccount
2 Program revenue is more likely than not to be sufficient to pay for CalAccount
3 Program costs within six years of the CalAccount Program's implementation and
4 what the state's investment will need to be in order to cover the costs. If the
5 revenue does not cover the costs, the commission shall make a recommendation as
6 to whether the CalAccount Program should be implemented nonetheless.

7 (f) The commission shall deliver, and upon request present, the market analysis
8 and any report issued pursuant to paragraph (2) of subdivision (e) to the Chair of
9 the Senate Committee on Banking and Financial Institutions and the Chair of the
10 Assembly Committee on Banking and Finance.

11 **Comment.** Section 100104 is amended to reflect nonsubstantive recodification of the
12 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
13 Comm'n Reports 207 (2019).

14 [This Comment is new.]

15 **Note.** Section 100104 was just added to the Government Code by 2021 Cal. Stat. ch. 451, § 3
16 (AB 1177 (Santiago)). The CPRA cross-reference in that section needs to be updated to reflect
17 the CPRA recodification.

18 HEALTH AND SAFETY CODE

19 **Health & Safety Code § 1324.22 (amended). Quality assurance fee**

20 SEC. 44. Section 1324.22 of the Health and Safety Code is amended to read:

21 1324.22. (a) The quality assurance fee, as calculated pursuant to Section
22 1324.21, shall be paid by the provider to the department for deposit in the State
23 Treasury on a monthly basis on or before the last day of the month following the
24 month for which the fee is imposed, except as provided in subdivision (e) of
25 Section 1324.21.

26 (b) On or before the last day of each calendar month or quarter, as determined
27 by the department, each skilled nursing facility shall file a report with the
28 department, in a prescribed form, showing the facility's total resident days for the
29 preceding quarter and payments made. If it is determined that a lesser amount was
30 paid to the department, the facility shall pay the amount owed in the preceding
31 quarter to the department with the report. Any amount determined to have been
32 paid in excess to the department during the previous quarter shall be credited to
33 the amount owed in the following quarter.

34 (c) On or before August 31 of each year, each skilled nursing facility subject to
35 an assessment pursuant to Section 1324.21 shall report to the department, in a
36 prescribed form, the facility's total resident days and total payments made for the
37 preceding state fiscal year. If it is determined that a lesser amount was paid to the
38 department during the previous year, the facility shall pay the amount owed to the
39 department with the report.

40 (d) (1) A newly licensed skilled nursing facility shall complete all requirements
41 of subdivision (a) for any portion of the year in which it commences operations

1 and of subdivision (b) for any portion of the calendar month or quarter in which it
2 commences operations.

3 (2) For purposes of this subdivision, “newly licensed skilled nursing facility”
4 means a location that has not been previously licensed as a skilled nursing facility.

5 (e) (1) If a skilled nursing facility fails to pay all or part of the quality assurance
6 fee within 60 days of the date that payment is due, the department shall assess
7 interest at the rate of 7 percent per annum on any unpaid amount due, beginning
8 on the 61st calendar day from the date the payment is due, until the unpaid amount
9 due, plus any interest, is paid in full.

10 (2) (A) When a skilled nursing facility fails to pay all or part of the quality
11 assurance fee within 60 days of the date that payment is due, the department may
12 deduct any unpaid assessment, including any interest and penalties owed, from
13 any Medi-Cal payments to the facility until the full amount is recovered. Any
14 deduction shall be made only after written notice to the facility and may be taken
15 over a period of time taking into account the financial condition of the facility.

16 (B) Notwithstanding any other law, for the rate period from August 1, 2020, to
17 December 31, 2020, and every subsequent calendar year thereafter, the department
18 may deduct any unpaid assessments, including any interest and penalties owed,
19 attributable to a debtor facility from any Medi-Cal payments made to a related
20 facility or entity by common ownership or control to the debtor facility within the
21 meaning of Section 413.17(b) of Title 42 of the Code of Federal Regulations. If
22 the department deducts any unpaid assessments from the Medi-Cal payments to a
23 related facility or entity, the department shall provide prior written notice to both
24 the debtor facility and the related facility or entity, and, in taking into account the
25 financial condition of the related facility, may apply that deduction over a period
26 of time.

27 (3) In addition to the requirements specified in this subdivision and subdivision
28 (h), any unpaid quality assurance fee, including any interest and penalties owed,
29 assessed by this article shall constitute a debt due to the state and may be collected
30 pursuant to Section 12419.5 of the Government Code.

31 (4) In addition to the requirements specified in this subdivision and subdivision
32 (h), the department may take appropriate legal action in state or federal court to
33 recover the unpaid quality assurance fee amount, including any interest and
34 penalties owed, from the licensee’s financial interest in the related party, as
35 defined in subdivision (b) of Section 1424.3. Before taking any action pursuant to
36 this paragraph, the department shall give written notice to the licensee and the
37 related party.

38 (f) (1) Notwithstanding any other law, the department shall continue to assess
39 and collect the quality assurance fee, including any previously unpaid quality
40 assurance fee, and any interest or penalties owed, from each skilled nursing
41 facility, irrespective of any changes in ownership or ownership interest or control
42 or the transfer of any portion of the assets of the facility to another owner.

1 (2) Notwithstanding any other law, in the event of a merger, acquisition, or
2 change of ownership involving a skilled nursing facility that has outstanding
3 quality assurance fee payment obligations pursuant to this article, including any
4 interest and penalty amounts owed, the successor skilled nursing facility shall be
5 responsible for paying to the department the full amount of outstanding quality
6 assurance fee payments, including any interest and penalties, attributable to the
7 skilled nursing facility for which it was assessed, upon the effective date of that
8 transaction. An entity considering a merger, acquisition, or similar transaction
9 involving a skilled nursing facility may submit a request to the department
10 pursuant to ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~ Division
11 10 (commencing with Section 7920.000) of Title 1 of the Government Code to
12 ascertain the outstanding quality assurance fee payment obligations of the skilled
13 nursing facility pursuant to this article as of the date of the department's response
14 to that request.

15 (g) During the time period in which a temporary manager is appointed to a
16 facility pursuant to Section 1325.5 or during which a receiver is appointed by a
17 court pursuant to Section 1327, the State Department of Public Health shall not be
18 responsible for any unpaid quality assurance fee assessed before the time period of
19 the temporary manager or receiver. This subdivision shall not affect the
20 responsibility of the facility to make all payments of unpaid or current quality
21 assurance fees, including any interest and penalty amounts, as required by this
22 section and Section 1324.21.

23 (h) If all or any part of the quality assurance fee remains unpaid, the department
24 may take any or all of the following actions against the debtor facility, in addition
25 to assessing interest pursuant to paragraph (1) of subdivision (e):

26 (1) Assess a penalty of up to 50 percent of the total unpaid fee amounts, and any
27 interest assessed pursuant to paragraph (1) of subdivision (e) in each applicable
28 rate or calendar year.

29 (2) Recommend to the State Department of Public Health that license or Medi-
30 Cal certification renewal or approval of a change of ownership application be
31 delayed until the full amount of the quality assurance fee, penalties, and interest is
32 recovered.

33 (3) (A) In the event of a merger, acquisition, or change of ownership involving a
34 skilled nursing facility as described in paragraph (2) of subdivision (f), the
35 department may delay approval of a new Medi-Cal provider agreement or a
36 transfer of an existing Medi-Cal provider agreement to a successor skilled nursing
37 facility until the full amount of the quality assurance fees, penalties, and interest
38 owed by the successor or previous facility owner is recovered in full, or until the
39 successor skilled nursing facility has entered into an alternative payment
40 agreement with the department for the outstanding quality assurance fees,
41 penalties, and interest owed that takes into account the financial situation of the
42 facility and the potential impact on delivery of services to Medi-Cal beneficiaries.

1 (B) In addition to subparagraph (A), as a condition of approving a new Medi-Cal
2 provider agreement or a transfer of an existing Medi-Cal provider agreement to a
3 successor skilled nursing facility, the department may require either or both of the
4 following:

5 (i) The successor skilled nursing facility to enter into an agreement with the
6 department to be financially responsible to the department for the outstanding
7 quality assurance fees, penalties, and interest owed by the previous facility owner.

8 (ii) The successor facility owner to enter into an agreement with the department
9 to pay outstanding quality assurance fees, penalties, and interest owed by the
10 successor facility owner on an alternative payment schedule developed by the
11 department that takes into account the financial situation of the facility and the
12 potential impact on delivery of services to Medi-Cal beneficiaries.

13 (i) In accordance with the Medicaid State Plan, the payment of the quality
14 assurance fee shall be considered as an allowable cost for Medi-Cal
15 reimbursement purposes.

16 (j) The assessment process pursuant to this section shall become operative not
17 later than 60 days from receipt of federal approval of the quality assurance fee,
18 unless extended by the department. The department may assess fees and collect
19 payment in accordance with subdivision (e) of Section 1324.21 to provide
20 retroactive payments for any rate increase authorized under this article.

21 (k) The amendments made to subdivision (d) and the addition of subdivision (f)
22 by the act that added this subdivision are not substantive changes, but are merely
23 clarifying existing law.

24 (l) (1) Notwithstanding any other law, for the 2011–12 rate year, the department
25 may waive the actions provided under subdivision (h), or may allow a freestanding
26 pediatric subacute care facility to delay payments for up to six months, to ensure
27 the facility has the financial stability required to pay the fee.

28 (2) For the purposes of this article, “freestanding pediatric subacute care
29 facility” has the same meaning as defined in Section 51215.8 of Title 22 of the
30 California Code of Regulations.

31 (m) (1) Subject to paragraph (2), the department may waive a portion or all of
32 either the interest or penalties, or both, assessed under this article with respect to a
33 petitioning skilled nursing facility if the department determines, in its sole
34 discretion, that the facility has demonstrated that imposing the full amount of fees
35 under this article has a high likelihood of creating an undue financial hardship for
36 the facility or creates a significant financial difficulty in providing services to
37 Medi-Cal beneficiaries. A waiver pursuant to this subdivision may include, but
38 need not be limited to, interest or penalties, or both, that accrue or are assessed
39 with respect to a facility during the time period for which a change of ownership is
40 pending, or for which a change of ownership is being contemplated, as determined
41 by the department in its sole discretion.

42 (2) The department’s waiver of some or all of the interest or penalties shall be
43 conditioned on the skilled nursing facility’s agreement to pay outstanding fee

1 amounts on an alternative schedule developed by the department that takes into
2 account the financial situation of the facility and the potential impact on delivery
3 of services to Medi-Cal beneficiaries.

4 (3) The department shall post on its internet website a list of all skilled nursing
5 facilities that received a waiver for payment of interest or penalties, including the
6 amount of interest or penalty that was waived.

7 **Comment.** Section 1324.22 is amended to reflect nonsubstantive recodification of the
8 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
9 Comm'n Reports 207 (2019).

10 [This Comment is from *Report of the California Law Revision Commission on Chapter 615 of*
11 *the Statutes of 2021 (Assembly Bill 474)*, 48 Cal. L. Revision Comm'n Reports __ (2021).]

12 **Note.** In 2021, Health and Safety Code Section 1324.22 was amended by the CPRA
13 conforming revisions bill. See 2021 Cal. Stat. ch. 615, § 222 (AB 474 (Chau)). The section was
14 also amended by 2021 Cal. Stat. ch. 475, § 1 (AB 1042 (Jones-Sawyer)).

15 Due to the subordination clause in the CPRA conforming revisions bill, the amendment made
16 by that bill was chaptered out by AB 1042. See Gov't Code § 9605 ("In the absence of any
17 *express provision to the contrary* in the statute that is enacted last, it shall be conclusively
18 presumed that the statute which is enacted last is intended to prevail over statutes that are enacted
19 earlier at the same session" (emphasis added)).

20 Consequently, the CPRA cross-reference in Health and Safety Code Section 1324.22 may need
21 to be updated to reflect the CPRA recodification. The situation is not clear-cut, because Health
22 and Safety Code Section 1324.22 is scheduled to become inoperative after 12/31/22 (see Health
23 & Safety Code § 1324.30), and the CPRA recodification will not become operative until 1/1/23
24 (see Gov't Code §§ 6276.50, 7931.000). However, Health and Safety Code Section 1324.22 is not
25 scheduled to be repealed until 1/1/24 (see Health & Safety Code § 1324.30), so it probably is best
26 to update the CPRA cross-reference.

27 The new conforming revision of Health and Safety Code Section 1324.22 (shown above) is
28 based on 2021 Cal. Stat. ch. 475, § 1.

29 **Health & Safety Code § 1325.5 (amended). Temporary manager**

30 SEC. 45. Section 1325.5 of the Health and Safety Code is amended to read:

31 1325.5. (a) It is the intent of the Legislature in enacting this section to empower
32 the state department to take quick, effective action to protect the health and safety
33 of residents of long-term health care facilities and to minimize the effects of
34 transfer trauma that accompany the abrupt transfer of elderly and disabled
35 residents.

36 (b) For purposes of this section, "temporary manager" means the person,
37 corporation, or other entity, appointed temporarily by the state department as a
38 substitute facility manager or administrator with authority to hire, terminate, or
39 reassign staff, obligate facility funds, alter facility procedures, and manage the
40 facility to correct deficiencies identified in the facility's operation.

41 (c) The director may appoint a temporary manager when any of the following
42 circumstances exist:

43 (1) The residents of the long-term health care facility are in immediate danger of
44 death or permanent injury by virtue of the failure of the facility to comply with
45 federal or state requirements applicable to the operation of the facility.

1 (2) As a result of the change in the status of the license or operation of a long-
2 term health care facility, the facility is required to comply with Section 1336.2, the
3 facility fails to comply with Section 1336.2, and the state department has
4 determined that the facility is unwilling or unable to meet the requirements of
5 Section 1336.2.

6 (d) Upon appointment, the temporary manager shall take all necessary steps and
7 make best efforts to eliminate immediate danger of death or permanent injury to
8 residents or complete transfer of residents to alternative placements pursuant to
9 Section 1336.2.

10 (e) (1) The appointment of a temporary manager shall become effective
11 immediately and shall continue until any of the following events occurs:

12 (A) The temporary manager notifies the department, and the department verifies,
13 that the facility meets state and, if applicable, federal standards for operation, and
14 will be able to continue to maintain compliance with those standards after the
15 termination of temporary management.

16 (B) A receiver is appointed under this article.

17 (C) The department approves a new management company.

18 (D) A new operator is licensed.

19 (E) The state department closes the facility, through an orderly transfer of the
20 residents.

21 (F) A hearing or court order ends the temporary manager appointment.

22 (G) The appointment is terminated by the department or the temporary manager.

23 (2) The appointment of a temporary manager shall authorize the temporary
24 manager to act pursuant to this section. The appointment shall be made pursuant to
25 an agreement between the temporary manager and the state department that
26 outlines the circumstances under which the temporary manager may expend funds.
27 The temporary manager shall make no long-term capital investments to the facility
28 without the permission of the state department. The state department shall provide
29 the licensee and administrator with a statement of allegations at the time of
30 appointment. Within 48 hours, the department shall provide the licensee and the
31 administrator with a formal statement of cause and concerns. The statement of
32 cause and concerns shall specify the factual and legal basis for the imposition of
33 the temporary manager and shall be supported by the declaration of the director or
34 the director's authorized designee. The statement of cause and concerns shall
35 notify the licensee of the licensee's right to petition the Office of Administrative
36 Hearings for a hearing to contest the appointment of the temporary manager and
37 shall provide the licensee with a form and appropriate information for the
38 licensee's use in requesting a hearing.

39 (f) (1) The licensee of a long-term health care facility may contest the
40 appointment of the temporary manager by filing a petition for an order to
41 terminate the appointment of the temporary manager with the Office of
42 Administrative Hearings, within 60 days from the date of mailing of the statement
43 of cause and concerns. On the same day as the petition is filed with the Office of

1 Administrative Hearings, the licensee shall deliver a copy of the petition to the
2 office of the director.

3 (2) Upon receipt of a petition of hearing, the Office of Administrative Hearings
4 shall set a hearing date and time within five business days of the receipt of the
5 petition. The office shall promptly notify the licensee and the state department of
6 the date, time, and place of the hearing. The office shall assign the case to an
7 administrative law judge. At the hearing, relevant evidence may be presented
8 pursuant to Section 11513 of the Government Code. The administrative law judge
9 shall issue a written decision on the petition within five business days of the
10 conclusion of the hearing. The five-day time periods for holding the hearing and
11 rendering a decision may be extended by the agreement of the parties.

12 (3) The administrative law judge shall uphold the appointment of the temporary
13 manager if the state department proves, by a preponderance of the evidence, that
14 the circumstances specified in subdivision (c) applied to the facility at the time of
15 the appointment. The administrative law judge shall order the termination of the
16 temporary manager if the burden of proof is not satisfied.

17 (g) The decision of the administrative law judge is subject to judicial review as
18 provided in Section 1094.5 of the Code of Civil Procedure by the superior court
19 sitting in the county where the facility is located. This review may be requested by
20 the licensee of the facility or the state department by filing a petition seeking relief
21 from the order. The petition may also request the issuance of temporary injunctive
22 relief pending the decision on the petition. The superior court shall hold a hearing
23 within five business days of the filing of the petition and shall issue a decision on
24 the petition within five days of the hearing. The state department may be
25 represented by legal counsel within the state department for purposes of court
26 proceedings authorized under this section.

27 (h) If the licensee of the long-term health care facility does not protest the
28 appointment, it shall continue in accordance with subdivision (e).

29 (i) (1) If the licensee of the long-term health care facility petitions the Office of
30 Administrative Hearings pursuant to subdivision (f), the appointment of the
31 temporary manager by the director pursuant to this section shall continue until it is
32 terminated by the administrative law judge or by the superior court, or it shall
33 continue for 30 days from the date the administrative law judge or the superior
34 court upholds the appointment of the temporary manager, whichever is earlier.

35 (2) At any time during the appointment of the temporary manager, the director
36 may request an extension of the appointment by filing a petition for hearing with
37 the Office of Administrative Hearings and serving a copy of the petition on the
38 licensee. The office shall proceed as specified in paragraph (2) of subdivision (f).
39 The administrative law judge may extend the appointment of the temporary
40 manager as follows:

41 (A) Upon a showing by the state department that the conditions specified in
42 subdivision (c) continue to exist, an additional 60 days.

1 (B) Upon a finding that the state department is seeking a receiver, until the state
2 department has secured the services of a receiver pursuant to this article.

3 (3) The licensee or the state department may request review of the
4 administrative law judge's decision on the extension as provided in subdivision
5 (g).

6 (j) The temporary manager appointed pursuant to this section shall meet the
7 following qualifications:

8 (1) Be qualified to oversee correction of deficiencies on the basis of experience
9 and education.

10 (2) Not have been found guilty of misconduct by any licensing board.

11 (3) Have no financial ownership interest in the facility and have no member of
12 their immediate family who has a financial ownership interest in the facility.

13 (4) Not currently serve, or within the past two years have served, as a member of
14 the staff of the facility.

15 (5) Be acceptable to the facility.

16 (k) Payment of the temporary manager's salary or fee shall comply with the
17 following requirements:

18 (1) Shall be paid directly by the facility while the temporary manager is assigned
19 to that facility.

20 (2) Shall be equivalent to the sum of the following:

21 (A) The prevailing salary or fee paid by licensees for positions of the same type
22 in the facility's geographic area.

23 (B) Additional costs that reasonably would have been incurred by the licensee if
24 the licensee had been in an employment relationship.

25 (C) Any other reasonable costs incurred by the appointed temporary manager in
26 furnishing services pursuant to this section.

27 (3) May exceed the amount specified in paragraph (2) if the department is
28 otherwise unable to attract a qualified temporary manager.

29 (l) (1) The state department may use funds from the Health Facilities Citation
30 Penalties Account, pursuant to Section 1417.2, to operate the facility after all other
31 facility revenues are exhausted.

32 (2) Funds used pursuant to this subdivision shall constitute a debt due to the
33 state and may be collected pursuant to appropriate legal action taken by the
34 department to collect the debt from the licensee, including from the licensee's
35 financial interest in related parties described in subdivision (a) of Section 1424.3.
36 Beginning January 1, 2023, the department shall give written notice to related
37 parties that it may take action to collect the licensee's debt as described in this
38 paragraph. If the department determines, after two notifications, that the related
39 parties are not financially viable or recovery is unlikely, the department shall
40 document this determination. The documentation shall include the names of the
41 related parties notified, detailed information on the methods used by the
42 department to make the determination, and a clear justification for the
43 department's determination. The documentation of the department's determination

1 and supporting explanation shall be available to the public by request, unless the
2 records are not subject to disclosure under the California Public Records Act
3 (~~Chapter 3.5 (commencing with Section 6250) of Division 7 (Division 10~~
4 (commencing with Section 7920.000) of Title 1 of Government Code), in which
5 case the department shall provide the reason for not disclosing the records.

6 (m) The state department shall adopt regulations for the administration of this
7 section on or before December 31, 2001.

8 **Comment.** Section 1325.5 is amended to reflect nonsubstantive recodification of the California
9 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
10 Reports 207 (2019).

11 [This Comment is new.]

12 **Note.** Health and Safety Code Section 1325.5 was just amended by 2021 Cal. Stat. ch. 475, § 2
13 (AB 1042 (Jones-Sawyer)). Among other things, the amendment inserted a CPRA cross-
14 reference, which now needs to be updated to reflect the CPRA recodification.

15 **Health & Safety Code § 1424.3 (amended). Unpaid penalties**

16 SEC. 46. Section 1424.3 of the Health and Safety Code is amended to read:

17 1424.3. (a) (1) Beginning January 1, 2023, if a licensee provider fails to pay a
18 penalty assessed pursuant to Section 1424.5 or 1425 in full when all appeals have
19 been exhausted and the department's position has been upheld, the department
20 shall give written notice to the licensee provider and related parties in which the
21 licensee provider has an ownership or control interest of 5 percent or more that the
22 department may take appropriate legal action to recover the unpaid penalty
23 amount from the provider licensee's financial interest in the related party. If the
24 department determines, after two notifications, that the related parties are not
25 financially viable or recovery is unlikely, the department shall document this
26 determination. The documentation shall include the names of the related parties
27 notified, detailed information on the methods used by the department to make the
28 determination, and a clear justification for the department's determination. The
29 documentation of the department's determination and supporting explanation shall
30 be available to the public by request, unless the records are not subject to
31 disclosure under the California Public Records Act (~~Chapter 3.5 (commencing~~
32 with Section 6250) of Division 7 (Division 10 (commencing with Section
33 7920.000) of Title 1 of Government Code), in which case the department shall
34 provide the reason for not disclosing the records.

35 (2) When a citation is issued under Section 1424, the department shall give
36 initial written notice to related parties of the basis for the citation, and the
37 subsequent disciplinary action that is imminent if the violation is not remedied
38 immediately, up to and including assessment of administrative penalties, for which
39 the related party may be held responsible pursuant to this subdivision.

40 (b) "Related party" has the same meaning as in Section 128734.

41 **Comment.** Section 1424.3 is amended to reflect nonsubstantive recodification of the California
42 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
43 Reports 207 (2019).

1 [This Comment is new.]

2 **Note.** Section 1424.3 was just added to the Health and Safety Code by 2021 Cal. Stat. ch. 475,
3 § 3 (AB 1042 (Jones-Sawyer)). The CPRA cross-reference in that section needs to be updated to
4 reflect the CPRA recodification.

5 **Health & Safety Code § 1798.200 (amended). Discipline of EMT-I, EMT-II, or EMT-P**

6 SEC. 47. Section 1798.200 of the Health and Safety Code is amended to read:

7 1798.200. (a) (1) (A) Except as provided in paragraph (2), an employer of an
8 EMT-I or EMT-II may conduct investigations, as necessary, and take disciplinary
9 action against an EMT-I or EMT-II who is employed by that employer for conduct
10 in violation of subdivision (c). The employer shall notify the medical director of
11 the local EMS agency that has jurisdiction in the county in which the alleged
12 violation occurred within three days when an allegation has been validated as a
13 potential violation of subdivision (c).

14 (B) Each employer of an EMT-I or EMT-II employee shall notify the medical
15 director of the local EMS agency that has jurisdiction in the county in which a
16 violation related to subdivision (c) occurred within three days after the EMT-I or
17 EMT-II is terminated or suspended for a disciplinary cause, the EMT-I or EMT-II
18 resigns following notification of an impending investigation based upon evidence
19 that would indicate the existence of a disciplinary cause, or the EMT-I or EMT-II
20 is removed from EMT-related duties for a disciplinary cause after the completion
21 of the employer's investigation.

22 (C) At the conclusion of an investigation, the employer of an EMT-I or EMT-II
23 may develop and implement, in accordance with the guidelines for disciplinary
24 orders, temporary suspensions, and conditions of probation adopted pursuant to
25 Section 1797.184, a disciplinary plan for the EMT-I or EMT-II. Upon adoption of
26 the disciplinary plan, the employer shall submit that plan to the local EMS agency
27 within three working days. The employer's disciplinary plan may include a
28 recommendation that the medical director of the local EMS agency consider
29 taking action against the holder's certificate pursuant to paragraph (3).

30 (2) If an EMT-I or EMT-II is not employed by an ambulance service licensed by
31 the Department of the California Highway Patrol or a public safety agency or if
32 that ambulance service or public safety agency chooses not to conduct an
33 investigation pursuant to paragraph (1) for conduct in violation of subdivision (c),
34 the medical director of a local EMS agency shall conduct the investigations, and,
35 upon a determination of disciplinary cause, take disciplinary action as necessary
36 against the EMT-I or EMT-II. At the conclusion of these investigations, the
37 medical director shall develop and implement, in accordance with the
38 recommended guidelines for disciplinary orders, temporary orders, and conditions
39 of probation adopted pursuant to Section 1797.184, a disciplinary plan for the
40 EMT-I or EMT-II. The medical director's disciplinary plan may include action
41 against the holder's certificate pursuant to paragraph (3).

1 (3) The medical director of the local EMS agency may, upon a determination of
2 disciplinary cause and in accordance with regulations for disciplinary processes
3 adopted pursuant to Section 1797.184, deny, suspend, or revoke any EMT-I or
4 EMT-II certificate issued under this division, or may place any EMT-I or EMT-II
5 certificate holder on probation, upon the finding by that medical director of the
6 occurrence of any of the actions listed in subdivision (c) and the occurrence of one
7 of the following:

8 (A) The EMT-I or EMT-II employer, after conducting an investigation, failed to
9 impose discipline for the conduct under investigation, or the medical director
10 makes a determination that the discipline imposed was not according to the
11 guidelines for disciplinary orders and conditions of probation and the conduct of
12 the EMT-I or EMT-II certificate holder constitutes grounds for disciplinary action
13 against the certificate.

14 (B) Either the employer of an EMT-I or EMT-II further determines, after an
15 investigation conducted under paragraph (1), or the medical director ~~determines~~
16 determines, after an investigation conducted under paragraph (2), that the conduct
17 requires disciplinary action against the certificate.

18 (4) The medical director of the local EMS agency, after consultation with the
19 employer of an EMT-I or EMT-II, may temporarily suspend, prior to a hearing,
20 any EMT-I or EMT-II certificate or both EMT-I and EMT-II certificates upon a
21 determination that both of the following conditions have been met:

22 (A) The certificate holder has engaged in acts or omissions that constitute
23 grounds for revocation of the EMT-I or EMT-II certificate.

24 (B) Permitting the certificate holder to continue to engage in the certified
25 activity without restriction would pose an imminent threat to the public health or
26 safety.

27 (5) If the medical director of the local EMS agency temporarily suspends a
28 certificate, the local EMS agency shall notify the certificate holder that their EMT-
29 I or EMT-II certificate is suspended and shall identify the reasons therefor. Within
30 three working days of the initiation of the suspension by the local EMS agency,
31 the agency and employer shall jointly investigate the allegation in order for the
32 agency to make a determination of the continuation of the temporary suspension.
33 All investigatory information not otherwise protected by law held by the agency
34 and employer shall be shared between the parties via facsimile transmission or
35 overnight mail relative to the decision to temporarily suspend. The local EMS
36 agency shall decide, within 15 calendar days, whether to serve the certificate
37 holder with an accusation pursuant to Chapter 5 (commencing with Section
38 11500) of Part 1 of Division 3 of Title 2 of the Government Code. If the certificate
39 holder files a notice of defense, the hearing shall be held within 30 days of the
40 local EMS agency's receipt of the notice of defense. The temporary suspension
41 order shall be deemed vacated if the local EMS agency fails to make a final
42 determination on the merits within 15 days after the administrative law judge
43 renders the proposed decision.

1 (6) The medical director of the local EMS agency shall refer, for investigation
2 and discipline, any complaint received on an EMT-I or EMT-II to the relevant
3 employer within three days of receipt of the complaint, pursuant to subparagraph
4 (A) of paragraph (1) of subdivision (a).

5 (b) (1) The authority may deny, suspend, or revoke an EMT-P license issued
6 under this division, or may place an EMT-P license issued under this division, or
7 may place an EMT-P licenseholder on probation upon the finding by the director
8 of the occurrence of any of the actions listed in subdivision (c). Proceedings
9 against an EMT-P license or licenseholder shall be held in accordance with
10 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of
11 the Government Code.

12 (2) On and after January 1, 2023, the Paramedic Discipline Review Board shall
13 act on appeals of the authority's final decision to place a licenseholder on
14 probation, suspend or revoke an EMT-P license, and consider appeals regarding
15 denial of licensure, pursuant to Article 2.5 (commencing with Section 1797.125)
16 of Chapter 3 of this division.

17 (c) Any of the following actions shall be considered evidence of a threat to the
18 public health and safety and may result in the denial, suspension, or revocation of
19 a certificate or license issued under this division, or in the placement on probation
20 of a certificate holder or licenseholder under this division:

21 (1) Fraud in the procurement of any certificate or license under this division.

22 (2) Gross negligence.

23 (3) Repeated negligent acts.

24 (4) Incompetence.

25 (5) The commission of any fraudulent, dishonest, or corrupt act that is
26 substantially related to the qualifications, functions, and duties of prehospital
27 personnel.

28 (6) Conviction of any crime ~~which~~ that is substantially related to the
29 qualifications, functions, and duties of prehospital personnel. The record of
30 conviction or a certified copy of the record shall be conclusive evidence of the
31 conviction.

32 (7) Violating or attempting to violate directly or indirectly, or assisting in or
33 abetting the violation of, or conspiring to violate, any provision of this division or
34 the regulations adopted by the authority pertaining to prehospital personnel.

35 (8) Violating or attempting to violate any federal or state statute or regulation
36 that regulates narcotics, dangerous drugs, or controlled substances.

37 (9) Addiction to, the excessive use of, or the misuse of, alcoholic beverages,
38 narcotics, dangerous drugs, or controlled substances.

39 (10) Functioning outside the supervision of medical control in the field care
40 system operating at the local level, except as authorized by any other license or
41 certification.

1 (11) Demonstration of irrational behavior or occurrence of a physical disability
2 to the extent that a reasonable and prudent person would have reasonable cause to
3 believe that the ability to perform the duties normally expected may be impaired.

4 (12) Unprofessional conduct exhibited by any of the following:

5 (A) The mistreatment or physical abuse of any patient resulting from force in
6 excess of what a reasonable and prudent person trained and acting in a similar
7 capacity while engaged in the performance of their duties would use if confronted
8 with a similar circumstance. Nothing in this section shall be deemed to prohibit an
9 EMT-I, EMT-II, or EMT-P from assisting a peace officer, or a peace officer who
10 is acting in the dual capacity of peace officer and EMT-I, EMT-II, or EMT-P,
11 from using that force that is reasonably necessary to effect a lawful arrest or
12 detention.

13 (B) The failure to maintain confidentiality of patient medical information,
14 except as disclosure is otherwise permitted or required by law in Part 2.6
15 (commencing with Section 56) of Division 1 of the Civil Code.

16 (C) The commission of any sexually related offense specified under Section 290
17 of the Penal Code.

18 (d) The information shared among EMT-I, EMT-II, and EMT-P employers,
19 medical directors of local EMS agencies, the authority, and EMT-I and EMT-II
20 certifying entities shall be deemed to be an investigative communication that is
21 exempt from public disclosure as a public record pursuant to ~~subdivision (f) of~~
22 Section 6254 Article 1 (commencing with Section 7923.600) of Chapter 1 of Part
23 5 of Division 10 of Title 1 of the Government Code. A formal disciplinary action
24 against an EMT-I, EMT-II, or EMT-P shall be considered a public record
25 available to the public, unless otherwise protected from disclosure pursuant to
26 state or federal law.

27 (e) For purposes of this section, “disciplinary cause” means an act that is
28 substantially related to the qualifications, functions, and duties of an EMT-I,
29 EMT-II, or EMT-P and is evidence of a threat to the public health and safety
30 described in subdivision (c).

31 **Comment.** Section 1798.200 is amended to reflect nonsubstantive recodification of the
32 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
33 Comm’n Reports 207 (2019).

34 The section is also amended to make technical changes.

35 [This Comment replaces the revised Comment in *Report of the California Law Revision*
36 *Commission on Chapter 615 of the Statutes of 2021 (Assembly Bill 474)*, 48 Cal. L. Revision
37 Comm’n Reports __ (2021).]

38 **Note.** In 2021, Health and Safety Code Section 1798.200 was amended by the CPRA
39 conforming revisions bill. See 2021 Cal. Stat. ch. 615, § 237 (AB 474 (Chau)). The section was
40 also amended by 2021 Cal. Stat. ch. 463, § 6 (AB 450 (Lorena Gonzalez)).

41 Due to the subordination clause in the CPRA conforming revisions bill, the amendment made
42 by that bill was chaptered out by AB 450. See Gov’t Code § 9605 (“In the absence of any *express*
43 *provision to the contrary* in the statute that is enacted last, it shall be conclusively presumed that
44 the statute which is enacted last is intended to prevail over statutes that are enacted earlier at the
45 same session ...” (emphasis added)).

1 Consequently, the CPRA cross-reference in Health and Safety Code Section 1798.200 still
2 needs to be updated to reflect the CPRA recodification. The new conforming revision of Health
3 and Safety Code Section 1798.200 (shown above) is based on 2021 Cal. Stat. ch. 463, § 6.

4 **Health & Safety Code § 25200.3 (amended). Grant of conditional authorization**

5 SEC. 48. Section 25200.3 of the Health and Safety Code is amended to read:

6 25200.3. (a) A generator who uses the following methods for treating RCRA or
7 non-RCRA hazardous waste in tanks or containers, which is generated onsite, and
8 which do not require a hazardous waste facilities permit under the federal act,
9 shall, for those activities, be deemed to be operating pursuant to a grant of
10 conditional authorization without obtaining a hazardous waste facilities permit or
11 other grant of authorization and a generator is deemed to be granted conditional
12 authorization pursuant to this section, upon compliance with the notification
13 requirements specified in subdivision (e), if the treatment complies with the
14 applicable requirements of this section:

15 (1) The treatment of aqueous wastes ~~which~~ that are hazardous solely due to the
16 presence of inorganic constituents, except asbestos, listed in subparagraph (B) of
17 paragraph (1) and subparagraph (A) of paragraph (2) of subdivision (a) of Section
18 66261.24 of Title 22 of the California Code of Regulations, and ~~which~~ that contain
19 not more than 1400 ppm total of these constituents, using the following treatment
20 technologies:

21 (A) Phase separation, including precipitation, by filtration, centrifugation, or
22 gravity settling, including the use of demulsifiers and flocculants in those
23 processes.

24 (B) Ion exchange, including metallic replacement.

25 (C) Reverse osmosis.

26 (D) Adsorption.

27 (E) pH adjustment of aqueous waste with a pH of between 2.0 and 12.5.

28 (F) Electrowinning of solutions, if those solutions do not contain hydrochloric
29 acid.

30 (G) Reduction of solutions ~~which~~ that are hazardous solely due to the presence
31 of hexavalent chromium, to trivalent chromium with sodium bisulfite, sodium
32 metabisulfite, sodium thiosulfite, ferrous chloride, ferrous sulfate, ferrous sulfide,
33 or sulfur dioxide, provided that the solution contains less than 750 ppm of
34 hexavalent chromium.

35 (2) Treatment of aqueous wastes ~~which~~ that are hazardous solely due to the
36 presence of organic constituents listed in subparagraph (B) of paragraph (1), or
37 subparagraph (B) of paragraph (2), of subdivision (a) of Section 66261.24 of Title
38 22 of the California Code of Regulations and ~~which~~ that contain not more than 750
39 ppm total of those constituents, using either of the following treatment
40 technologies:

41 (A) Phase separation by filtration, centrifugation, or gravity settling, but
42 excluding supercritical fluid extraction.

1 (B) Adsorption.

2 (3) Treatment of wastes ~~which~~ that are sludges resulting from wastewater
3 treatment, solid metal objects, and metal workings ~~which~~ that contain or are
4 contaminated with, and are hazardous solely due to the presence of, constituents,
5 except asbestos, listed in subparagraph (B) of paragraph (1) of, and subparagraph
6 (A) of paragraph (2) of, subdivision (a) of Section 66261.24 of Title 22 of the
7 California Code of Regulations, or treatment of wastes ~~which~~ that are dusts ~~which~~
8 that contain, or are contaminated with, and are hazardous solely due to the
9 presence of, not more than 750 ppm total of those constituents, except asbestos,
10 listed in subparagraph (B) of paragraph (1) of, and subparagraph (A) of paragraph
11 (2) of, subdivision (a) of Section 66261.24 of Title 22 of the California Code of
12 Regulations, using any of the following treatment technologies:

13 (A) Physical processes ~~which~~ that constitute treatment only because they change
14 the physical properties of the waste, such as filtration, centrifugation, gravity
15 settling, grinding, shredding, crushing, or compacting.

16 (B) Drying to remove water.

17 (C) Separation based on differences in physical properties, such as size,
18 magnetism, or density.

19 (4) Treatment of alum, gypsum, lime, sulfur, or phosphate sludges, using either
20 of the following treatment technologies:

21 (A) Drying to remove water.

22 (B) Phase separation by filtration, centrifugation, or gravity settling.

23 (5) Treatment of wastes listed in Section 66261.120 of Title 22 of the California
24 Code of Regulations, which meet the criteria and requirements for special waste
25 classification in Section 66261.122 of Title 22 of the California Code of
26 Regulations, using any of the following treatment technologies, if the waste is
27 hazardous solely due to the presence of constituents, except asbestos, listed in
28 subparagraph (B) of paragraph (1) of, and subparagraph (A) of paragraph (2) of,
29 subdivision (a) of Section 66261.24 of Title 22 of the California Code of
30 Regulations and the waste contains not more than 750 ppm total of those
31 constituents:

32 (A) Drying to remove water.

33 (B) Phase separation by filtration, centrifugation, or gravity settling.

34 (C) Screening to separate components based on size.

35 (D) Separation based on differences in physical properties, such as size,
36 magnetism, or density.

37 (6) Treatment of wastes, except asbestos, ~~which~~ that have been classified by the
38 department as special wastes pursuant to Section 66261.24 of Title 22 of the
39 California Code of Regulations, using any of the following treatment technologies,
40 if the waste is hazardous solely due to the presence of constituents, except
41 asbestos, listed in subparagraph (B) of paragraph (1) of, and subparagraph (A) of
42 paragraph (2) of, subdivision (a) of Section 66261.24 of Title 22 of the California

1 Code of Regulations and the waste contains not more than 750 ppm of those
2 constituents:

3 (A) Drying to remove water.

4 (B) Phase separation by filtration, centrifugation, or gravity settling.

5 (C) Magnetic separation.

6 (7) Treatment of soils ~~which~~ that are hazardous solely due to the presence of
7 metals listed in subparagraph (A) of paragraph (2) of subdivision (a) of Section
8 66261.24 of Title 22 of the California Code of Regulations, using either of the
9 following treatment technologies:

10 (A) Screening to separate components based on size.

11 (B) Magnetic separation.

12 (8) Except as provided in Section 25201.5, treatment of oil mixed with water
13 and oil/water separation sludges, using any of the following treatment
14 technologies:

15 (A) Phase separation by filtration, centrifugation, or gravity settling, but
16 excluding supercritical fluid extraction. This phase separation may include the use
17 of demulsifiers and flocculants in those processes, even if the processes involve
18 the application of heat, if the heat is applied in totally enclosed tanks and
19 containers, and if it does not exceed 160 degrees Fahrenheit, or any lower
20 temperature ~~which~~ that may be set by the department.

21 (B) Separation based on differences in physical properties, such as size,
22 magnetism, or density.

23 (C) Reverse osmosis.

24 (9) Neutralization of acidic or alkaline wastes that are hazardous only due to
25 corrosivity or toxicity that results only from the acidic or alkaline material, in
26 elementary neutralization units, as defined in Section 66260.10 of Title 22 of the
27 California Code of Regulations, if the wastes contain less than 10 percent acid or
28 base constituents by weight, and are treated in tanks or containers and piping,
29 constructed of materials compatible with the range of temperatures and pH levels,
30 and subject to appropriate pH and temperature controls. If the waste contains more
31 than 10 percent acid or base constituents by weight, the volume treated in a single
32 batch at any one time shall not exceed 500 gallons.

33 (10) Treatment of spent cleaners and conditioners ~~which~~ that are hazardous
34 solely due to the presence of copper or copper compounds, subject to the
35 following:

36 (A) The following requirements are met, in addition to all other requirements of
37 this section:

38 (i) The waste stream does not contain more than 5000 ppm total copper.

39 (ii) The generator does not generate for treatment any more than 1000 gallons of
40 the waste stream per month.

41 (iii) The treatment technologies employed are limited to those set forth in
42 paragraph (1) for metallic wastes.

1 (iv) The generator keeps records documenting compliance with this subdivision,
2 including records indicating the volume and concentration of wastes treated, and
3 the management of related solutions which are not cleaners or conditioners.

4 (B) Cleaners and conditioners, for purposes of this paragraph, are solutions
5 containing surfactants and detergents to remove dirt and foreign objects. Cleaners
6 and conditioners do not include microetch, etchant, plating, or metal stripping
7 solutions or solutions containing oxidizers, or any cleaner based on organic
8 solvents.

9 (C) A grant of conditional authorization under this paragraph shall expire on
10 January 1, 1998, unless extended by the department pursuant to this section.

11 (D) The department shall evaluate the treatment activities described in this
12 paragraph and shall designate, by regulation, not later than January 1, 1997, those
13 activities eligible for conditional authorization and those activities subject to
14 permit-by-rule. In adopting regulations under this subparagraph, the department
15 shall consider all of the following:

16 (i) The volume of waste being treated.

17 (ii) The concentration of the hazardous waste constituents.

18 (iii) The characteristics of the hazardous waste being treated.

19 (iv) The risks of the operation, and breakdown, of the treatment process.

20 (11) Any waste stream technology combination certified by the department,
21 pursuant to Section 25200.1.5, as suitable for authorization pursuant to this
22 section, that operates pursuant to the conditions imposed on that certification.

23 (b) Any treatment performed pursuant to this section shall comply with all of the
24 following, except as to generators, who are treating hazardous waste pursuant to
25 paragraph (11) of subdivision (a), who shall also comply with any additional
26 conditions of the specified certification if those conditions are different from those
27 set forth in this subdivision:

28 (1) The total volume of hazardous waste treated in the unit in any calendar
29 month shall not exceed 5,000 gallons or 45,000 pounds, whichever is less, unless
30 the waste is a dilute aqueous waste described in paragraph (1), (2), or (9) of
31 subdivision (a) or oily wastes as described in paragraph (8) of subdivision (a). The
32 department may, by regulation, impose volume limitations on wastes ~~which~~ that
33 have no limitations under this section, as may be necessary to protect human
34 health and safety or the environment.

35 (2) The treatment is conducted in tanks or containers.

36 (3) The treatment does not consist of the use of any of the following:

37 (A) Chemical additives, except for pH adjustment, chrome reduction, oil/water
38 separation, and precipitation with the use of flocculants, as allowed by this section.

39 (B) Radiation.

40 (C) Electrical current except in the use of electrowinning, as allowed by this
41 section.

42 (D) Pressure, except for reverse osmosis, filtration, and crushing, as allowed by
43 this section.

1 (E) Application of heat, except for drying to remove water or demulsification, as
2 allowed by this section.

3 (4) All treatment residuals and effluents are managed and disposed of in
4 accordance with applicable federal, state, and local requirements.

5 (5) The treatment process does not do either of the following:

6 (A) Result in the release of hazardous waste into the environment as a means of
7 treatment or disposal.

8 (B) Result in the emission of volatile hazardous waste constituents or toxic air
9 contaminants, unless the emission is in compliance with the rules and regulations
10 of the air pollution control district or air quality management district.

11 (6) The generator unit complies with any additional requirements set forth in
12 regulations adopted pursuant to this section.

13 (c) A generator operating pursuant to subdivision (a) shall comply with all of the
14 following requirements:

15 (1) Except as provided in paragraph (4), the generator shall comply with the
16 standards applicable to generators specified in Chapter 12 (commencing with
17 Section 66262.10) of Division 4.5 of Title 22 of the California Code of
18 Regulations and with the applicable requirements in Sections 66265.12, 66265.14,
19 and 66265.17 of Title 22 of the California Code of Regulations.

20 (2) The generator shall comply with Section 25202.9 by making an annual waste
21 minimization certification.

22 (3) The generator shall comply with the environmental assessment procedures
23 required pursuant to subdivisions (a) to (e), inclusive, of Section 25200.14. If that
24 assessment reveals that there is contamination resulting from the release of
25 hazardous waste or constituents from a solid waste management unit or a
26 hazardous waste management unit at the generator's facility, regardless of the time
27 at which the waste was released, the generator shall take every action necessary to
28 expeditiously remediate that contamination, if the contamination presents a
29 substantial hazard to human health and safety or the environment or if the
30 generator is required to take corrective action by the department. If a facility is
31 remediating the contamination pursuant to, and in compliance with the provisions
32 of, an order issued by a California regional water quality control board or other
33 state or federal environmental enforcement agency, that remediation shall be
34 adequate for the purposes of complying with this section, as the remediation
35 pertains to the jurisdiction of the ordering agency. This paragraph does not limit
36 the authority of the department or a unified program agency pursuant to Section
37 25187 as may be necessary to protect human health and safety or the environment.

38 (4) The generator unit shall comply with container and tank standards applicable
39 to non-RCRA wastes, unless otherwise required by federal law, specified in
40 subdivisions (a) and (b) of Section 66264.175 of Title 22 of the California Code of
41 Regulations, as the standards apply to container storage and transfer activities, and
42 to Article 9 (commencing with Section 66265.170) and Article 10 (commencing
43 with Section 66265.190) of Chapter 15 of Division 4.5 of Title 22 of the California

1 Code of Regulations, except for Section 66265.197 of Title 22 of the California
2 Code of Regulations.

3 (A) Unless otherwise required by federal law, ancillary equipment for a tank or
4 container treating hazardous wastes solely pursuant to this section, is not subject to
5 Section 66265.193 of Title 22 of the California Code of Regulations, if the
6 ancillary equipment's integrity is attested to, pursuant to Section 66265.191 of
7 Title 22 of the California Code of Regulations, every two years from the date that
8 retrofitting requirements would otherwise apply.

9 (B) (i) The Legislature hereby finds and declares that in the case of
10 underground, gravity-pressured sewer systems, integrity testing is often not
11 feasible.

12 (ii) The best feasible leak detection measures ~~which~~ that are sufficient to ensure
13 that underground gravity-pressured sewer systems, for which it is not feasible to
14 conduct integrity testing, do not leak.

15 (iii) If it is not feasible for an operator's ancillary equipment, or a portion
16 thereof, to undergo integrity testing, the operator shall not be subject to Section
17 66265.193 of Title 22 of the California Code of Regulations, if the operator
18 implements the best feasible leak detection measures which are determined to be
19 sufficient by the department in those regulations, and those leak detection
20 measures do not reveal any leaks emanating from the operator's ancillary
21 equipment. Any ancillary equipment found to leak shall be retrofitted by the
22 operator to meet the secondary containment standards of Section 66265.196 of
23 Title 22 of the California Code of Regulations.

24 (5) The generator shall prepare and maintain a written inspection schedule and a
25 log of inspections conducted.

26 (6) The generator shall prepare and maintain written operating instructions and a
27 record of the dates, concentrations, amounts, and types of waste treated. Records
28 maintained to comply with the state, federal, or local programs may be used to
29 satisfy this requirement, to the extent that those documents substantially comply
30 with the requirements of this section. The operating instructions shall include, but
31 not be limited to, directions regarding all of the following:

32 (A) How to operate the treatment unit and carry out waste treatment.

33 (B) How to recognize potential and actual process upsets and respond to them.

34 (C) When to implement the contingency plan.

35 (D) How to determine if the treatment has been efficacious.

36 (E) How to address the residuals of waste treatment.

37 (7) The generator shall maintain adequate records to demonstrate to the
38 department and the unified program agency that the requirements and conditions
39 of this section are met, including compliance with all applicable pretreatment
40 standards and with all applicable industrial waste discharge requirements issued by
41 the agency operating the publicly owned treatment works into which the wastes
42 are discharged. The records shall be maintained onsite for a period of five years.

1 (8) The generator shall treat only hazardous waste ~~which~~ that is generated
2 onsite. For purposes of this chapter, a residual material from the treatment of a
3 hazardous waste generated offsite is not a waste that has been generated onsite.

4 (9) Except as provided in Section 25404.5, the generator shall submit a fee to the
5 California Department of Tax and Fee Administration in the amount required by
6 Section 25205.14 until July 1, 2022, and Section 25205.2 on and after July 1,
7 2022, unless the generator is subject to a fee under a permit-by-rule. The generator
8 shall submit that fee within 30 days of the date that the fee is assessed by the
9 California Department of Tax and Fee Administration.

10 (d) Notwithstanding any other law, the following activities are ineligible for
11 conditional authorization:

12 (1) Treatment in any of the following units:

13 (A) Landfills.

14 (B) Surface impoundments.

15 (C) Injection wells.

16 (D) Waste piles.

17 (E) Land treatment units.

18 (2) Commingling of hazardous waste with any hazardous waste that exceeds the
19 concentration limits or pH limits specified in subdivision (a), or diluting hazardous
20 waste in order to meet the concentration limits or pH limits specified in
21 subdivision (a).

22 (3) Treatment using a treatment process not specified in subdivision (a).

23 (4) Pretreatment or posttreatment activities not specified in subdivision (a).

24 (5) Treatment of any waste ~~which~~ that is reactive or extremely hazardous.

25 (e) (1) Not less than 60 days prior to commencing the first treatment of
26 hazardous waste under this section, the generator shall submit a notification, in
27 person or by certified mail, with return receipt requested, to the department and to
28 one of the following:

29 (A) The CUPA, if the generator is under the jurisdiction of a CUPA.

30 (B) If the generator is not under the jurisdiction of a CUPA, the notification
31 shall be submitted to the officer or agency authorized, pursuant to subdivision (f)
32 of Section 25404.3, to implement and enforce the requirements of this chapter
33 listed in paragraph (1) of subdivision (c) of Section 25404.

34 (2) Upon demonstration of good cause by the generator, the department may
35 allow a shorter time period, than the 60 days required by paragraph (1), between
36 notification and commencement of hazardous waste treatment pursuant to this
37 section.

38 (3) Each notification submitted pursuant to this subdivision shall be completed,
39 dated, and signed according to the requirements of Section 66270.11 of Title 22 of
40 the California Code of Regulations, as those requirements that were in effect on
41 January 1, 1996, and apply to hazardous waste facilities permit applications, shall
42 be on a form prescribed by the department, and shall include, but not be limited to,
43 all of the following information:

1 (A) The name, identification number, site address, mailing address, and
2 telephone number of the generator to whom the conditional authorization is
3 granted.

4 (B) A description of the physical characteristics and chemical composition of
5 the hazardous waste to which the conditional authorization applies.

6 (C) A description of the hazardous waste treatment activity to which the
7 conditional authorization applies, including the basis for determining that a
8 hazardous waste facilities permit is not required under the federal act.

9 (D) A description of the characteristics and management of any treatment
10 residuals.

11 (E) Documentation of any convictions, judgments, settlements, or orders
12 resulting from an action by any local, state, or federal environmental or public
13 health enforcement agency concerning the operation of the facility within the last
14 three years, as the documents would be available under the California Public
15 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
16 (Division 10 (commencing with Section 7920.000)) of Title 1 of the Government
17 Code) or the Information Practices Act of 1977 (Chapter 1 (commencing with
18 Section 1798) of Title 1.8 of Part 4 of the Civil Code). For purposes of this
19 paragraph, a notice of violation for any local, state, or federal agency does not
20 constitute an order and a generator is not required to report the notice unless the
21 violation is not corrected and the notice becomes a final order.

22 (f) Any generator operating pursuant to a grant of conditional authorization shall
23 comply with all regulations adopted by the department relating to generators of
24 hazardous waste.

25 (g) (1) Upon terminating operation of any treatment process or unit
26 conditionally authorized pursuant to this section, the generator conducting
27 treatment pursuant to this section shall remove or decontaminate all waste
28 residues, containment system components, soils, and structures or equipment
29 contaminated with hazardous waste from the unit. The removal of the unit from
30 service shall be conducted in a manner that does both of the following:

31 (A) Minimizes the need for further maintenance.

32 (B) Eliminates the escape of hazardous waste, hazardous constituents, leachate,
33 contaminated runoff, or waste decomposition products to the environment after the
34 treatment process is no longer in operation.

35 (2) Any generator conducting treatment pursuant to this section who
36 permanently ceases operation of a treatment process or unit that is conditionally
37 authorized pursuant to this section shall, upon completion of all activities required
38 under this subdivision, provide written notification, in person or by certified mail,
39 with return receipt requested, to the department and to one of the following:

40 (A) The CUPA, if the generator is under the jurisdiction of a CUPA.

41 (B) If the generator is not under the jurisdiction of a CUPA, the notification
42 shall be submitted to the officer or agency authorized, pursuant to subdivision (f)

1 of Section 25404.3, to implement and enforce the requirements of this chapter
2 listed in paragraph (1) of subdivision (c) of Section 25404.

3 (h) In adopting regulations pursuant to this section, the department may impose
4 any further restrictions or limitations consistent with the conditionally authorized
5 status conferred by this section ~~which~~ that are necessary to protect human health
6 and safety and the environment.

7 (i) The department may revoke any conditional authorization granted pursuant to
8 this section. The department shall base a revocation on any one of the causes set
9 forth in subdivision (a) of Section 66270.43 of Title 22 of the California Code of
10 Regulations or in Section 25186, or upon a finding that operation of the facility in
11 question will endanger human health and safety, domestic livestock, wildlife, or
12 the environment. The department shall conduct the revocation of a conditional
13 authorization granted pursuant to this section in accordance with Chapter 21
14 (commencing with Section 66271.1) of Division 4.5 of Title 22 of the California
15 Code of Regulations and as specified in Section 25186.7.

16 (j) A generator who would otherwise be subject to this section may contract with
17 the operator of a transportable treatment unit who is operating pursuant to a
18 permit-by-rule, a standardized permit, or a full state hazardous waste facilities
19 permit to treat the generator's waste. If treatment of the generator's waste takes
20 place under ~~such a~~ that type of contract, the generator is not otherwise subject to
21 the requirements of this section, but shall comply with all other requirements of
22 this chapter that apply to generators. The operator of the transportable treatment
23 unit that performs onsite treatment pursuant to this subdivision shall comply with
24 all requirements applicable to transportable treatment units operating pursuant to a
25 permit-by-rule, as set forth in the regulations adopted by the department.

26 (k) (1) Within 30 days of any change in operation ~~which~~ that necessitates
27 modifying any of the information submitted in the notification required pursuant
28 to subdivision (e), a generator shall submit an amended notification, in person or
29 by certified mail, with return receipt requested, to the department and to one of the
30 following:

31 (A) The CUPA, if the generator is under the jurisdiction of a CUPA.

32 (B) If the generator is not under the jurisdiction of a CUPA, the notification
33 shall be submitted to the officer or agency authorized, pursuant to subdivision (f)
34 of Section 25404.3, to implement and enforce the requirements of this chapter
35 listed in paragraph (1) of subdivision (c) of Section 25404.

36 (2) Each amended notification shall be completed, dated, and signed in
37 accordance with the requirements of Section 66270.11 of Title 22 of the California
38 Code of Regulations, as those requirements apply to hazardous waste facilities
39 permit applications.

40 (l) A person who has submitted a notification to the department pursuant to
41 subdivision (e) shall be deemed to be operating pursuant to this section, and,
42 except as provided in Section 25404.5, shall be subject to the fee set forth in
43 subdivision (a) of Section 25205.14 until July 1, 2022, and Section 25205.2 on and

1 after July 1, 2022, until that person submits a certification that the generator has
2 ceased all treatment activities of hazardous waste streams authorized pursuant to
3 this section in accordance with the requirements of subdivision (g). The
4 certification required by this subdivision shall be submitted, in person or by
5 certified mail, with return receipt requested, to the department and to one of the
6 following:

7 (1) The CUPA, if the generator is under the jurisdiction of a CUPA.

8 (2) If the generator is not under the jurisdiction of a CUPA, the notification shall
9 be submitted to the officer or agency authorized, pursuant to subdivision (f) of
10 Section 25404.3, to implement and enforce the requirements of this chapter listed
11 in paragraph (1) of subdivision (c) of Section 25404.

12 (m) The development and publication of the notification form specified in
13 subdivision (e) is not subject to Chapter 3.5 (commencing with Section 11340) of
14 Part 1 of Division 3 of Title 2 of the Government Code. The department shall hold
15 at least one public workshop concerning the development of the notification form.

16 **Comment.** Section 25200.3 is amended to reflect nonsubstantive recodification of the
17 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
18 Comm'n Reports 207 (2019).

19 The section is also amended to make technical changes.

20 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
21 Reports 207 (2019).]

22 **Note.** In 2021, Health and Safety Code Section 25200.3 was amended by the CPRA
23 conforming revisions bill. See 2021 Cal. Stat. ch. 615, § 243 (AB 474 (Chau)). The section was
24 also amended by a budget-related bill, which took effect upon enactment: 2021 Cal. Stat. ch. 73,
25 § 41 (SB 158 (Committee on Budget & Fiscal Review)), enacted on 7/12/21.

26 Due to Government Code Sections 9600 and 9605, and the subordination clause in the CPRA
27 conforming revisions bill, the amendment made by that bill was chaptered out by SB 158.

28 Consequently, the CPRA cross-reference in Health and Safety Code Section 25200.3 still needs
29 to be updated to reflect the CPRA recodification. The new conforming revision of Health and
30 Safety Code Section 25200.3 (shown above) is based on 2021 Cal. Stat. ch. 73, § 41.

31 **Health & Safety Code § 25501 (amended). Definitions**

32 SEC. 49. Section 25501 of the Health and Safety Code is amended to read:

33 25501. Unless the context indicates otherwise, the following definitions govern
34 the construction of this article:

35 (a) "Agricultural handler" means a business operating a farm that is subject to
36 the exemption specified in Section 25507.1.

37 (b) "Area plan" means a plan established pursuant to Section 25503 by a unified
38 program agency for emergency response to a release or threatened release of a
39 hazardous material within a city or county.

40 (c) "Business" means all of the following:

41 (1) An employer, self-employed individual, trust, firm, joint stock company,
42 corporation, partnership, limited liability partnership or company, or other
43 business entity.

44 (2) A business organized for profit and a nonprofit business.

1 (3) The federal government, to the extent authorized by law.

2 (4) An agency, department, office, board, commission, or bureau of state
3 government, including, but not limited to, the campuses of the California
4 Community Colleges, the California State University, and the University of
5 California.

6 (5) An agency, department, office, board, commission, or bureau of a city,
7 county, or district.

8 (6) A handler that operates or owns a unified program facility.

9 (d) “Business plan” means a separate plan for each unified program facility, site,
10 or branch of a business that meets the requirements of Section 25505.

11 (e) (1) “Certified unified program agency” or “CUPA” means the agency
12 certified by the secretary to implement the unified program specified in Chapter
13 6.11 (commencing with Section 25404) within a jurisdiction.

14 (2) “Participating agency” or “PA” means an agency that has a written
15 agreement with the CUPA pursuant to subdivision (d) of Section 25404.3, and is
16 approved by the secretary, to implement or enforce one or more of the unified
17 program elements specified in paragraphs (4) and (5) of subdivision (c) of Section
18 25404, in accordance with Sections 25404.1 and 25404.2.

19 (3) “Unified program agency” or “UPA” means the CUPA, or its participating
20 agencies to the extent each PA has been designated by the CUPA, pursuant to a
21 written agreement, to implement or enforce a particular unified program element
22 specified in paragraphs (4) and (5) of subdivision (c) of Section 25404. For
23 purposes of this article and Article 2 (commencing with Section 25531), the UPAs
24 have the responsibility and authority, to the extent provided by this article and
25 Article 2 (commencing with Section 25531) and Sections 25404.1 and 25404.2, to
26 implement and enforce only those requirements of this article and Article 2
27 (commencing with Section 25531) listed in paragraphs (4) and (5) of subdivision
28 (c) of Section 25404.

29 (4) The UPAs also have the responsibility and authority, to the extent provided
30 by this article and Article 2 (commencing with Section 25531) and Sections
31 25404.1 and 25404.2, to implement and enforce the regulations adopted to
32 implement the requirements of this article and Article 2 (commencing with
33 Section 25531) listed in paragraphs (4) and (5) of subdivision (c) of Section
34 25404. After a CUPA has been certified by the secretary, the unified program
35 agencies shall be the only local agencies authorized to enforce the requirements of
36 this article and Article 2 (commencing with Section 25531) listed in paragraphs
37 (4) and (5) of subdivision (c) of Section 25404 within the jurisdiction of the
38 CUPA.

39 (f) “City” includes any city and county.

40 (g) “Chemical name” means the scientific designation of a substance in
41 accordance with the nomenclature system developed by the International Union of
42 Pure and Applied Chemistry or the system developed by the Chemical Abstracts
43 Service.

1 (h) “Common name” means any designation or identification, such as a code
2 name, code number, trade name, or brand name, used to identify a substance by
3 other than its chemical name.

4 (i) “Compressed gas” means a material, or mixture of materials, that meets
5 either of the following:

6 (1) The definition of compressed gas or cryogenic fluid found in the California
7 Fire Code.

8 (2) Compressed gas that is regulated pursuant to Part 1 (commencing with
9 Section 6300) of Division 5 of the Labor Code.

10 (j) “Consumer product” means a commodity used for personal, family, or
11 household purposes, or is present in the same form, concentration, and quantity as
12 a product prepackaged for distribution to and use by the general public.

13 (k) “Emergency response personnel” means a public employee, including, but
14 not limited to, a firefighter or emergency rescue personnel, as defined in Section
15 245.1 of the Penal Code, or personnel of a local emergency medical services
16 (EMS) agency, as designated pursuant to Section 1797.200, who is responsible for
17 response, mitigation, or recovery activities in a medical, fire, or hazardous
18 material incident, or natural disaster where public health, public safety, or the
19 environment may be impacted.

20 (l) “Handle” means all of the following:

21 (1) (A) To use, generate, process, produce, package, treat, store, emit, discharge,
22 or dispose of a hazardous material in any fashion.

23 (B) For purposes of subparagraph (A), “store” does not include the storage of
24 hazardous materials incidental to transportation, as defined in Title 49 of the Code
25 of Federal Regulations, with regard to the inventory requirements of Section
26 25506.

27 (2) (A) The use or potential use of a quantity of hazardous material by the
28 connection of a marine vessel, tank vehicle, tank car, or container to a system or
29 process for any purpose.

30 (B) For purposes of subparagraph (A), the use or potential use does not include
31 the immediate transfer to or from an approved atmospheric tank or approved
32 portable tank that is regulated as loading or unloading incidental to transportation
33 by Title 49 of the Code of Federal Regulations.

34 (m) “Handler” means a business that handles a hazardous material.

35 (n) (1) “Hazardous material” means a material listed in paragraph (2) that,
36 because of its quantity, concentration, or physical or chemical characteristics,
37 poses a significant present or potential hazard to human health and safety or to the
38 environment if released into the workplace or the environment, or a material
39 specified in an ordinance adopted pursuant to paragraph (3).

40 (2) Hazardous materials include all of the following:

41 (A) A substance or product for which the manufacturer or producer is required
42 to prepare a material safety data sheet pursuant to the Hazardous Substances
43 Information and Training Act (Chapter 2.5 (commencing with Section 6360) of

1 Part 1 of Division 5 of the Labor Code) or pursuant to any applicable federal law
2 or regulation.

3 (B) A substance listed as a radioactive material in Appendix B of Part 30
4 (commencing with Section 30.1) of Title 10 of the Code of Federal Regulations, as
5 maintained and updated by the United States Nuclear Regulatory Commission.

6 (C) A substance listed pursuant to Title 49 of the Code of Federal Regulations.

7 (D) A substance listed in Section 339 of Title 8 of the California Code of
8 Regulations.

9 (E) A material listed as a hazardous waste, as defined by Sections 25115, 25117,
10 and 25316.

11 (3) The governing body of a unified program agency may adopt an ordinance
12 that provides that, within the jurisdiction of the unified program agency, a material
13 not listed in paragraph (2) is a hazardous material for purposes of this article if a
14 handler has a reasonable basis for believing that the material would be injurious to
15 the health and safety of persons or harmful to the environment if released into the
16 workplace or the environment, and requests the governing body of the unified
17 program agency to adopt that ordinance, or if the governing body of the unified
18 program agency has a reasonable basis for believing that the material would be
19 injurious to the health and safety of persons or harmful to the environment if
20 released into the workplace or the environment. The handler or the unified
21 program agency shall notify the secretary no later than 30 days after the date an
22 ordinance is adopted pursuant to this paragraph.

23 (o) “Release” means any spilling, leaking, pumping, pouring, emitting,
24 emptying, discharging, injecting, escaping, leaching, dumping, or disposing into
25 the environment, unless permitted or authorized by a regulatory agency.

26 (p) “Retail establishment” means a business that sells consumer products
27 prepackaged for distribution to, and intended for use by, the general public. A
28 retail establishment may include storage areas or storerooms in establishments that
29 are separated from shelves for display areas but maintained within the physical
30 confines of the retail establishments. A retail establishment does not include a pest
31 control dealer, as defined in Section 11407 of the Food and Agricultural Code.

32 (q) “Secretary” means the Secretary for Environmental Protection.

33 (r) “Statewide information management system” means the statewide
34 information management system established pursuant to subdivision (e) of Section
35 25404 that provides for the combination of state and local information
36 management systems for the purposes of managing unified program data.

37 (s) “Threatened release” means a condition, circumstance, or incident making it
38 necessary to take immediate action to prevent, reduce, or mitigate a release with
39 the potential to cause damage or harm to persons, property, or the environment.

40 (t) “Trade secret” means trade secrets as defined in either ~~subdivision (d) of~~
41 ~~Section 6254.7~~ subdivision (f) of Section 7924.510 of the Government Code or
42 Section 1061 of the Evidence Code.

1 (u) “Unified program facility” means all contiguous land and structures, other
2 appurtenances, and improvements on the land that are subject to the requirements
3 of paragraphs (4) and (5) of subdivision (c) of Section 25404. For purposes of this
4 article, “facility” has the same meaning as unified program facility.

5 **Comment.** Section 25501 is amended to reflect nonsubstantive recodification of the California
6 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
7 Reports 207 (2019).

8 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
9 Reports 207 (2019).]

10 **Note.** In 2021, Health and Safety Code Section 25501 was amended by the CPRA conforming
11 revisions bill. See 2021 Cal. Stat. ch. 615, § 253 (AB 474 (Chau)). The section was also amended
12 by a budget-related bill, which took effect upon enactment: 2021 Cal. Stat. ch. 115, § 25 (AB 148
13 (Committee on Budget)), enacted on 7/22/21.

14 Due to Government Code Sections 9600 and 9605, and the subordination clause in the CPRA
15 conforming revisions bill, the amendment made by that bill was chaptered out by AB 148.

16 Consequently, the CPRA cross-reference in Health and Safety Code Section 25501 still needs
17 to be updated to reflect the CPRA recodification. The new conforming revision of Health and
18 Safety Code Section 25501 (shown above) is based on 2021 Cal. Stat. ch. 115, § 25.

19 **Health & Safety Code § 25538 (amended). Trade secret**

20 SEC. 50. Section 25538 of the Health and Safety Code is amended to read:

21 25538. (a) If a stationary source believes that any information required to be
22 reported, submitted, or otherwise provided to the unified program agency pursuant
23 to this article involves the release of a trade secret, the stationary source shall
24 provide the information to the unified program agency and shall notify the unified
25 program agency in writing of that belief. Upon receipt of a claim of trade secret
26 related to an RMP, the unified program agency shall review the claim and shall
27 segregate properly substantiated trade secret information from information that
28 shall be made available to the public upon request in accordance with the
29 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of
30 Division 7 (Division 10 (commencing with Section 7920.000)) of Title 1 of
31 Government Code). As used in this section, “trade secret” has the same meaning
32 as in ~~subdivision (d) of Section 6254.7~~ subdivision (f) of Section 7924.510 of the
33 Government Code and Section 1061 of the Evidence Code.

34 (b) Except as otherwise specified in this section, the unified program agency
35 shall not disclose any properly substantiated trade secret that is so designated by
36 the owner or operator of a stationary source.

37 (c) The unified program agency may disclose trade secrets received by the
38 unified program agency pursuant to this article to authorized officers or employees
39 of other governmental agencies only in connection with the official duties of that
40 officer or employee pursuant to any law for the protection of health and safety.

41 (d) Any officer or employee or former officer or employee of the unified
42 program agency or any other government agency who, because of that
43 employment or official position, has possession of or access to information
44 designated as a trade secret pursuant to this section shall not knowingly and

1 willfully disclose the information in any manner to any person not authorized to
2 receive the information pursuant to this section. Notwithstanding Section 25515,
3 any person who violates this subdivision, and who knows that disclosure of this
4 information to the general public is prohibited by the section, shall, upon
5 conviction, be punished by imprisonment in the county jail for not more than six
6 months or by a fine of not more than one thousand dollars (\$1,000), or by both that
7 fine and imprisonment.

8 (e) Any information prohibited from disclosure pursuant to any federal statute or
9 regulation shall not be disclosed.

10 (f) This section does not authorize any stationary source to refuse to disclose to
11 the unified program agency any information required pursuant to this article.

12 (g) (1) Upon receipt of a request for the release of information to the public that
13 includes information that the stationary source has notified the unified program
14 agency is a trade secret pursuant to subdivision (a), the unified program agency
15 shall notify the stationary source in writing of the request by certified mail, return
16 receipt requested. The owner or operator of the stationary source shall have 30
17 days from receipt of the notification to provide the unified program agency with
18 any materials or information intended to supplement the information submitted
19 pursuant to subdivision (a) and needed to substantiate the claim of trade secret.
20 The unified program agency shall review the claim of trade secret and shall
21 determine whether the claim is properly substantiated.

22 (2) The unified program agency shall inform the stationary source in writing, by
23 certified mail, return receipt requested, of any determination by the unified
24 program agency that some, or all, of a claim of trade secret has not been
25 substantiated. Not earlier than 30 days after the receipt by a stationary source of
26 notice of the determination, the unified program agency shall release the
27 information to the public, unless, prior to the expiration of the 30-day period, the
28 stationary source files an action in an appropriate court for a declaratory judgment
29 that the information is subject to protection under subdivision (b) or for an
30 injunction prohibiting disclosure of the information to the public, and promptly
31 notifies the unified program agency of that action.

32 **Comment.** Section 25538 is amended to reflect nonsubstantive recodification of the California
33 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
34 Reports 207 (2019).

35 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
36 Reports 207 (2019).]

37 **Note.** In 2021, Health and Safety Code Section 25538 was amended by the CPRA conforming
38 revisions bill. See 2021 Cal. Stat. ch. 615, § 255 (AB 474 (Chau)). The section was also amended
39 by a budget-related bill, which took effect upon enactment: 2021 Cal. Stat. ch. 115, § 51 (AB 148
40 (Committee on Budget)), enacted on 7/22/21.

41 Due to Government Code Sections 9600 and 9605, and the subordination clause in the CPRA
42 conforming revisions bill, the amendment made by that bill was chaptered out by AB 148.

43 Consequently, the CPRA cross-references in Health and Safety Code Section 25538 still need
44 to be updated to reflect the CPRA recodification. The new conforming revision of Health and
45 Safety Code Section 25538 (shown above) is based on 2021 Cal. Stat. ch. 115, § 51.

1 **Health & Safety Code § 44274.13 (amended). Data collection and dissemination**

2 SEC. 51. Section 44274.13 of the Health and Safety Code is amended to read:

3 44274.13. (a) The administering agency, in consultation with the state board,
4 shall develop a data collection and dissemination strategy for the program to
5 facilitate informed decisionmaking by other state agencies and private sector
6 financiers.

7 (b) The administering agency shall keep confidential all business trade secrets
8 and proprietary information about fleets that the administering agency gathers or
9 becomes aware of through the course of implementing and administering this
10 article, including through applications for financial assistance. Business trade
11 secrets and proprietary information obtained pursuant to this subdivision are not
12 subject to the California Public Records Act (~~Chapter 3.5 (commencing with~~
13 ~~Section 6250) of Division 7 (Division 10 (commencing with Section 7920.000)~~ of
14 Title 1 of the Government Code).

15 (c) The strategy developed pursuant to subdivision (a) shall include data that is
16 necessary to facilitate the financing of zero-emission vehicles in order to increase
17 the scalability of financial tools and nonfinancial supports. These data include, but
18 are not limited to, vehicle and battery performance, upfront and operational costs,
19 residual values, operational revenues, and zero-emissions vehicle miles traveled.

20 (d) The administering agency shall track project implementation and report to
21 the state board the outcomes no less often than annually, including vehicle or
22 equipment data necessary to calculate criteria air pollutant and greenhouse gas
23 emission reductions, demographic and business data necessary to determine
24 cobenefits, and socioeconomic benefits to residents, including those in
25 underserved communities. Specific data points shall be determined by the state
26 board and included in the interagency agreement described in Sections 44274.11
27 and 44274.12.

28 **Comment.** Section 44274.13 is amended to reflect nonsubstantive recodification of the
29 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
30 Comm'n Reports 207 (2019).

31 [This Comment is new.]

32 **Note.** Section 44274.13 was just added to the Health and Safety Code by 2021 Cal. Stat. ch.
33 639, § 2 (SB 372 (Leyva)). The CPRA cross-reference in that section needs to be updated to
34 reflect the CPRA recodification.

35 **Health & Safety Code § 50220.6 (amended). Data for Homeless Management Information**
36 **System**

37 SEC. 52. Section 50220.6 of the Health and Safety Code is amended to read:

38 50220.6. (a) Notwithstanding any law, a recipient that enters into an agreement
39 as set forth in paragraph (10) of subdivision (a) of Section 50219, paragraph (7) of
40 subdivision (b) of Section 50225.5, clause (iii) of subparagraph (B) of paragraph
41 (3) of subdivision (b) of Section 50220.7, and subparagraph (C) of paragraph (3)
42 of subdivision (b) of Section 50220.8 shall provide data elements, including, but
43 not limited to, health information, in a manner consistent with federal law, to the

1 statewide Homeless Management Information System when the system becomes
2 available.

3 (b) (1) The council shall specify the form and substance of the required data
4 elements.

5 (2) The council may, as required by operational necessity, amend or modify data
6 elements, disclosure formats, or disclosure frequency.

7 (c) Any health information provided to, or maintained within, the statewide
8 Homeless Management Information System shall not be subject to public
9 inspection or disclosure under the California Public Records Act (~~Chapter 3.5~~
10 ~~(commencing with Section 6250)~~ of Division 7 (Division 10 (commencing with
11 Section 7920.000) of Title 1 of the Government Code).

12 (d) For purposes of this paragraph, “health information” means “protected health
13 information,” as defined in Part 160.103 of Title 45 of the Code of Federal
14 Regulations, and “medical information,” as defined in subdivision (j) of Section
15 56.05 of the Civil Code.

16 **Comment.** Section 50220.6 is amended to reflect nonsubstantive recodification of the
17 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
18 Comm’n Reports 207 (2019).

19 [This Comment is from *Report of the California Law Revision Commission on Chapter 615 of*
20 *the Statutes of 2021 (Assembly Bill 474)*, 48 Cal. L. Revision Comm’n Reports __ (2021).]

21 **Note.** In 2021, Health and Safety Code Section 50220.6 was amended by the CPRA
22 conforming revisions bill. See 2021 Cal. Stat. ch. 615, § 263 (AB 474 (Chau)). The section was
23 also amended by a budget-related bill, which took effect upon enactment: 2021 Cal. Stat. ch. 111,
24 § 8 (AB 140 (Committee on Budget)), enacted on 7/19/21.

25 Due to Government Code Sections 9600 and 9605, and the subordination clause in the CPRA
26 conforming revisions bill, the amendment made by that bill was chaptered out by AB 140.

27 Consequently, the CPRA cross-reference in Health and Safety Code Section 50220.6 still needs
28 to be updated to reflect the CPRA recodification. The new conforming revision of Health and
29 Safety Code Section 50220.6 (shown above) is based on 2021 Cal. Stat. ch. 111, § 8.

30 **Health & Safety Code § 50254 (amended). Data elements for tracking in Homeless Data**
31 **Integration System**

32 SEC. 53. Section 50254 of the Health and Safety Code is amended to read:

33 50254. (a) Notwithstanding any other law, all recipients of funds pursuant to this
34 chapter shall provide data elements, including, but not limited to, health
35 information, in a manner consistent with state and federal law, to their local
36 Homeless Management Information System for tracking in the statewide
37 Homeless Data Integration System.

38 (b) (1) The council shall specify the form and substance of the required data
39 elements.

40 (2) The council may, as required by operational necessity, amend or modify data
41 elements, disclosure formats, or disclosure frequency.

42 (c) Any health information or personal identifying information provided to or
43 maintained within the statewide Homeless Data Integration System pursuant to
44 this section shall not be subject to public inspection or disclosure under the

1 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of
2 ~~Division 7 (Division 10 (commencing with Section 7920.000))~~ of Title 1 of the
3 Government Code).

4 (d) For purposes of this paragraph, “health information” includes “protected
5 health information,” as defined in Part 160.103 of Title 45 of the Code of Federal
6 Regulations, and “medical information,” as defined in subdivision (j) of Section
7 56.05 of the Civil Code.

8 (e) All recipients shall provide information and products developed with grant
9 funds on service delivery models in support of the overall program goal to
10 mitigate risk and address safety concerns in encampments, while ensuring a
11 pathway for individuals living in encampments to move into safe and stable
12 housing, in a format and timeframe specified by the council.

13 (f) The council shall evaluate the data and outcomes reported by recipients to
14 assess efficacy of programs and identify scalable best practices for encampment
15 resolution that can be replicated across the state.

16 (g) The council shall report to the chairs of the relevant fiscal and policy
17 committees in both houses on the outcomes, learnings, and best practice models
18 identified through this program. The report shall be submitted in compliance with
19 Section 9795.

20 **Comment.** Section 50254 is amended to reflect nonsubstantive recodification of the California
21 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
22 Reports 207 (2019).

23 [This Comment is new.]

24 **Note.** Section 50254 was just added to the Health and Safety Code by 2021 Cal. Stat. ch. 111,
25 § 13 (AB 140 (Committee on Budget)), a budget-related bill enacted on 7/19/21. The CPRA
26 cross-reference in that section needs to be updated to reflect the CPRA recodification.

27 **Health & Safety Code § 50259 (amended). Data elements for tracking in Homeless Data**
28 **Integration System**

29 SEC. 54. Section 50259 of the Health and Safety Code is amended to read:

30 50259. (a) All recipients of funds pursuant to this chapter shall provide data
31 elements, including, but not limited to, health information, in a manner consistent
32 with federal law, to their local Homeless Management Information System, for
33 tracking in the statewide Homeless Data Integration System.

34 (b) (1) The council shall specify the form and substance of required data
35 elements.

36 (2) The council may, as required by operational necessity, amend or modify data
37 elements, disclosure formats, or disclosure frequency.

38 (c) Any health information or personal identifying information provided to, or
39 maintained within, the Homeless Data Integration System shall not be subject to
40 public inspection or disclosure under the California Public Records Act (~~Chapter~~
41 ~~3.5 (commencing with Section 6250)~~ of ~~Division 7 (Division 10 (commencing~~
42 ~~with Section 7920.000))~~ of Title 1 of the Government Code).

1 (d) For purposes of this paragraph, “health information” includes “protected
2 health information,” as defined in Part 160.103 of Title 45 of the Code of Federal
3 Regulations, and “medical information,” as defined in subdivision (j) of Section
4 56.05 of the Civil Code.

5 (e) All recipients of funds shall provide information and products developed
6 with grant funds on service delivery models in support of the overall program goal
7 to create scalable solutions to family homelessness in a format and timeframe as
8 specified by the council.

9 **Comment.** Section 50259 is amended to reflect nonsubstantive recodification of the California
10 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
11 Reports 207 (2019).

12 [This Comment is new.]

13 **Note.** Section 50259 was just added to the Health and Safety Code by 2021 Cal. Stat. ch. 111,
14 § 14 (AB 140 (Committee on Budget)), a budget-related bill enacted on 7/19/21. The CPRA
15 cross-reference in that section needs to be updated to reflect the CPRA recodification.

16 **Health & Safety Code § 111928 (amended). Sharing of information**

17 SEC. 55. Section 111928 of the Health and Safety Code is amended to read:

18 111928. (a) The Department of Food and Agriculture and the State Department
19 of Public Health, in consultation with the Department of Cannabis Control, if
20 necessary, shall develop a process to share license, registration, cultivar, and
21 enforcement information to facilitate compliance and enforcement against
22 unlicensed manufacturers or the sale of industrial hemp that does not meet the
23 requirements of this part.

24 (b) Communications shared between state agencies and local and law
25 enforcement officials regarding license, registration, cultivar, and enforcement
26 information of manufacturers and retailers of industrial hemp products and raw
27 extract shall not be subject to the California Public Records Act (~~Chapter 3.5~~
28 ~~(commencing with Section 6250) of Division 7 (Division 10 (commencing with~~
29 Section 7920.000) of Title 1 of the Government Code) and shall be considered
30 “official information” pursuant to Section 1040 of the Evidence Code.

31 **Comment.** Section 111928 is amended to reflect nonsubstantive recodification of the
32 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
33 Comm’n Reports 207 (2019).

34 [This Comment is new.]

35 **Note.** Section 111928 was just added to the Health and Safety Code by 2021 Cal. Stat. ch. 576,
36 § 10 (AB 45 (Aguiar-Curry)), an urgency bill enacted on 10/6/21. The CPRA cross-reference in
37 that section needs to be updated to reflect the CPRA recodification.

38 **Health & Safety Code § 116773.4 (amended). California Water and Wastewater Arrearage**
39 **Payment Program**

40 SEC. 56. Section 116773.4 of the Health and Safety Code is amended to read:

41 116773.4. (a) The California Water and Wastewater Arrearage Payment
42 Program is hereby established in the state board to implement this chapter.

1 (b) (1) Within 90 days of receiving funds pursuant to an appropriation in the
2 annual Budget Act for this purpose, the state board shall survey community water
3 systems to determine statewide arrearages and water enterprise revenue shortfalls
4 and adopt a resolution establishing guidelines for application requirements and
5 reimbursement amounts for those arrearages and shortfalls. Within 14 days of
6 adopting the resolution, the state board shall begin accepting applications from
7 community water systems for funds to assist customers who have past-due bills
8 from the COVID-19 pandemic bill relief period.

9 (2) There shall be an initial 60-day application timeframe in which a community
10 water system may apply to the state board for reimbursement. The state board
11 shall contact any community water systems that do not apply during the initial
12 application period to assist the community water systems in applying.

13 (3) The state board shall use the survey results to determine the total amount of
14 residential and commercial arrearages from community water systems that have
15 submitted that information. The survey shall also quantify revenue shortfalls for
16 community water systems unable to disaggregate customer arrearages.

17 (4) (A) If there are insufficient funds in the appropriation described in paragraph
18 (1) to reimburse the total amount of reported arrearages and revenue shortfalls of
19 community water systems, the state board shall disburse the funds on a
20 proportional basis to each community water system applicant based on reported
21 arrearages and the state board's estimation of customer arrearages for community
22 water systems unable to report arrearages that report water enterprise revenue
23 shortfalls.

24 (B) If there are sufficient funds in the appropriation described in paragraph (1)
25 to reimburse the total amount of reported arrearages and revenue shortfalls of
26 community water systems, the state board shall establish a program for funding
27 wastewater treatment provider arrearages and shortfalls in accordance with this
28 chapter with the remaining funds. Notwithstanding the deadlines specified in
29 subdivision (c), the wastewater service program shall commence following
30 substantial completion of the water service program under this chapter, and in no
31 instance later than February 1, 2022.

32 (5) A community water system applicant shall calculate or estimate, based on its
33 billing frequency, the total amount of outstanding past-due bills that have
34 accumulated during the COVID-19 pandemic bill relief period. The calculations
35 shall include documentation to support the amount of outstanding customer
36 arrearages that were incurred during that period, if available. Community water
37 system applicants shall also report their water enterprise revenue shortfalls during
38 the COVID-19 pandemic bill relief period. A community water system's
39 authorized representative, or its designee, shall attest that the application is true
40 and accurate.

41 (6) (A) The state board shall prioritize the timing of the disbursement of funding
42 to small community water systems.

1 (B) The state board shall establish guidelines for community water systems to
2 prioritize residential water customers and customers with the largest arrearages.

3 (7) If a community water system uses customer classes for purposes of its billing
4 program, the following customer classes are eligible for funding under this chapter
5 and may be included in the application:

6 (A) Residential customers.

7 (B) Commercial customers.

8 (c) The state board shall begin disbursing funds under this chapter to community
9 water systems no later than November 1, 2021, and shall complete distribution of
10 funds to community water systems no later than January 31, 2022.

11 (d) A community water system shall, within 60 days of receiving funds under
12 this chapter, allocate payments as bill credits to customers to help address past-due
13 bills incurred during the COVID-19 pandemic bill relief period and notify
14 customers of the amounts credited to their accounts.

15 (e) (1) A community water system shall provide customers with arrearages
16 accrued during the COVID-19 pandemic bill relief period a notice that they may
17 enter into a payment plan and that they have 30 days from the date of the notice to
18 enroll in the payment plan. A payment plan and its associated rules offered by a
19 community water system of any size shall conform with Chapter 6 (commencing
20 with Section 116900), notwithstanding limitations in that chapter relating to a
21 community water system's size. A community water system shall not discontinue
22 water service to a customer that remains current on a payment plan.

23 (2) A community water system shall not discontinue water service due to
24 nonpayment of past-due bills before either of the following dates, whichever date
25 is later:

26 (A) December 31, 2021.

27 (B) For a customer that has been offered an opportunity to participate in a
28 payment plan, the date the customer misses the enrollment deadline for, or defaults
29 on, the payment plan.

30 (f) A community water system shall remit any moneys disbursed to the
31 community water system under this chapter not credited to customers within six
32 months of receipt back to the state board.

33 (g) Customer information collected under this chapter is subject to Section
34 ~~6254.16~~ 7927.410 of the Government Code.

35 (h) A community water system receiving assistance under this chapter may
36 expend up to 3 percent, or up to one million dollars (\$1,000,000), whichever
37 amount is less, of that assistance for costs incurred in applying for the assistance
38 or complying with use and reporting conditions of the assistance.

39 **Comment.** Section 116773.4 is amended to reflect nonsubstantive recodification of the
40 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
41 Comm'n Reports 207 (2019).

42 [This Comment is new.]

1 **Note.** Section 116773.4 was just added to the Health and Safety Code by 2021 Cal. Stat. ch.
2 115, § 61 (AB 148 (Committee on Budget)), a budget-related bill enacted on 7/22/21, and
3 amended by 2021 Cal. Stat. ch. 258, § 19 (SB 155 (Committee on Budget & Fiscal Review)), a
4 budget-related bill enacted on 9/23/21. The CPRA cross-reference in this new provision needs to
5 be updated to reflect the CPRA recodification.

6 **Health & Safety Code § 127673.81 (amended). Privacy and confidentiality**

7 SEC. 57. Section 127673.81 of the Health and Safety Code is amended to read:

8 127673.81. (a) (1) All personal consumer information obtained or maintained by
9 the program shall be confidential.

10 (2) Only deidentified aggregate patient or other consumer data shall be included
11 in a publicly available analysis, data product, or research.

12 (b) All policies and procedures developed in implementing this chapter shall
13 ensure that the privacy, security, and confidentiality of consumers' individually
14 identifiable health information is protected, consistent with state and federal
15 privacy laws, including the federal Health Insurance Portability and
16 Accountability Act of 1996 (HIPAA)(Public Law 104-191) and the
17 Confidentiality of Medical Information Act (Part 2.6 (commencing with Section
18 56) of Division 1 of the Civil Code), and data shall not be disclosed until the
19 department has developed a policy regarding the release of data.

20 (c) (1) The system and all program data shall be exempt from the disclosure
21 requirements of the California Public Records Act (~~Chapter 3.5 (commencing with~~
22 ~~Section 6250) of Division 7 (Division 10 (commencing with Section 7920.000) of~~
23 Title 1 of the Government Code), and shall not be made available except pursuant
24 to this chapter.

25 (2) The department shall develop policies and procedures for the disclosure of
26 information described in paragraph (2) of subdivision (a).

27 (d) Program data shall not be used for determinations regarding individual
28 patient care or treatment and shall not be used for any individual eligibility or
29 coverage decisions or similar purposes.

30 **Comment.** Section 127673.81 is amended to reflect nonsubstantive recodification of the
31 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
32 Comm'n Reports 207 (2019).

33 [This Comment is from *Report of the California Law Revision Commission on Chapter 615 of*
34 *the Statutes of 2021 (Assembly Bill 474)*, 48 Cal. L. Revision Comm'n Reports __ (2021).]

35 **Note.** In 2021, Health and Safety Code Section 127673.81 was amended by the CPRA
36 conforming revisions bill. See 2021 Cal. Stat. ch. 615, § 288 (AB 474 (Chau)). The section was
37 also amended by a budget-related bill, which took effect upon enactment: 2021 Cal. Stat. ch. 143,
38 § 103 (AB 133 (Committee on Budget)), enacted on 7/27/21.

39 Due to Government Code Sections 9600 and 9605, and the subordination clause in the CPRA
40 conforming revisions bill, the amendment made by that bill was chaptered out by AB 133.

41 Consequently, the CPRA cross-reference in Health and Safety Code Section 127673.81 still
42 needs to be updated to reflect the CPRA recodification. The new conforming revision of Health
43 and Safety Code Section 127673.81 (shown above) is based on 2021 Cal. Stat. ch. 143, § 103.

1 **Health & Safety Code § 128365 (amended). Documents exempt from disclosure due to**
2 **privacy considerations**

3 SEC. 58. Section 128365 of the Health and Safety Code is amended to read:

4 128365. Notwithstanding any other provision, applications for financial
5 assistance under this article, or other documents that the department reasonably
6 determines should not be discussed in public due to privacy considerations shall be
7 exempt from the disclosure provisions of the Public Records Act (~~Chapter 3.5~~
8 ~~(commencing with Section 6250) of Division 7 (Division 10 (commencing with~~
9 Section 7920.000) of Title 1 of the Government Code).

10 **Comment.** Section 128365 is amended to reflect nonsubstantive recodification of the
11 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
12 Comm'n Reports 207 (2019).

13 [This Comment is new.]

14 **Note.** Section 128365 was just added to the Health and Safety Code by 2021 Cal. Stat. ch. 143,
15 § 171 (AB (Committee on Budget)), a budget-related bill enacted on 7/27/21. The CPRA cross-
16 reference in that section needs to be updated to reflect the CPRA recodification.

17 **Health & Safety Code § 128734.1 (amended). Annual consolidated financial report**

18 SEC. 59. Section 128734.1 of the Health and Safety Code is amended to read:

19 128734.1. (a) (1) Commencing with fiscal years ending December 31, 2023, an
20 organization that operates, conducts, owns, manages, or maintains a skilled
21 nursing facility or facilities licensed pursuant to subdivision (c) of Section 1250
22 shall prepare and file with the office, at the times as the office shall require, an
23 annual consolidated financial report.

24 (2) The annual consolidated financial report required to be prepared pursuant to
25 paragraph (1) shall be reviewed by a certified public accountant in accordance
26 with generally accepted accounting principles and with the Financial Accounting
27 Standards Board's financial reporting requirements, with financial statements
28 prepared using the accrual basis. If the organization has prepared an audit by a
29 certified public accountant of its annual consolidated financial report for any
30 reason, that audit shall be filed with the office, and, in that instance, no review of
31 the consolidated financial report shall be necessary. The reviewed or audited
32 report, as applicable, shall, in addition to the requirements set forth in Section
33 128735, include, but not be limited to, the following statements:

34 (A) A balance sheet detailing the assets, liabilities, and net worth at the end of
35 its fiscal year.

36 (B) A statement of income, expenses, and operating surplus or deficit for the
37 annual fiscal period, and a statement of ancillary utilization and patient census.

38 (C) A statement detailing patient revenue by payer, including, but not limited to,
39 Medicare, Medi-Cal, and other payers, and revenue center.

40 (D) A statement of cashflows, including, but not limited to, ongoing and new
41 capital expenditures and depreciation.

42 (E) A combined financial statement that includes all entities reported in the
43 consolidated financial report, unless the organization is prohibited from including

1 a combined financial statement in a consolidated financial report pursuant to a
2 state or federal law or regulation or a national accounting standard. When
3 applicable, the organization must disclose to the office the applicable state or
4 federal law or regulation or national accounting standard.

5 (3) In addition to the consolidated financial report, the following information
6 shall be provided to the office as an attachment to the consolidated financial
7 report:

8 (A) The financial information required by paragraph (2) of subdivision (a) from
9 all operating entities, licenseholders, and related parties in which the organization
10 has an ownership or control interest of 5 percent or more and that provides any
11 service, facility, or supply to the skilled nursing facility.

12 (B) A detailed document outlining a visual representation of the organization's
13 structure that includes both of the following:

14 (i) All related parties in which the organization has an ownership or control
15 interest of 5 percent or more and that provides any service, facility, or supply to
16 the skilled nursing facility.

17 (ii) Unrelated parties that provide services, facilities, or supplies to the skilled
18 nursing facility or facilities that are operated, conducted, owned, managed, or
19 maintained by the organization, including, but not limited to, management
20 companies and property companies, and that are paid more than two hundred
21 thousand dollars (\$200,000) by the skilled nursing facility.

22 (b) The office shall post reports and related documents submitted pursuant to
23 this section to its internet website.

24 (c) Any report, document, statement, writing or any other type of record
25 received, owned, used, or retained by the office in connection with this section is a
26 public record within the meaning of ~~subdivision (e) of Section 6252~~ Section
27 7922.505 of the Government Code and is subject to disclosure pursuant to the
28 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of
29 Division 7 (Division 10 (commencing with Section 7920.000)) of Title 1 of the
30 Government Code).

31 (d) The office shall develop policies and procedures to outline the format of
32 information to be submitted pursuant to this section. The office shall determine if
33 the information submitted pursuant to subdivision (a) is complete, but shall not be
34 required to determine its accuracy.

35 (e) For the purposes of this section, "related party" has the same meaning as in
36 Section 128734, and may include, but is not limited to, home offices; management
37 organizations; owners of real estate; entities that provide staffing, therapy,
38 pharmaceutical, marketing, administrative management, consulting, and insurance
39 services; providers of supplies and equipment; financial advisors and consultants;
40 banking and financial entities; any and all parent companies, holding companies,
41 and sister organizations; and any entity in which an immediate family member of
42 an owner of those organizations has an ownership interest of 5 percent or more.
43 "Immediate family member" includes spouse, natural parent, child, sibling,

1 adopted child, adoptive parent, stepparent, stepchild, stepsister, stepbrother, father-
2 in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law,
3 grandparent, and grandchild.

4 (f) This section shall not apply to a facility operated by a health care district
5 organized and governed pursuant to the Local Healthcare District Law (Division
6 23 (commencing with Section 32000)).

7 (g) This section shall not apply to an organization that has no related parties as
8 defined in subdivision (e), except that the organization is required to submit a
9 detailed document outlining a visual representation of the organization's structure
10 as set forth in subparagraph (B) of paragraph (3) of subdivision (a). Nothing in this
11 section shall be construed to require a government entity licenseholder, that is not
12 a related party, to file a consolidated financial report for a nursing home
13 management company that operates under its license.

14 (h) Consistent with the reports and requirements required for subdivisions (a) to
15 (e), inclusive, of Section 128735 and Section 128740, all information submitted
16 pursuant to this section shall be accompanied by a report certification signed by a
17 duly authorized official of the health facility or of the health facility's home office
18 that certifies that, to the best of the official's knowledge and information, each
19 statement and amount in the accompanying report is believed to be true and
20 correct.

21 **Comment.** Section 128734.1 is amended to reflect nonsubstantive recodification of the
22 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
23 Comm'n Reports 207 (2019).

24 [This Comment is new.]

25 **Note.** Section 128734.1 was just added to the Health and Safety Code by 2021 Cal. Stat. ch.
26 493, § 1 (SB 650 (Stern)). The CPRA cross-references in this new provision need to be updated
27 to reflect the CPRA recodification.

28 **Health & Safety Code § 128735 (amended). Required reports relating to health facility**

29 SEC. 60. Section 128735 of the Health and Safety Code is amended to read:

30 128735. An organization that operates, conducts, owns, or maintains a health
31 facility, and the officers thereof, shall make and file with the department, at the
32 times as the department shall require, all of the following reports on forms
33 specified by the department that are in accord, if applicable, with the systems of
34 accounting and uniform reporting required by this part, except that the reports
35 required pursuant to subdivision (g) shall be limited to hospitals:

36 (a) A balance sheet detailing the assets, liabilities, and net worth of the health
37 facility at the end of its fiscal year.

38 (b) A statement of income, expenses, and operating surplus or deficit for the
39 annual fiscal period, and a statement of ancillary utilization and patient census.

40 (c) A statement detailing patient revenue by payer, including, but not limited to,
41 Medicare, Medi-Cal, and other payers, and revenue center.

1 (d) A statement of cashflows, including, but not limited to, ongoing and new
2 capital expenditures and depreciation.

3 (e) (1) A statement reporting the information required in subdivisions (a), (b),
4 (c), and (d) for each separately licensed health facility operated, conducted, or
5 maintained by the reporting organization.

6 (2) Notwithstanding paragraph (1), a health facility that receives a
7 preponderance of its revenue from associated comprehensive group practice
8 prepayment health care service plans and that is operated as a unit of a coordinated
9 group of health facilities under common management may report the information
10 required pursuant to subdivisions (a) and (d) for the group and not for each
11 separately licensed health facility.

12 (f) Data reporting requirements established by the department shall be consistent
13 with national standards, as applicable.

14 (g) A Hospital Discharge Abstract Data Record that includes all of the
15 following:

16 (1) Date of birth.

17 (2) Sex.

18 (3) Race.

19 (4) ZIP Code.

20 (5) Preferred language spoken.

21 (6) Patient social security number, if it is contained in the patient's medical
22 record.

23 (7) Prehospital care and resuscitation, if any, including all of the following:

24 (A) "Do not resuscitate" (DNR) order on admission.

25 (B) "Do not resuscitate" (DNR) order after admission.

26 (8) Admission date.

27 (9) Source of admission.

28 (10) Type of admission.

29 (11) Discharge date.

30 (12) Principal diagnosis and whether the condition was present on admission.

31 (13) Other diagnoses and whether the conditions were present on admission.

32 (14) External causes of morbidity and whether present on admission.

33 (15) Principal procedure and date.

34 (16) Other procedures and dates.

35 (17) Total charges.

36 (18) Disposition of patient.

37 (19) Expected source of payment.

38 (20) Elements added pursuant to Section 128738.

39 (h) It is the intent of the Legislature that the patient's rights of confidentiality
40 shall not be violated in any manner. Patient social security numbers and other data
41 elements that the department believes could be used to determine the identity of an
42 individual patient shall be exempt from the disclosure requirements of the
43 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of

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

3 (i) A person reporting data pursuant to this section shall not be liable for
4 damages in an action based on the use or misuse of patient-identifiable data that
5 has been mailed or otherwise transmitted to the department pursuant to the
6 requirements of subdivision (g).

7 (j) A hospital shall use coding from the International Classification of Diseases
8 in reporting diagnoses and procedures.

9 (k) On or before July 1, 2021, the department shall promulgate regulations as
10 necessary to implement subdivision (e). A health facility that receives a
11 preponderance of its revenue from associated comprehensive group practice
12 prepayment health care service plans and that is operated as a unit of a coordinated
13 group of health facilities under common management shall comply with the
14 reporting requirements of subdivisions (b), (c), and (e) once the department
15 finalizes related regulations.

16 **Comment.** Section 128735 is amended to reflect nonsubstantive recodification of the
17 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
18 Comm'n Reports 207 (2019).

19 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
20 Reports 207 (2019).]

21 **Note.** In 2021, Health and Safety Code Section 128735 was amended by the CPRA conforming
22 revisions bill. See 2021 Cal. Stat. ch. 615, § 290 (AB 474 (Chau)). The section was also amended
23 by a budget-related bill, which took effect upon enactment: 2021 Cal. Stat. ch. 143, § 200 (AB
24 133 (Committee on Budget)), enacted on 7/27/21.

25 Due to Government Code Sections 9600 and 9605, and the subordination clause in the CPRA
26 conforming revisions bill, the amendment made by that bill was chaptered out by AB 133.

27 Consequently, the CPRA cross-reference in Health and Safety Code Section 128735 still needs
28 to be updated to reflect the CPRA recodification. The new conforming revision of Health and
29 Safety Code Section 128735 (shown above) is based on 2021 Cal. Stat. ch. 143, § 200.

30 **Health & Safety Code § 128736 (amended). Emergency Care Data Record**

31 SEC. 61. Section 128736 of the Health and Safety Code is amended to read:

32 128736. (a) Each hospital shall file an Emergency Care Data Record for each
33 patient encounter in a hospital emergency department. The Emergency Care Data
34 Record shall include all of the following:

35 (1) Date of birth.

36 (2) Sex.

37 (3) Race.

38 (4) Ethnicity.

39 (5) Preferred language spoken.

40 (6) ZIP Code.

41 (7) Patient social security number, if it is contained in the patient's medical
42 record.

43 (8) Service date.

44 (9) Principal diagnosis.

- 1 (10) Other diagnoses.
- 2 (11) External causes of morbidity.
- 3 (12) Principal procedure.
- 4 (13) Other procedures.
- 5 (14) Disposition of patient.
- 6 (15) Expected source of payment.
- 7 (16) Elements added pursuant to Section 128738.

8 (b) It is the expressed intent of the Legislature that the patient’s rights of
9 confidentiality shall not be violated in any manner. Patient social security numbers
10 and any other data elements that the department believes could be used to
11 determine the identity of an individual patient shall be exempt from the disclosure
12 requirements of the California Public Records Act (~~Chapter 3.5 (commencing with~~
13 ~~Section 6250) of Division 7 (Division 10 (commencing with Section 7920.000) of~~
14 Title 1 of the Government Code).

15 (c) No person reporting data pursuant to this section shall be liable for damages
16 in any action based on the use or misuse of patient-identifiable data that has been
17 mailed or otherwise transmitted to the department pursuant to the requirements of
18 subdivision (a).

19 (d) Data reporting requirements established by the department shall be
20 consistent with national standards as applicable.

21 (e) This section shall become operative on January 1, 2004.

22 **Comment.** Section 128736 is amended to reflect nonsubstantive recodification of the
23 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
24 Comm’n Reports 207 (2019).

25 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
26 Reports 207 (2019).]

27 **Note.** In 2021, Health and Safety Code Section 128736 was amended by the CPRA conforming
28 revisions bill. See 2021 Cal. Stat. ch. 615, § 291 (AB 474 (Chau)). The section was also amended
29 by a budget-related bill, which took effect upon enactment: 2021 Cal. Stat. ch. 143, § 201 (AB
30 133 (Committee on Budget), enacted on 7/27/21).

31 Due to Government Code Sections 9600 and 9605, and the subordination clause in the CPRA
32 conforming revisions bill, the amendment made by that bill was chaptered out by AB 133.

33 Consequently, the CPRA cross-reference in Health and Safety Code Section 128736 still needs
34 to be updated to reflect the CPRA recodification. The new conforming revision of Health and
35 Safety Code Section 128736 (shown above) is based on 2021 Cal. Stat. ch. 143, § 201.

36 **Health & Safety Code § 128737 (amended). Ambulatory Surgery Data Record**

37 SEC. 62. Section 128737 of the Health and Safety Code is amended to read:

38 128737. (a) Each general acute care hospital and freestanding ambulatory
39 surgery clinic shall file an Ambulatory Surgery Data Record for each patient
40 encounter during which at least one ambulatory surgery procedure is performed.
41 The Ambulatory Surgery Data Record shall include all of the following:

- 42 (1) Date of birth.
- 43 (2) Sex.
- 44 (3) Race.

- 1 (4) Ethnicity.
- 2 (5) Preferred language spoken.
- 3 (6) ZIP Code.
- 4 (7) Patient social security number, if it is contained in the patient’s medical
- 5 record.
- 6 (8) Service date.
- 7 (9) Principal diagnosis.
- 8 (10) Other diagnoses.
- 9 (11) Principal procedure.
- 10 (12) Other procedures.
- 11 (13) External causes of morbidity.
- 12 (14) Disposition of patient.
- 13 (15) Expected source of payment.
- 14 (16) Elements added pursuant to Section 128738.

15 (b) It is the expressed intent of the Legislature that the patient’s rights of
16 confidentiality shall not be violated in any manner. Patient social security numbers
17 and any other data elements that the department believes could be used to
18 determine the identity of an individual patient shall be exempt from the disclosure
19 requirements of the California Public Records Act (~~Chapter 3.5 (commencing with~~
20 ~~Section 6250) of Division 7 (Division 10 (commencing with Section 7920.000) of~~
21 Title 1 of the Government Code).

22 (c) No person reporting data pursuant to this section shall be liable for damages
23 in any action based on the use or misuse of patient-identifiable data that has been
24 mailed or otherwise transmitted to the office pursuant to the requirements of
25 subdivision (a).

26 (d) Data reporting requirements established by the department shall be
27 consistent with national standards as applicable.

28 (e) This section shall become operative on January 1, 2004.

29 **Comment.** Section 128737 is amended to reflect nonsubstantive recodification of the
30 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
31 Comm’n Reports 207 (2019).

32 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
33 Reports 207 (2019).]

34 **Note.** In 2021, Health and Safety Code Section 128737 was amended by the CPRA conforming
35 revisions bill. See 2021 Cal. Stat. ch. 615, § 292 (AB 474 (Chau)). The section was also amended
36 by a budget-related bill, which took effect upon enactment: 2021 Cal. Stat. ch. 143, § 202 (AB
37 133 (Committee on Budget)), enacted on 7/27/21.

38 Due to Government Code Sections 9600 and 9605, and the subordination clause in the CPRA
39 conforming revisions bill, the amendment made by that bill was chaptered out by AB 133.

40 Consequently, the CPRA cross-reference in Health and Safety Code Section 128737 still needs
41 to be updated to reflect the CPRA recodification. The new conforming revision of Health and
42 Safety Code Section 128737 (shown above) is based on 2021 Cal. Stat. ch. 143, § 202.

43 **Health & Safety Code § 128745 (amended). Risk-adjusted outcome reports**

44 SEC. 63. Section 128745 of the Health and Safety Code is amended to read:

1 128745. (a) Commencing July 1993, and annually thereafter, the department
 2 shall publish risk-adjusted outcome reports in accordance with the following
 3 schedule:

		Procedures and
Publication	Period	Conditions
Date	Covered	Covered
July 1993	1988–90	3
July 1994	1989–91	6
July 1995	1990–92	9

4 Reports for subsequent years shall include conditions and procedures and cover
 5 periods as appropriate.

6 (b) The procedures and conditions for risk-adjusted outcome reports pursuant to
 7 subdivision (a) shall be divided among medical, surgical, and obstetric conditions
 8 or procedures and shall be selected by the department. The department shall
 9 publish the risk-adjusted outcome reports for selected conditions and procedures
 10 by individual hospital, individual medical group, or individual physician as
 11 selected by the department in consultation with medical specialists in the relevant
 12 area of practice. The selections, under this subdivision, shall be in accordance with
 13 all of the following criteria:

14 (1) The patient discharge abstract contains sufficient data to undertake a valid
 15 risk adjustment. The risk adjustment report shall ensure that public hospitals and
 16 other hospitals serving primarily low-income patients are not unfairly
 17 discriminated against.

18 (2) The relative importance of the procedure and condition in terms of the cost
 19 of cases and the number of cases and the seriousness of the health consequences of
 20 the procedure or condition.

21 (3) Ability to measure outcome and the likelihood that care influences outcome.

22 (4) Reliability of the diagnostic and procedure data.

23 (c) (1) In addition to any other established and pending reports, on or before July
 24 1, 2002, the department shall publish a risk-adjusted outcome report for coronary
 25 artery bypass graft surgery by hospital for all hospitals opting to participate in the
 26 report. This report shall be updated on or before July 1, 2003.

27 (2) The department shall publish at least one risk-adjusted outcome report for
 28 coronary artery bypass graft surgery, transcatheter aortic valve replacement, or any
 29 type of interventional cardiovascular procedure for procedures performed in the
 30 state. For any type of interventional cardiovascular procedure other than coronary
 31 artery bypass graft surgery or transcatheter aortic valve replacement, the
 32 department shall only select from interventional cardiovascular procedures

1 recommended by the clinical panel established by Section 128748, not to exceed
2 one additional interventional cardiovascular procedure every three years. In each
3 year, the reports shall compare risk-adjusted outcomes by hospital, medical group,
4 or physician as selected by the department after consultation with the clinical
5 panel. Upon the recommendation of the clinical panel based on statistical and
6 technical considerations, information on individual hospitals, individual medical
7 groups, or individual physicians may be excluded from the reports.

8 (3) Each hospital shall produce and file with the department, at the times as the
9 department shall require, reports of data the department needs to prepare risk-
10 adjusted outcome reports under this subdivision. Unless otherwise recommended
11 by the clinical panel established by Section 128748, the department shall continue
12 to collect the same data used for the most recent risk-adjusted model developed for
13 the California Coronary Artery Bypass Graft Outcomes Reporting Program. Upon
14 recommendation of the clinical panel, the department may add any clinical data
15 elements included in the Society of Thoracic Surgeons' database or other relevant
16 databases to be collected from hospitals. Prior to any additions from the Society of
17 Thoracic Surgeons' database, or other relevant databases, the following factors
18 shall be considered:

19 (A) Utilization of sampling to the maximum extent possible.

20 (B) Exchange of data elements as opposed to addition of data elements.

21 (4) Upon recommendation of the clinical panel, the department may add, delete,
22 or revise clinical data elements to be collected from hospitals for outcome reports
23 under this subdivision. Prior to any additions or deletions, all of the following
24 factors shall be considered:

25 (A) Utilization of sampling to the maximum extent possible.

26 (B) Feasibility of collecting data elements.

27 (C) Costs and benefits of collection and submission of data.

28 (D) Exchange of data elements as opposed to addition of data elements.

29 (5) The department shall collect the minimum data necessary for purposes of
30 testing or validating a risk-adjusted model for the outcome reports under this
31 subdivision.

32 (6) Patient medical record numbers and any other data elements that the
33 department believes could be used to determine the identity of an individual
34 patient shall be exempt from the disclosure requirements of the California Public
35 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
36 (Division 10 (commencing with Section 7920.000)) of Title 1 of the Government
37 Code).

38 (d) The annual reports shall compare the risk-adjusted outcomes experienced by
39 all patients treated for the selected conditions and procedures in each California
40 hospital during the period covered by each report, to the outcomes expected.
41 Outcomes shall be reported in at least the following groupings for each hospital,
42 medical group, or physician:

1 (1) “Higher than average outcomes,” for hospitals with risk-adjusted outcomes
2 higher than the norm.

3 (2) “Average outcomes,” for hospitals with average risk-adjusted outcomes.

4 (3) “Lower than average outcomes,” for hospitals with risk-adjusted outcomes
5 lower than the norm.

6 (e) For outcome reports under this subdivision for which auditing is appropriate,
7 the department shall conduct periodic auditing of data at hospitals.

8 (f) The department shall either include in the annual reports required under this
9 section, or make separately available at cost to any person requesting it, risk-
10 adjusted outcomes data assessing the statistical significance of hospital, medical
11 group, or physician data at each of the following three levels: 99-percent
12 confidence level (0.01 p-value), 95-percent confidence level (0.05 p-value), and
13 90-percent confidence level (0.10 p-value). The department shall include any other
14 analysis or comparisons of the data in the annual reports required under this
15 section that the department deems appropriate to further the purposes of this
16 chapter.

17 **Comment.** Section 128745 is amended to reflect nonsubstantive recodification of the
18 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
19 Comm’n Reports 207 (2019).

20 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
21 Reports 207 (2019).]

22 **Note.** In 2021, Health and Safety Code Section 128745 was amended by the CPRA conforming
23 revisions bill. See 2021 Cal. Stat. ch. 615, § 293 (AB 474 (Chau)). The section was also amended
24 by a budget-related bill, which took effect upon enactment: 2021 Cal. Stat. ch. 143, § 205 (AB
25 133 (Committee on Budget)), enacted on 7/27/21.

26 Due to Government Code Sections 9600 and 9605, and the subordination clause in the CPRA
27 conforming revisions bill, the amendment made by that bill was chaptered out by AB 133.

28 Consequently, the CPRA cross-reference in Health and Safety Code Section 128745 still needs
29 to be updated to reflect the CPRA recodification. The new conforming revision of Health and
30 Safety Code Section 128745 (shown above) is based on 2021 Cal. Stat. ch. 143, § 205.

31 **Health & Safety Code § 130060 (amended). General acute care hospital building that poses**
32 **potential risk of collapse or significant loss of life**

33 SEC. 64. Section 130060 of the Health and Safety Code is amended to read:

34 130060. (a) (1) After January 1, 2008, a general acute care hospital building that
35 is determined to be a potential risk of collapse or pose significant loss of life shall
36 only be used for nonacute care hospital purposes, unless an extension of this
37 deadline has been granted and either of the following occurs before the end of the
38 extension:

39 (A) A replacement building has been constructed and a certificate of occupancy
40 has been granted by the department for the replacement building.

41 (B) A retrofit has been performed on the building and a construction final has
42 been obtained by the department.

43 (2) An extension of the deadline may be granted by the department upon a
44 demonstration by the owner that compliance will result in a loss of health care

1 capacity that may not be provided by other general acute care hospitals within a
2 reasonable proximity. In its request for an extension of the deadline, a hospital
3 shall state why the hospital is unable to comply with the January 1, 2008, deadline
4 requirement.

5 (3) Prior to granting an extension of the January 1, 2008, deadline pursuant to
6 this section, the department shall do all of the following:

7 (A) Provide public notice of a hospital's request for an extension of the deadline.
8 The notice, at a minimum, shall be posted on the department's internet website,
9 and shall include the facility's name and identification number, the status of the
10 request, and the beginning and ending dates of the comment period, and shall
11 advise the public of the opportunity to submit public comments pursuant to
12 subparagraph (C). The department shall also provide notice of all requests for the
13 deadline extension directly to interested parties upon request of the interested
14 parties.

15 (B) Provide copies of extension requests to interested parties within 10 working
16 days to allow interested parties to review and provide comment within the 45-day
17 comment period. The copies shall include those records that are available to the
18 public pursuant to the California Public Records Act (~~Chapter 3.5 (commencing~~
19 ~~with Section 6250) of Division 7 (Division 10 (commencing with Section~~
20 7920.000) of Title 1 of the Government Code).

21 (C) Allow the public to submit written comments on the extension proposal for a
22 period of not less than 45 days from the date of the public notice.

23 (b) (1) It is the intent of the Legislature, in enacting this subdivision, to facilitate
24 the process of having more hospital buildings in substantial compliance with this
25 chapter and to take nonconforming general acute care hospital inpatient buildings
26 out of service more quickly.

27 (2) The functional contiguous grouping of hospital buildings of a general acute
28 care hospital, each of which provides, as the primary source, one or more of the
29 hospital's eight basic services as specified in subdivision (a) of Section 1250, may
30 receive a five-year extension of the January 1, 2008, deadline specified in
31 subdivision (a) of this section pursuant to this subdivision for both structural and
32 nonstructural requirements. A functional contiguous grouping refers to buildings
33 containing one or more basic hospital services that are either attached or connected
34 in a way that is acceptable to the State Department of Health Care Services. These
35 buildings may be either on the existing site or a new site.

36 (3) To receive the five-year extension, a single building containing all of the
37 basic services or at least one building within the contiguous grouping of hospital
38 buildings shall have obtained a building permit prior to 1973 and this building
39 shall be evaluated and classified as a nonconforming, Structural Performance
40 Category-1 (SPC-1) building. The classification shall be submitted to and accepted
41 by the Department of Health Care Access and Information. The identified hospital
42 building shall be exempt from the requirement in subdivision (a) until January 1,

1 2013, if the hospital agrees that the basic service or services that were provided in
2 that building shall be provided, on or before January 1, 2013, as follows:

3 (A) Moved into an existing conforming Structural Performance Category-3
4 (SPC-3), Structural Performance Category-4 (SPC-4), or Structural Performance
5 Category-5 (SPC-5) and Non-Structural Performance Category-4 (NPC-4) or Non-
6 Structural Performance Category-5 (NPC-5) building.

7 (B) Relocated to a newly built compliant SPC-5 and NPC-4 or NPC-5 building.

8 (C) Continued in the building if the building is retrofitted to an SPC-5 and NPC-
9 4 or NPC-5 building.

10 (4) A five-year extension is also provided to a post-1973 building if the hospital
11 owner informs the Department of Health Care Access and Information that the
12 building is classified as SPC-1, SPC-3, or SPC-4 and will be closed to general
13 acute care inpatient service use by January 1, 2013. The basic services in the
14 building shall be relocated into an SPC-5 and NPC-4 or NPC-5 building by
15 January 1, 2013.

16 (5) SPC-1 buildings, other than the building identified in paragraph (3) or (4), in
17 the contiguous grouping of hospital buildings shall also be exempt from the
18 requirement in subdivision (a) until January 1, 2013. However, on or before
19 January 1, 2013, at a minimum, each of these buildings shall be retrofitted to an
20 SPC-2 and NPC-3 building, or no longer be used for general acute care hospital
21 inpatient services.

22 (c) On or before March 1, 2001, the department shall establish a schedule of
23 interim work progress deadlines that hospitals shall be required to meet to be
24 eligible for the extension specified in subdivision (b). To receive this extension,
25 the hospital building or buildings shall meet the year 2002 nonstructural
26 requirements.

27 (d) A hospital building that is eligible for an extension pursuant to this section
28 shall meet the January 1, 2030, nonstructural and structural deadline requirements
29 if the building is to be used for general acute care inpatient services after January
30 1, 2030.

31 (e) Upon compliance with subdivision (b), the hospital shall be issued a written
32 notice of compliance by the department. The department shall send a written
33 notice of violation to hospital owners that fail to comply with this section. The
34 department shall make copies of these notices available on its internet website.

35 (f) (1) A hospital that has received an extension of the January 1, 2008, deadline
36 pursuant to subdivision (a) or (b) may request an additional extension of up to two
37 years for a hospital building that it owns or operates and that meets the criteria
38 specified in paragraph (2), (3), or (5).

39 (2) The department may grant the additional extension if the hospital building
40 subject to the extension meets all of the following criteria:

41 (A) The hospital building is under construction at the time of the request for
42 extension under this subdivision and the purpose of the construction is to meet the
43 requirements of subdivision (a) to allow the use of the building as a general acute

1 care hospital building after the extension deadline granted by the department
2 pursuant to subdivision (a) or (b).

3 (B) The hospital building plans were submitted to the department and were
4 deemed ready for review by the department at least four years prior to the
5 applicable deadline for the building. The hospital shall indicate, upon submission
6 of its plans, the SPC-1 building or buildings that will be retrofitted or replaced to
7 meet the requirements of this section as a result of the project.

8 (C) The hospital received a building permit for the construction described in
9 subparagraph (A) at least two years prior to the applicable deadline for the
10 building.

11 (D) The hospital submitted a construction timeline at least two years prior to the
12 applicable deadline for the building demonstrating the hospital's intent to meet the
13 applicable deadline. The timeline shall include all of the following:

- 14 (i) The projected construction start date.
- 15 (ii) The projected construction completion date.
- 16 (iii) Identification of the contractor.

17 (E) The hospital is making reasonable progress toward meeting the timeline set
18 forth in subparagraph (D), but factors beyond the hospital's control make it
19 impossible for the hospital to meet the deadline.

20 (3) The department may grant the additional extension if the hospital building
21 subject to the extension meets all of the following criteria:

22 (A) The hospital building is owned by a health care district that has, as owner,
23 received the extension of the January 1, 2008, deadline, but where the hospital is
24 operated by an unaffiliated third-party lessee pursuant to a facility lease that
25 extends at least through December 31, 2009. The district shall file a declaration
26 with the department with a request for an extension stating that, as of the date of
27 the filing, the district has lacked, and continues to lack, unrestricted access to the
28 subject hospital building for seismic planning purposes during the term of the
29 lease, and that the district is under contract with the county to maintain hospital
30 services when the hospital comes under district control. The department shall not
31 grant the extension if an unaffiliated third-party lessee will operate the hospital
32 beyond December 31, 2010.

33 (B) The hospital building plans were submitted to the department and were
34 deemed ready for review by the department at least four years prior to the
35 applicable deadline for the building. The hospital shall indicate, upon submission
36 of its plans, the SPC-1 building or buildings that will be retrofitted or replaced to
37 meet the requirements of this section as a result of the project.

38 (C) The hospital received a building permit for the construction described in
39 subparagraph (B) by December 31, 2011.

40 (D) The hospital submitted, by December 31, 2011, a construction timeline for
41 the building demonstrating the hospital's intent and ability to meet the deadline of
42 December 31, 2014. The timeline shall include all of the following:

- 43 (i) The projected construction start date.

1 (ii) The projected construction completion date.

2 (iii) Identification of the contractor.

3 (E) The hospital building is under construction at the time of the request for the
4 extension, the purpose of the construction is to meet the requirements of
5 subdivision (a) to allow the use of the building as a general acute care hospital
6 building after the extension deadline granted by the office pursuant to subdivision
7 (a) or (b), and the hospital is making reasonable progress toward meeting the
8 timeline set forth in subparagraph (D).

9 (F) The hospital granted an extension pursuant to this paragraph shall submit an
10 additional status report to the department, equivalent to that required by
11 subdivision (c) of Section 130061, no later than June 30, 2013.

12 (4) An extension granted pursuant to paragraph (3) shall be applicable only to
13 the health care district applicant and its affiliated hospital while the hospital is
14 operated by the district or an entity under the control of the district.

15 (5) The department may grant the additional extension if the hospital building
16 subject to the extension meets all of the following criteria:

17 (A) The hospital owner submitted to the department, prior to June 30, 2009, a
18 request for review using current computer modeling utilized by the department
19 and based upon software developed by the Federal Emergency Management
20 Agency (FEMA), referred to as Hazards US, and the building was deemed SPC-1
21 after that review.

22 (B) The hospital building plans for the building are submitted to the department
23 and deemed ready for review by the department prior to July 1, 2010. The hospital
24 shall indicate, upon submission of its plans, the SPC-1 building or buildings that
25 shall be retrofitted or replaced to meet the requirements of this section as a result
26 of the project.

27 (C) The hospital receives a building permit from the department for the
28 construction described in subparagraph (B) prior to January 1, 2012.

29 (D) The hospital submits, prior to January 1, 2012, a construction timeline for
30 the building demonstrating the hospital's intent and ability to meet the applicable
31 deadline. The timeline shall include all of the following:

32 (i) The projected construction start date.

33 (ii) The projected construction completion date.

34 (iii) Identification of the contractor.

35 (E) The hospital building is under construction at the time of the request for the
36 extension, the purpose of the construction is to meet the requirements of
37 subdivision (a) to allow the use of the building as a general acute care hospital
38 building after the extension deadline granted by the department pursuant to
39 subdivision (a) or (b), and the hospital is making reasonable progress toward
40 meeting the timeline set forth in subparagraph (D).

41 (F) The hospital owner completes construction ~~such~~ so that the hospital meets all
42 criteria to enable the department to issue a certificate of occupancy by the
43 applicable deadline for the building.

1 (6) A hospital located in the County of Sacramento, San Mateo, or Santa
2 Barbara or the City of San Jose or the City of Willits that has received an
3 additional extension pursuant to paragraph (2) or (5) may request an additional
4 extension until September 1, 2015, to obtain either a certificate of occupancy from
5 the department for a replacement building, or a construction final from the
6 department for a building on which a retrofit has been performed.

7 (7) A hospital denied an extension pursuant to this subdivision may appeal the
8 denial to the Hospital Building Safety Board.

9 (8) The department may revoke an extension granted pursuant to this
10 subdivision for any hospital building where the work of construction is abandoned
11 or suspended for a period of at least one year, unless the hospital demonstrates in a
12 public document that the abandonment or suspension was caused by factors
13 beyond its control.

14 (g) (1) Notwithstanding subdivisions (a), (b), (c), and (f), and Sections 130061.5
15 and 130064, a hospital that has received an extension of the January 1, 2008,
16 deadline pursuant to subdivision (a) or (b) also may request an additional
17 extension of up to seven years for a hospital building that it owns or operates. The
18 department may grant the extension subject to the hospital meeting the milestones
19 set forth in paragraph (2).

20 (2) The hospital building subject to the extension shall meet all of the following
21 milestones, unless the hospital building is reclassified as SPC-2 or higher as a
22 result of its Hazards US score:

23 (A) The hospital owner submits to the department, no later than September 30,
24 2012, a letter of intent stating whether it intends to rebuild, replace, or retrofit the
25 building, or remove all general acute care beds and services from the building, and
26 the amount of time necessary to complete the construction.

27 (B) The hospital owner submits to the department, no later than September 30,
28 2012, a schedule detailing why the requested extension is necessary, and
29 specifically how the hospital intends to meet the requested deadline.

30 (C) The hospital owner submits to the department, no later than September 30,
31 2012, an application ready for review seeking structural reassessment of each of
32 its SPC-1 buildings using current computer modeling based upon software
33 developed by FEMA, referred to as Hazards US.

34 (D) The hospital owner submits to the department, no later than January 1, 2015,
35 plans ready for review consistent with the letter of intent submitted pursuant to
36 subparagraph (A) and the schedule submitted pursuant to subparagraph (B).

37 (E) The hospital owner submits a financial report to the department at the time
38 the plans are submitted pursuant to subparagraph (D). The report shall demonstrate
39 the hospital owner's financial capacity to implement the construction plans
40 submitted pursuant to subparagraph (D).

41 (F) The hospital owner receives a building permit consistent with the letter of
42 intent submitted pursuant to subparagraph (A) and the schedule submitted
43 pursuant to subparagraph (B), no later than July 1, 2018.

1 (3) To evaluate public safety and determine whether to grant an extension of the
2 deadline, the department shall consider the structural integrity of the hospital's
3 SPC-1 buildings based on its Hazards US scores, community access to essential
4 hospital services, and the hospital owner's financial capacity to meet the deadline
5 as determined by either a bond rating of BBB or below or the financial report on
6 the hospital owner's financial capacity submitted pursuant to subparagraph (E) of
7 paragraph (2). The criteria contained in this paragraph shall be considered by the
8 department in its determination of the length of an extension or whether an
9 extension should be granted.

10 (4) The extension or subsequent adjustments granted pursuant to this subdivision
11 may not exceed the amount of time that is reasonably necessary to complete the
12 construction specified in paragraph (2).

13 (5) If the circumstances underlying the request for extension submitted to the
14 department pursuant to paragraph (2) change, the hospital owner shall notify the
15 department as soon as practicable, but in no event later than six months after the
16 hospital owner discovered the change of circumstances. The department may
17 adjust the length of the extension granted pursuant to paragraphs (2) and (3) as
18 necessary, but in no event longer than the period specified in paragraph (1).

19 (6) A hospital denied an extension pursuant to this subdivision may appeal the
20 denial to the Hospital Building Safety Board.

21 (7) The department may revoke an extension granted pursuant to this
22 subdivision for any hospital building when it is determined that any information
23 submitted pursuant to this section was falsified, or if the hospital failed to meet a
24 milestone set forth in paragraph (2), or where the work of construction is
25 abandoned or suspended for a period of at least six months, unless the hospital
26 demonstrates in a publicly available document that the abandonment or suspension
27 was caused by factors beyond its control.

28 (8) Regulatory submissions made by the department to the California Building
29 Standards Commission to implement this section shall be deemed to be emergency
30 regulations and shall be adopted as emergency regulations.

31 (9) The hospital owner that applies for an extension pursuant to this subdivision
32 shall pay the office an additional fee, to be determined by the department,
33 sufficient to cover the additional reasonable costs incurred by the department for
34 maintaining the additional reporting requirements established under this section,
35 including, but not limited to, the costs of reviewing and verifying the extension
36 documentation submitted pursuant to this subdivision. This additional fee shall not
37 include any cost for review of the plans or other duties related to receiving a
38 building or occupancy permit.

39 (10) This subdivision shall become operative on the date that the State
40 Department of Health Care Services receives all necessary federal approvals for a
41 2011–12 fiscal year hospital quality assurance fee program that includes three
42 hundred twenty million dollars (\$320,000,000) in fee revenue to pay for health

1 care coverage for children, which is made available as a result of the legislative
2 enactment of a 2011–12 fiscal year hospital quality assurance fee program.

3 (h) A critical access hospital located in the City of Tehachapi may submit a
4 seismic safety extension application pursuant to subdivision (g), notwithstanding
5 deadlines in that subdivision that are earlier than the effective date of the act that
6 added this subdivision. The submitted application shall include a timetable as
7 required pursuant to subdivision (g).

8 (i) (1) A hospital located in the Tarzana neighborhood of the City of Los
9 Angeles that has received extensions pursuant to subdivisions (b) and (g) may
10 request an additional extension for a single building until October 1, 2022, in order
11 to obtain a certificate of occupancy from the department for a replacement
12 building.

13 (2) The hospital owner seeking the extension shall submit a written request that
14 includes a timeline specifying how the hospital intends to meet the new deadline,
15 including the construction document submission dates. The following timeline
16 shall be met for construction document submissions:

17 (A) No later than January 1, 2018, the hospital owner shall submit construction
18 documents, deemed ready for review, related to the first final review of the second
19 increment with information including the building core and shell of the hospital.
20 Failure to submit the construction documents by January 1, 2018, shall result in
21 the assessment of a fine of five thousand dollars (\$5,000) per calendar day until
22 the documents are submitted.

23 (B) No later than March 1, 2018, the hospital owner shall submit construction
24 documents, deemed ready for review, related to the first final review of the first
25 increment with information including the structural foundation, frame, and
26 underslab utilities of the hospital. Failure to submit the construction documents by
27 March 1, 2018, shall result in the assessment of a fine of five thousand dollars
28 (\$5,000) per calendar day until the documents are submitted.

29 (C) No later than September 1, 2018, the hospital owner shall submit
30 construction documents, deemed ready for review, related to the first final review
31 of the third increment with information on the build-out of the hospital. Failure to
32 submit the construction documents by September 1, 2018, shall result in the
33 assessment of a fine of five thousand dollars (\$5,000) per calendar day until the
34 documents are submitted.

35 (D) No later than November 1, 2018, the hospital owner shall submit
36 construction documents, deemed ready for review, related to the first final review
37 of the fourth increment with information on the seismic support and anchorage of
38 the hospital. Failure to submit the construction documents by November 1, 2018,
39 shall result in the assessment of a fine of five thousand dollars (\$5,000) per
40 calendar day until the documents are submitted.

41 (E) The hospital owner may submit a written request to the department seeking
42 an extension of the deadlines set forth in subparagraphs (A), (B), (C), and (D). The
43 written request shall state with specificity the reason for the request and how the

1 reason preventing compliance with the deadlines was outside of the control of the
2 hospital owner. After review of the request for extension, the department may
3 grant the request for a period of time not to exceed 30 calendar days. If the
4 department grants the request for an extension, no fine shall accrue or be imposed
5 during the extension period.

6 (3) Notwithstanding any other law, any fines assessed pursuant to paragraph (2)
7 shall be deposited into the General Fund following a determination on appeal, if
8 any. A hospital assessed a fine pursuant to this subdivision may appeal the
9 assessment to the Hospital Building Safety Board, provided the hospital posts the
10 funds for any fines to be held by the department pending the resolution of the
11 appeal.

12 (4) The department shall not issue a certificate of occupancy for the single
13 replacement building until ~~such time as~~ all assessed fines accrued pursuant to
14 paragraph (2) have been paid in full, or, if an appeal is pending, have been posted
15 subject to resolution of an appeal. Fines deposited by the hospital pursuant to
16 paragraph (3) shall be considered paid in full for purposes of issuing a certificate
17 of occupancy pursuant to this paragraph. This paragraph is in addition to, and is
18 not intended to supersede, any other requirements that must be met by the hospital
19 for issuance by the department of a certificate of occupancy.

20 **Comment.** Section 130060 is amended to reflect nonsubstantive recodification of the
21 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
22 Comm'n Reports 207 (2019).

23 The section is also amended to make technical changes.

24 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
25 Reports 207 (2019).]

26 **Note.** In 2021, Health and Safety Code Section 130060 was amended by the CPRA conforming
27 revisions bill. See 2021 Cal. Stat. ch. 615, § 294 (AB 474 (Chau)). The section was also amended
28 by a budget-related bill, which took effect upon enactment: 2021 Cal. Stat. ch. 143, § 329 (AB
29 133 (Committee on Budget)), enacted on 7/27/21.

30 Due to Government Code Sections 9600 and 9605, and the subordination clause in the CPRA
31 conforming revisions bill, the amendment made by that bill was chaptered out by AB 133.

32 Consequently, the CPRA cross-reference in Health and Safety Code Section 130060 still needs
33 to be updated to reflect the CPRA recodification. The new conforming revision of Health and
34 Safety Code Section 130060 (shown above) is based on 2021 Cal. Stat. ch. 143, § 329.

35 **Health & Safety Code § 130206 (amended). Confidentiality of personal information**

36 SEC. 65. Section 130206 of the Health and Safety Code is amended to read:

37 130206. (a) The Legislature finds and declares that the center performs public
38 health activities described in Section 164.512(b) of Title 45 of the Code of Federal
39 Regulations when carrying out activities pursuant to this division. Personal
40 information collected in accordance with this division is necessary to carry out
41 projects with public health purposes.

42 (b) All personal information obtained or maintained by the center shall be
43 confidential and shall be subject to the following requirements:

1 (1) Only deidentified and aggregated information shall be included in a publicly
2 available analysis, data product, or research.

3 (2) All policies and procedures developed in implementing this division shall
4 ensure that the privacy, security, and confidentiality of consumers' personal
5 information is protected, as required by the Information Practices Act of 1977, and
6 consistent with state and federal health privacy laws, including the federal Health
7 Insurance Portability and Accountability Act of 1996 (HIPAA) (Public Law 104-
8 191) and the Confidentiality of Medical Information Act (Part 2.6 (commencing
9 with Section 56) of Division 1 of the Civil Code), and data shall not be disclosed
10 until the center has developed a policy regarding the release of data.

11 (c) Unless otherwise specified in this division, personal information collected by
12 the center from other states entities shall be exempt from the disclosure
13 requirements of the California Public Records Act (~~Chapter 3.5 (commencing with~~
14 ~~Section 6250) of Division 7 (Division 10 (commencing with Section 7920.000)~~ of
15 Title 1 of the Government Code), and shall not be made available except pursuant
16 to this division.

17 (d) Any information collected or obtained shall not be used for determinations
18 regarding individual patient care or treatment and shall not be used for any
19 individual eligibility or coverage decisions or similar purposes.

20 **Comment.** Section 130206 is amended to reflect nonsubstantive recodification of the
21 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
22 Comm'n Reports 207 (2019).

23 [This Comment is new.]

24 **Note.** Section 130206 was just added to the Health and Safety Code by 2021 Cal. Stat. ch. 696,
25 § 11 (AB 172 (Committee on Budget)), a budget-related bill enacted on 10/8/21. The CPRA
26 cross-reference in that section needs to be updated to reflect the CPRA recodification.

27 **Health & Safety Code § 131052 (amended). Jurisdiction of Department of Public Health**

28 SEC. 66. Section 131052 of the Health and Safety Code is amended to read:

29 131052. In implementing the transfer of jurisdiction pursuant to this article, the
30 State Department of Public Health succeeds to and is vested with all the statutory
31 duties, powers, purposes, responsibilities, and jurisdiction of the former State
32 Department of Health Services as they relate to public health as provided for or
33 referred to in all of the following provisions of law:

34 (1) Sections 550, 555, 650, 680, 1241, 1658, 2221.1, 2248.5, 2249, 2259,
35 2259.5, 2541.3, 2585, 2728, 3527, 4017, 4027, 4037, 4191, 19059.5, 19120,
36 22950, 22973.2, and 22974.8 of the Business and Professions Code.

37 (2) Sections 56.17, 1812.508, and 1812.543 of the Civil Code.

38 (3) Sections 8286, 8803, 17613, 32064, 32065, 32066, 32241, 49030, 49405,
39 49414, 49423.5, 49452.6, 49460, 49464, 49531.1, 56836.165, and 76403 of the
40 Education Code.

41 (4) Sections 405, 6021, 6026, 18963, 30852, 41302, and 78486 of the Food and
42 Agricultural Code.

1 (5) Sections 307, 355, 422, 7572, 7574, 8706, 8817, and 8909 of the Family
2 Code.

3 (6) Sections 1786, 4011, 5523, 5671, 5674, 5700, 5701, 5701.5, 7115, and
4 15700 of the Fish and Game Code.

5 (7) Sections 855, 51010, and 551017.1 of the Government Code. ~~For purposes~~
6 ~~of subdivision (s) of Section 6254 of the Government Code, the term “State~~
7 ~~Department of Health Services” is hereby deemed to refer to the State Department~~
8 ~~of Public Health.~~

9 (8) (A) Sections 475, 1180.6, 1418.1, 1422.1, 1428.2, 1457, 1505, 1507.1,
10 1507.5, 1570.7, 1599.2, 1599.60, 1599.75, 1599.87, 2002, 2804, 11362.7, 11776,
11 11839.21, 11839.23, 11839.24, 11839.25, 11839.26, 11839.27, 11839.28,
12 11839.29, 11839.30, 11839.31, 11839.32, 11839.33, 11839.34, 17920.10, 17961,
13 18897.2, 24185, 24186, 24187, 24275, 26101, 26122, 26134, 26155, 26200, and
14 26203.

15 (B) Chapters 1, 2, 2.05, 2.3, 2.35, 2.4, 3.3, 3.9, 3.93, 3.95, 4, 4.1, 4.5, 5, 6, 6.5, 8,
16 8.3, 8.5, 8.6, 9, and 11 of Division 2.

17 (C) Articles 2 and 4 of Chapter 2, Chapter 3, and Chapter 4 of Part 1, Part 2, and
18 Part 3 of Division 101.

19 (D) Division 102, including Sections 102230 and 102231.

20 (E) Division 103, including Sections 104145, 104181, 104182, 104182.5,
21 104187, 104191, 104192, 104193, 104316, 104317, 104318, 104319, 104320,
22 104321, 104324.2, 104324.25, 104350, 105191, 105251, 105255, 105280,
23 105340, and 105430.

24 (F) Division 104, including Sections 106615, 106675, 106770, 108115, 108855,
25 109282, 109910, 109915, 112155, 112500, 112650, 113355, 114460, 114475,
26 114650, 114710, 114850, 114855, 114985, 115061, 115261, 115340, 115736,
27 115880, 115885, 115915, 116064, 116183, 116270, 116365.5, 116366, 116375,
28 116610, 116751, 116760.20, 116825, 117100, 117924, and 119300.

29 (G) Division 105, including Sections 120262, 120381, 120395, 120440, 120480,
30 120956, 120966, 121155, 121285, 121340, 121349.1, 121480, 122410, and
31 122420.

32 (H) Part 1, Part 2 excluding Articles 5, 5.5, 6, and 6.5 of Chapter 3, Part 3 and
33 Part 5 excluding Articles 1 and 2 of Chapter 2, Part 7, and Part 8 of Division 106.

34 (9) Sections 799.03, 10123.35, 10123.5, 10123.55, 10123.10, 10123.184, and
35 11520 of the Insurance Code.

36 (10) Sections 50.8, 142.3, 144.5, 144.7, 147.2, 4600.6, 6307.1, 6359, 6712,
37 9009, and 9022 of the Labor Code.

38 (11) Sections 4018.1, 5008.1, 7501, 7502, 7510, 7511, 7515, 7518, 7530, 7550,
39 7553, 7575, 7576, 11010, 11174.34, and 13990 of the Penal Code.

40 (12) Section 4806 of the Probate Code.

41 (13) Sections 15027, 25912, 28004, 30950, 41781.1, 42830, 43210, 43308,
42 44103, and 71081 of the Public Resources Code.

43 (14) Section 10405 of the Public Contract Code.

- 1 (15) Sections 883, 1507, and 7718 of the Public Utilities Code.
2 (16) Sections 18833, 18838, 18845.2, 18846.2, 18847.2, 18863, 30461.6,
3 43010.1, and 43011.1 of the Revenue and Taxation Code.
4 (17) Section 11020 of the Unemployment Insurance Code.
5 (18) Sections 22511.55, 23158, 27366, and 33000 of the Vehicle Code.
6 (19) Sections 5326.9, 5328, 5328.15, 14132, 16902, and 16909, and Division 24
7 of the Welfare and Institutions Code. Payment for services provided under the
8 Family Planning, Access, Care, and Treatment (Family PACT) Waiver Program
9 pursuant to subdivision (aa) of Section 14132 and Division 24 shall be made
10 through the State Department of Health Care Services. The State Department of
11 Public Health and the State Department of Health Care Services may enter into an
12 interagency agreement for the administration of those payments. This paragraph,
13 to the extent that it applies to the Family PACT Waiver Program, shall become
14 inoperative on June 30, 2012.
15 (20) Sections 13176, 13177.5, 13178, 13193, 13390, 13392, 13392.5, 13393.5,
16 13395.5, 13396.7, 13521, 13522, 13523, 13528, 13529, 13529.2, 13550, 13552.4,
17 13552.8, 13553, 13553.1, 13554, 13554.2, 13816, 13819, 13820, 13823, 13824,
18 13825, 13827, 13830, 13834, 13835, 13836, 13837, 13858, 13861, 13862, 13864,
19 13868, 13868.1, 13868.3, 13868.5, 13882, 13885, 13886, 13887, 13891, 13892,
20 13895.1, 13895.6, 13895.9, 13896, 13896.3, 13896.4, 13896.5, 13897, 13897.4,
21 13897.5, 13897.6, 13898, 14011, 14012, 14015, 14016, 14017, 14019, 14022,
22 14025, 14026, 14027, and 14029 of the Water Code.

23 **Comment.** Section 131052 is amended to delete obsolete material. See Gov't Code § 7926.000
24 & Comment (continuing former Gov't Code § 6254(s), with revisions correcting erroneous
25 reference to State Department of Health Care Services).

26 [This Comment replaces the revised Comment in *Report of the California Law Revision*
27 *Commission on Chapter 615 of the Statutes of 2021 (Assembly Bill 474)*, 48 Cal. L. Revision
28 Comm'n Reports __ (2021).]

29 **Note.** In 2021, Health and Safety Code Section 131052 was amended by the CPRA conforming
30 revisions bill. See 2021 Cal. Stat. ch. 615, § 296 (AB 474 (Chau)). The section was also amended
31 by 2021 Cal. Stat. ch. 666, § 101 (AB 486 (Committee on Education)).

32 The amendment made by the CPRA conforming revisions bill was chaptered out by AB 486.
33 See Gov't Code § 9605 (in general, last-chaptered bill prevails).

34 Consequently, the CPRA cross-reference in Health and Safety Code Section 131052 still needs
35 to be updated to reflect the CPRA recodification. The new conforming revision of Health and
36 Safety Code Section 131052 (shown above) is based on 2021 Cal. Stat. ch. 666, § 101.

37 **INSURANCE CODE**

38 **Ins. Code § 1215.8 (amended). Confidentiality, disclosure, sharing, and use of information**

39 SEC. 67. Section 1215.8 of the Insurance Code is amended to read:

40 1215.8. (a) All information, documents, and copies thereof obtained by or
41 disclosed to the commissioner or any other person in the course of an examination
42 or investigation made pursuant to Section 1215.4, 1215.5, 1215.6, 1215.7, or

1 1215.75, and all information reported or provided pursuant to Section 1215.4,
2 1215.5, 1215.6, 1215.7, or 1215.75 are recognized as being proprietary and
3 containing trade secrets, shall be kept confidential, are not subject to disclosure by
4 the commissioner pursuant to the California Public Records Act (~~Chapter 3.5~~
5 ~~(commencing with Section 6250)~~ of Division 7 (Division 10 (commencing with
6 Section 7920.000) of Title 1 of the Government Code), are not subject to
7 subpoena, and are not subject to discovery from the commissioner or admissible
8 into evidence in a private civil action if obtained from the commissioner. This
9 information shall not be made public by the commissioner or any other person,
10 except to insurance departments of other states, without the prior written consent
11 of the insurance company to which it pertains, unless the commissioner, after
12 giving the insurer and its affiliates who would be affected thereby notice and
13 opportunity to be heard, determines that the interests of policyholders,
14 shareholders, or the public will be served by the publication of the information, in
15 which event the commissioner may publish all or any part of the information in a
16 manner as the commissioner may deem appropriate.

17 (1) For purposes of the information reported and provided to the department
18 pursuant to subdivisions (n) and (o) of Section 1215.4, the commissioner shall
19 maintain the confidentiality of the group capital calculation, the group capital ratio
20 produced within the calculation, and any group capital information received from
21 an insurance holding company system supervised by the Federal Reserve Board or
22 a United States groupwide supervisor.

23 (2) For purposes of the information reported and provided to the department
24 pursuant to subdivision (p) of Section 1215.4, the commissioner shall maintain the
25 confidentiality of the liquidity stress test results, supporting disclosures, and any
26 liquidity stress test information received from an insurance holding company
27 system supervised by the Federal Reserve Board and non-United States groupwide
28 supervisors.

29 (b) In order to assist in the performance of the commissioner's duties, the
30 commissioner:

31 (1) May, upon request, be required to share documents, materials, or other
32 information, including the confidential and privileged documents, materials, or
33 information subject to subdivision (a), including proprietary and trade secret
34 documents and materials, with other state, federal, and international regulatory
35 agencies, with the NAIC, with a third-party consultant designated by the
36 commissioner, and with state, federal, and international law enforcement
37 authorities, including members of any supervisory college described in Section
38 1215.7, provided that the recipient agrees in writing to maintain the confidentiality
39 and privileged status of the documents, materials, or other information, and has
40 verified in writing the legal authority to maintain confidentiality.

41 (2) Notwithstanding paragraph (1), may only share confidential and privileged
42 documents, materials, or information reported pursuant to subdivision (m) of
43 Section 1215.4 with commissioners of states having statutes or regulations

1 substantially similar to subdivision (a) and who have agreed in writing not to
2 disclose the information.

3 (3) May receive documents, materials, or information, including otherwise
4 confidential and privileged documents, materials, or information, including
5 proprietary and trade secret information, from the NAIC and its affiliates and
6 subsidiaries and from regulatory and law enforcement officials of other foreign or
7 domestic jurisdictions, and shall maintain as confidential or privileged any
8 documents, materials, or information received with notice or the understanding
9 that it is confidential or privileged under the laws of the jurisdiction that is the
10 source of the documents, materials, or information.

11 (4) May enter into written agreements with the NAIC and a third-party
12 consultant designated by the commissioner governing sharing and use of
13 information provided pursuant to this subdivision consistent with this subdivision
14 that shall do the following:

15 (A) Specify procedures and protocols regarding the confidentiality and security
16 of information shared with the NAIC or a third-party consultant designated by the
17 commissioner pursuant to this subdivision, including procedures and protocols for
18 sharing by the NAIC with other state, federal, or international regulators. The
19 agreement shall provide that the recipient agrees in writing to maintain the
20 confidentiality and privileged status of the documents, materials, or other
21 information and has verified in writing the legal authority to maintain its
22 confidentiality.

23 (B) Specify that ownership of information shared with the NAIC or a third-party
24 consultant designated by the commissioner pursuant to this subdivision remains
25 with the commissioner and the NAIC's or third-party consultant's use of the
26 information is subject to the direction of the commissioner.

27 (C) Prohibit the NAIC or a third-party consultant designated by the
28 commissioner from storing the information shared pursuant to this article in a
29 permanent database after the underlying analysis is completed, except for the
30 documents, materials, or information reported pursuant to subdivision (p) of
31 Section 1215.4.

32 (D) Require prompt notice to be given to an insurer whose confidential
33 information in the possession of the NAIC or a third-party consultant designated
34 by the commissioner pursuant to this subdivision is subject to a request or
35 subpoena to the NAIC or a third-party consultant designated by the commissioner
36 for disclosure or production.

37 (E) Require the NAIC or a third-party consultant designated by the
38 commissioner to consent to intervention by an insurer in any judicial or
39 administrative action in which the NAIC or a third-party consultant designated by
40 the commissioner may be required to disclose confidential information about the
41 insurer shared with the NAIC or a third-party consultant designated by the
42 commissioner pursuant to this subdivision.

1 (F) For an agreement with a third-party consultant designated by the
2 commissioner, provide for notification of the identity of the consultant to
3 applicable insurers reporting or submitting documents, materials, or information
4 pursuant to subdivision (p) of Section 1215.4.

5 (c) The sharing of information by the commissioner pursuant to subdivision (b)
6 shall not constitute a delegation of regulatory authority or rulemaking, and the
7 commissioner is solely responsible for the administration, execution, and
8 enforcement of the provisions of this article.

9 (d) A waiver of any applicable privilege or claim of confidentiality in the
10 documents, materials, or information shall not occur as a result of disclosure to the
11 commissioner under this section or as a result of sharing as authorized in
12 subdivision (b).

13 (e) Documents, materials, or other information filed in the possession or control
14 of the NAIC or a third-party consultant designated by the commissioner pursuant
15 to this subdivision shall be confidential by law and privileged, shall not be subject
16 to subpoena, and shall not be subject to discovery or admissible in evidence in any
17 private civil action.

18 (f) (1) The group capital calculation and resulting group capital ratio required
19 pursuant to subdivision (n) of Section 1215.4 and the liquidity stress test, along
20 with its results and supporting disclosures, required pursuant to subdivision (p) of
21 Section 1215.4 are regulatory tools for assessing group risks and capital adequacy
22 and group liquidity risks, respectively, and are not intended as a means to rank
23 insurers or insurance holding company systems generally.

24 (2) Except as otherwise required by this article, an insurer, broker, or other
25 person engaged in the insurance business shall not make, publish, disseminate,
26 circulate, or place before the public, or directly or indirectly cause to be made,
27 published, disseminated, circulated, or placed before the public in a newspaper,
28 magazine, or other publication, or in the form of a notice, circular, pamphlet,
29 letter, or poster, over a radio or television station or any electronic means of
30 communication available to the public, or in any other way as an advertisement,
31 announcement, or statement containing a representation or statement with regard
32 to the group capital calculation, group capital ratio, liquidity stress test results,
33 supporting disclosures for the liquidity stress test of an insurer or an insurer group,
34 or of any component derived in the calculation.

35 (3) If a materially false statement regarding an insurer's or insurer group's group
36 capital calculation, resulting group capital ratio, liquidity stress test result, or
37 supporting disclosures for the liquidity stress test, or an inappropriate comparison
38 of any amount to an insurer's or insurance group's group capital calculation,
39 resulting group capital ratio, liquidity stress test result, or liquidity stress test
40 supporting disclosures, is published in a written publication and the insurer is able
41 to demonstrate to the commissioner with substantial proof the falsity or
42 inappropriateness of the statement, then the insurer, notwithstanding paragraph

1 (2), may publish announcements in a written publication if the sole purpose of the
2 announcement is to rebut the materially false statement.

3 **Comment.** Section 1215.8 is amended to reflect nonsubstantive recodification of the California
4 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
5 Reports 207 (2019).

6 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
7 Reports 207 (2019).]

8 **Note.** In 2021, Insurance Code Section 1215.8 was amended by the CPRA conforming
9 revisions bill. See 2021 Cal. Stat. ch. 615, § 304 (AB 474 (Chau)). The section was also amended
10 by 2021 Cal. Stat. ch. 464, § 3 (AB 494 (Mayes)).

11 Due to the subordination clause in the CPRA conforming revisions bill, the amendment made
12 by that bill was chaptered out by AB 494. See Gov’t Code § 9605 (“In the absence of any *express*
13 *provision to the contrary* in the statute that is enacted last, it shall be conclusively presumed that
14 the statute which is enacted last is intended to prevail over statutes that are enacted earlier at the
15 same session” (emphasis added)).

16 Consequently, the CPRA cross-reference in Insurance Code Section 1215.8 still needs to be
17 updated to reflect the CPRA recodification. The new conforming revision of Insurance Code
18 Section 1215.8 (shown above) is based on 2021 Cal. Stat. ch. 464, § 3.

19 **Ins. Code § 1666.5 (amended). Information on licensees and license applicants**

20 SEC. 68. Section 1666.5 of the Insurance Code is amended to read:

21 1666.5. (a) (1) Notwithstanding any other provision of law, the commissioner
22 shall at the time of issuance or renewal of any license under this chapter or
23 Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section
24 1800), or Chapter 8 (commencing with Section 1831) require that any license
25 applicant or licensee provide its federal employer identification number if the
26 license applicant or licensee is a partnership, or the social security number of the
27 license applicant or licensee for all others, except as provided in paragraph (2).

28 (2) The commissioner shall require either a social security number or an
29 individual taxpayer identification number if the license applicant or licensee is an
30 individual applying for or renewing a license under this chapter.

31 (b) A license applicant or licensee failing to provide the federal identification
32 number, social security number, or individual taxpayer identification number shall
33 be reported by the commissioner to the Franchise Tax Board and, if failing to
34 provide after notification pursuant to paragraph (1) of subdivision (b) of Section
35 19528 of the Revenue and Taxation Code, shall be subject to the penalty provided
36 in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation
37 Code.

38 (c) (1) The commissioner shall, upon request of the Franchise Tax Board,
39 furnish to the board all of the following information with respect to every license
40 applicant or licensee:

41 (A) License applicant’s or licensee’s name.

42 (B) Address or addresses of record.

43 (C) Federal employer identification number if the entity is a partnership or
44 owner’s name and social security number for all others.

1 (D) Type of license.

2 (E) Effective date of license or renewal.

3 (F) Expiration date of license.

4 (G) Whether license is active or inactive, if known.

5 (H) Whether license is new or a renewal.

6 (2) Notwithstanding paragraph (1), the commissioner shall, upon request of the
7 Franchise Tax Board, furnish to the board either a social security number or an
8 individual taxpayer identification number for individuals licensed under this
9 chapter.

10 (d) For the purposes of this section:

11 (1) “License” includes a certificate, registration, or any other authorization
12 needed to engage in the insurance business regulated by this code.

13 (2) “License applicant” means any individual or entity, other than a corporation,
14 in the process of obtaining a license, certificate, registration, or other means to
15 engage in the insurance business regulated by this code.

16 (3) “Licensee” means any individual or entity, other than a corporation,
17 authorized by a license, certificate, registration, or other means to engage in the
18 insurance business regulated by this code.

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

22 (f) The commissioner shall begin providing to the Franchise Tax Board the
23 information required by this section as soon as economically feasible, but no later
24 than July 1, 1987. The information shall be furnished at a time that the Franchise
25 Tax Board may require.

26 (g) Notwithstanding ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
27 Division 10 (commencing with Section 7920.000) of Title 1 of the Government
28 Code, the information furnished pursuant to subdivision (a) and subparagraph (C)
29 of paragraph (1) of, and paragraph (2) of, subdivision (c) shall not be deemed to be
30 a public record and shall not be open to the public for inspection.

31 (h) A deputy, agent, clerk, officer, or employee of the commissioner, or any
32 former officer or employee or other individual, hereinafter “employees,” who in
33 the course of the employees’ employment or duty has or has had access to the
34 information required to be furnished under this section, shall not disclose or make
35 known in any manner that information, except as provided in this section.

36 (1) This section shall not prevent an agency from disclosing or making known in
37 any manner that information when the transfer is necessary for the transferee
38 agency to perform its constitutional or statutory duties, and the use is compatible
39 with a purpose for which the information was collected and the use or transfer is
40 accounted for in accordance with Section 1798.25 of the Civil Code.

41 (2) With respect to information transferred from a law enforcement or regulatory
42 agency, or information transferred to another law enforcement or regulatory
43 agency, a use is compatible if the use of the information requested is needed in an

1 investigation of unlawful activity under the jurisdiction of the requesting agency
2 or for licensing, certification, or regulatory purposes by that agency and on the
3 condition that the law enforcement or regulatory agency requesting the
4 information needed agrees to keep that information confidential in accordance
5 with Section 1798.25 of the Civil Code.

6 (3) A law enforcement or regulatory agency that requests information from the
7 commissioner shall, upon request, identify for the commissioner the intended use
8 for the information. The commissioner shall have the discretion to determine
9 whether to transfer the information to the law enforcement or regulatory agency
10 and shall not transfer the information if the commissioner determines that the
11 information will be used for an improper purpose.

12 (i) It is the intent of the Legislature in enacting this section to utilize the social
13 security account number, individual taxpayer identification number, or federal
14 employer identification number for the purpose of establishing the identification of
15 persons affected by state tax laws and, to that end, the information furnished
16 pursuant to this section shall be used exclusively for an agency to perform its
17 constitutional or statutory duties.

18 (j) This section shall become operative on July 1, 2018.

19 **Comment.** Section 1666.5 is amended to reflect nonsubstantive recodification of the California
20 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
21 Reports 207 (2019).

22 [This revised Comment replaces the one in *California Public Records Act Clean-Up*, 46 Cal. L.
23 Revision Comm'n Reports 207 (2019).]

24 **Note.** In 2021, Insurance Code Section 1666.5 was amended by the CPRA conforming
25 revisions bill. See 2021 Cal. Stat. ch. 615, § 305 (AB 474 (Chau)). The section was also amended
26 by 2021 Cal. Stat. ch. 133, § 8 (SB 272 (Laird)).

27 Due to the subordination clause in the CPRA conforming revisions bill, the amendment made
28 by that bill was chaptered out by SB 272. See Gov't Code § 9605 ("In the absence of any *express*
29 *provision to the contrary* in the statute that is enacted last, it shall be conclusively presumed that
30 the statute which is enacted last is intended to prevail over statutes that are enacted earlier at the
31 same session ...") (emphasis added)).

32 Consequently, the CPRA cross-reference in Insurance Code Section 1666.5 still needs to be
33 updated to reflect the CPRA recodification. The new conforming revision of Insurance Code
34 Section 1666.5 (shown above) is based on 2021 Cal. Stat. ch. 133, § 8.

35 **Ins. Code § 12921.2 (amended). Inspection and copying of public records of department and**
36 **commissioner**

37 SEC. 69. Section 12921.2 of the Insurance Code is amended to read:

38 12921.2. All public records of the department and the commissioner subject to
39 disclosure under ~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
40 Division 10 (commencing with Section 7920.000 of Title 1 of the Government
41 Code shall be available for inspection and copying pursuant to those provisions at
42 the offices of the department in the City of Oakland, the City of Los Angeles, and
43 the City of Sacramento. Adequate copy facilities for this purpose shall be made
44 available. Notwithstanding any other law, a person requesting copies of these

1 records shall receive the copies from employees of the department and the fee
2 charged for the copies shall not exceed the actual cost of producing the copies.

3 **Comment.** Section 12921.2 is amended to reflect nonsubstantive recodification of the
4 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
5 Comm'n Reports 207 (2019).

6 [This revised Comment replaces the one in *California Public Records Act Clean-Up*, 46 Cal. L.
7 Revision Comm'n Reports 207 (2019).]

8 **Note.** In 2021, Insurance Code Section 12921.2 was amended by the CPRA conforming
9 revisions bill. See 2021 Cal. Stat. ch. 615, § 316 (AB 474 (Chau)). The section was also amended
10 by 2021 Cal. Stat. ch. 627, § 19 (AB 1511 (Committee on Insurance)).

11 The amendment made by the CPRA conforming revisions bill was chaptered out by AB 1511.
12 See Gov't Code § 9605 (in general, last-chaptered bill prevails).

13 Consequently, the CPRA cross-reference in Insurance Code Section 12921.2 still needs to be
14 updated to reflect the CPRA recodification. The new conforming revision of Insurance Code
15 Section 12921.2 (shown above) is based on 2021 Cal. Stat. ch. 627, § 19.

16 LABOR CODE

17 **Labor Code § 138.7 (amended). Access to individually identifiable information**

18 SEC. 70. Section 138.7 of the Labor Code is amended to read:

19 138.7. (a) Except as expressly permitted in subdivision (b), a person or public or
20 private entity not a party to a claim for workers' compensation benefits shall not
21 obtain individually identifiable information obtained or maintained by the division
22 regarding that claim. For purposes of this section, "individually identifiable
23 information" means any data concerning an injury or claim that is linked to a
24 uniquely identifiable employee, employer, claims administrator, or any other
25 person or entity.

26 (b) (1) (A) The administrative director, or a statistical agent designated by the
27 administrative director, may use individually identifiable information for purposes
28 of creating and maintaining the workers' compensation information system as
29 specified in Section 138.6.

30 (B) The administrative director may publish the identity of claims administrators
31 in the annual report disclosing the compliance rates of claims administrators
32 pursuant to subdivision (d) of Section 138.6.

33 (C) The administrative director shall use individually identifiable information
34 for purposes of creating provider medical utilization data as specified in Section
35 138.8.

36 (2) (A) The State Department of Public Health may use individually identifiable
37 information for purposes of establishing and maintaining a program on
38 occupational health and occupational disease prevention as specified in Section
39 105175 of the Health and Safety Code.

40 (B) (i) The State Department of Health Care Services may use individually
41 identifiable information for purposes of seeking recovery of Medi-Cal costs
42 incurred by the state for treatment provided to injured workers that should have

1 been incurred by employers and insurance carriers pursuant to Article 3.5
2 (commencing with Section 14124.70) of Chapter 7 of Part 3 of Division 9 of the
3 Welfare and Institutions Code.

4 (ii) The Department of Industrial Relations shall furnish individually identifiable
5 information to the State Department of Health Care Services, and the State
6 Department of Health Care Services may furnish the information to its designated
7 agent, provided that the individually identifiable information shall not be disclosed
8 for use other than the purposes described in clause (i). The administrative director
9 may adopt regulations solely for the purpose of governing access by the State
10 Department of Health Care Services or its designated agents to the individually
11 identifiable information as defined in subdivision (a).

12 (3) (A) Individually identifiable information may be used by the Division of
13 Workers' Compensation, the Division of Labor Standards and Enforcement, and
14 the Division of Occupational Safety and Health as necessary to carry out their
15 duties. The administrative director shall adopt regulations governing the access to
16 the information described in this subdivision by these divisions. Any regulations
17 adopted pursuant to this subdivision shall set forth the specific uses for which this
18 information may be obtained.

19 (B) Individually identifiable information maintained in the workers'
20 compensation information system and the Division of Workers' Compensation
21 may be used by researchers employed by or under contract to the Commission on
22 Health and Safety and Workers' Compensation as necessary to carry out the
23 commission's research. The administrative director shall adopt regulations
24 governing the access to the information described in this subdivision by
25 commission researchers. These regulations shall set forth the specific uses for
26 which this information may be obtained and include provisions guaranteeing the
27 confidentiality of individually identifiable information. Individually identifiable
28 information obtained under this subdivision shall not be disclosed to commission
29 members. Individually identifiable information obtained by researchers under
30 contract to the commission pursuant to this subparagraph may not be disclosed to
31 any other person or entity, public or private, for a use other than that research
32 project for which the information was obtained. Within a reasonable period of
33 time after the research for which the information was obtained has been
34 completed, the data collected shall be modified in a manner so that the subjects
35 cannot be identified, directly or through identifiers linked to the subjects.

36 (C) Individually identifiable information may be used by the Office of Self-
37 Insurance Plans of the Department of Industrial Relations as necessary to carry out
38 its duties, including evaluating the costs of administration, workers' compensation
39 benefit expenditures, and solvency and performance of the public self-insured
40 employers' workers' compensation programs.

41 (4) The administrative director shall adopt regulations allowing reasonable
42 access to individually identifiable information by other persons or public or
43 private entities for the purpose of bona fide statistical research. This research shall

1 not divulge individually identifiable information concerning a particular
2 employee, employer, claims administrator, or any other person or entity. The
3 regulations adopted pursuant to this paragraph shall include provisions
4 guaranteeing the confidentiality of individually identifiable information. Within a
5 reasonable period of time after the research for which the information was
6 obtained has been completed, the data collected shall be modified in a manner so
7 that the subjects cannot be identified, directly or through identifiers linked to the
8 subjects.

9 (5) (A) This section ~~shall not operate to~~ does not exempt from disclosure any
10 information that is considered to be a public record pursuant to the California
11 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
12 (Division 10 (commencing with Section 7920.000)) of Title 1 of the Government
13 Code) contained in an individual's file once an application for adjudication has
14 been filed pursuant to Section 5501.5.

15 (B) Individually identifiable information shall not be provided to any person or
16 public or private entity who is not a party to the claim unless that person self-
17 identifies or that public or private entity identifies itself and states the reason for
18 making the request. The administrative director may require the person or public
19 or private entity making the request to produce information to verify that the name
20 and address of the requester is valid and correct. If the purpose of the request is
21 related to preemployment screening, the administrative director shall notify the
22 person about whom the information is requested that the information was provided
23 and shall include the following in 12-point type:
24
25

26 "IT MAY BE A VIOLATION OF FEDERAL AND STATE LAW TO
27 DISCRIMINATE AGAINST A JOB APPLICANT BECAUSE THE
28 APPLICANT HAS FILED A CLAIM FOR WORKERS' COMPENSATION
29 BENEFITS."
30

31
32 (C) Any residence address is confidential and shall not be disclosed to any
33 person or public or private entity except to a party to the claim, a law enforcement
34 agency, an office of a district attorney, any person for a journalistic purpose, or
35 other governmental agency.

36 (D) This paragraph does not prohibit the use of individually identifiable
37 information for purposes of identifying bona fide lien claimants.

38 (c) Except as provided in subdivision (b), individually identifiable information
39 obtained by the division is privileged and is not subject to subpoena in a civil
40 proceeding unless, after reasonable notice to the division and a hearing, a court
41 determines that the public interest and the intent of this section will not be
42 jeopardized by disclosure of the information. This section ~~shall not operate to~~ does
43 not restrict access to information by any law enforcement agency or district

1 attorney’s office ~~or to~~ nor limit admissibility of that information in a criminal
2 proceeding.

3 (d) It is unlawful for any person who has received individually identifiable
4 information from the division pursuant to this section to provide that information
5 to any person who is not entitled to it under this section.

6 **Comment.** Section 138.7 is amended to reflect nonsubstantive recodification of the California
7 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
8 Reports 207 (2019).

9 The section is also amended to make stylistic revisions.

10 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
11 Reports 207 (2019).]

12 **Note.** In 2021, Labor Code Section 138.7 was amended by the CPRA conforming revisions
13 bill. See 2021 Cal. Stat. ch. 615, § 318 (AB 474 (Chau)). The section was also amended by 2021
14 Cal. Stat. ch. 197, § 2 (AB 701 (Lorena Gonzalez)).

15 Due to the subordination clause in the CPRA conforming revisions bill, the amendment made
16 by that bill was chaptered out by AB 701. See Gov’t Code § 9605 (“In the absence of any *express*
17 *provision to the contrary* in the statute that is enacted last, it shall be conclusively presumed that
18 the statute which is enacted last is intended to prevail over statutes that are enacted earlier at the
19 same session ...” (emphasis added)).

20 Consequently, the CPRA cross-reference in Labor Code Section 138.7 still needs to be updated
21 to reflect the CPRA recodification. The new conforming revision of Labor Code Section 138.7
22 (shown above) is based on 2021 Cal. Stat. ch. 197, § 2.

23 **Labor Code § 2783 (amended). Occupations governed by Borello, not Dynamex**

24 SEC. 71. Section 2783 of the Labor Code is amended to read:

25 2783. Section 2775 and the holding in *Dynamex* do not apply to the following
26 occupations as defined in the paragraphs below, and instead, the determination of
27 employee or independent contractor status for individuals in those occupations
28 shall be governed by *Borello*:

29 (a) A person or organization that is licensed by the Department of Insurance
30 pursuant to Chapter 5 (commencing with Section 1621), Chapter 6 (commencing
31 with Section 1760), or Chapter 8 (commencing with Section 1831) of Part 2 of
32 Division 1 of the Insurance Code or a person who provides underwriting
33 inspections, premium audits, risk management, claims adjusting, third-party
34 administration consistent with use of the term “third-party administrator,” as
35 defined in subdivision (cc) of Section 10112.1 of Title 8 of the California Code of
36 Regulations, or loss control work for the insurance and financial service industries.

37 (b) A physician and surgeon, dentist, podiatrist, psychologist, or veterinarian
38 licensed by the State of California pursuant to Division 2 (commencing with
39 Section 500) of the Business and Professions Code, performing professional or
40 medical services provided to or by a health care entity, including an entity
41 organized as a sole proprietorship, partnership, or professional corporation as
42 defined in Section 13401 of the Corporations Code. Nothing in this subdivision
43 shall circumvent, undermine, or restrict the rights under federal law to organize
44 and collectively bargain.

1 (c) An individual who holds an active license from the State of California and is
2 practicing one of the following recognized professions: lawyer, architect,
3 landscape architect, engineer, private investigator, or accountant.

4 (d) A securities broker-dealer or investment adviser or their agents and
5 representatives that are either of the following:

6 (1) Registered with the Securities and Exchange Commission or the Financial
7 Industry Regulatory Authority.

8 (2) Licensed by the State of California under Chapter 2 (commencing with
9 Section 25210) or Chapter 3 (commencing with Section 25230) of Division 1 of
10 Part 3 of Title 4 of the Corporations Code.

11 (e) A direct sales salesperson as described in Section 650 of the Unemployment
12 Insurance Code, so long as the conditions for exclusion from employment under
13 that section are met.

14 (f) A manufactured housing salesperson, subject to all obligations under Part 2
15 (commencing with Section 18000) of Division 13 of the Health and Safety Code,
16 including all regulations promulgated by the Department of Housing and
17 Community Development relating to manufactured home salespersons and all
18 other obligations of manufactured housing salespersons to members of the public.
19 The statutorily imposed duties of a manufactured housing dealer under Section
20 18060.5 of the Health and Safety Code are not factors to be considered under the
21 Borello test.

22 (g) A commercial fisher working on an American vessel.

23 (1) For the purposes of this subdivision:

24 (A) “American vessel” has the same meaning as defined in Section 125.5 of the
25 Unemployment Insurance Code.

26 (B) “Commercial fisher” means a person who has a valid, unrevoked
27 commercial fishing license issued pursuant to Article 3 (commencing with Section
28 7850) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code.

29 (C) “Working on an American vessel” means the taking or the attempt to take
30 fish, shellfish, or other fishery resources of the state by any means, and includes
31 each individual aboard an American vessel operated for fishing purposes who
32 participates directly or indirectly in the taking of these raw fishery products,
33 including maintaining the vessel or equipment used aboard the vessel. However,
34 “working on an American vessel” does not apply to anyone aboard a licensed
35 commercial fishing vessel as a visitor or guest who does not directly or indirectly
36 participate in the taking.

37 (2) For the purposes of this subdivision, a commercial fisher working on an
38 American vessel is eligible for unemployment insurance benefits if they meet the
39 definition of “employment” in Section 609 of the Unemployment Insurance Code
40 and are otherwise eligible for those benefits pursuant to the provisions of the
41 Unemployment Insurance Code.

42 (3) (A) On or before March 1, 2021, and each March 1 thereafter, the
43 Employment Development Department shall issue an annual report to the

1 Legislature on the use of unemployment insurance in the commercial fishing
2 industry. This report shall include, but not be limited to, all of the following:

3 (i) Reporting the number of commercial fishers who apply for unemployment
4 insurance benefits.

5 (ii) The number of commercial fishers who have their claims disputed.

6 (iii) The number of commercial fishers who have their claims denied.

7 (iv) The number of commercial fishers who receive unemployment insurance
8 benefits.

9 (B) The report required by this subparagraph shall be submitted in compliance
10 with Section 9795 of the Government Code.

11 (4) This subdivision shall become inoperative on January 1, 2023, unless
12 extended by the Legislature.

13 (h) (1) A newspaper distributor working under contract with a newspaper
14 publisher, as defined in paragraph (2), or a newspaper carrier.

15 (2) For purposes of this subdivision:

16 (A) “Newspaper” means a newspaper of general circulation, as defined in
17 Section 6000 or 6008 of the Government Code, and any other publication
18 circulated to the community in general as an extension of or substitute for that
19 newspaper’s own publication, whether that publication be designated a “shoppers’
20 guide,” as a zoned edition, or otherwise. “Newspaper” may also be a publication
21 that is published in print and that may be posted in a digital format, and distributed
22 periodically at daily, weekly, or other short intervals, for the dissemination of
23 news of a general or local character and of a general or local interest.

24 (B) “Publisher” means the natural or corporate person that manages the
25 newspaper’s business operations, including circulation.

26 (C) “Newspaper distributor” means a person or entity that contracts with a
27 publisher to distribute newspapers to the community.

28 (D) “Newspaper carrier” means a person who effects physical delivery of the
29 newspaper to the customer or reader, who is not working as an app-based driver,
30 as defined in Chapter 10.5 (commencing with Section 7448) of Division 3 of the
31 Business and Professions Code, during the time when the newspaper carrier is
32 performing the newspaper delivery services.

33 (3) (A) On or before March 1, 2022, March 1, 2023, and March 1, 2024, every
34 newspaper publisher or distributor that hires or directly contracts with newspaper
35 carriers shall submit to the Labor and Workforce Development Agency, in a
36 manner prescribed by the agency and in conformity with existing law, the
37 following information related to their workforce for the current year:

38 (i) The number of carriers for which the publisher or distributor paid payroll
39 taxes in the previous year and the number of carriers for which the publisher or
40 distributor did not pay payroll taxes in the previous year.

41 (ii) The average wage rate paid to carriers classified as independent contractors
42 and as employees.

1 (iii) The number of carrier wage claims filed, if any, with the Labor
2 Commissioner or in a court of law.

3 (B) For the March 1, 2022, reporting date only, every newspaper publisher and
4 distributor shall also report the number of carrier wage claims filed with the Labor
5 Commissioner or in a court of law for the preceding three years.

6 (C) Information that is submitted shall only be disclosed in accordance with
7 ~~subdivision (k) of Section 6254~~ Section 7927.705 of the Government Code,
8 relating to trade secrets or other proprietary business information.

9 (4) This subdivision shall become inoperative on January 1, 2025, unless
10 extended by the Legislature.

11 (i) An individual who is engaged by an international exchange visitor program
12 that has obtained and maintains full official designation by the United States
13 Department of State under Part 62 (commencing with Section 62.1) of Title 22 of
14 the Code of Federal Regulations for the purpose of conducting, instead of
15 participating in, international and cultural exchange visitor programs and is in full
16 compliance with Part 62 (commencing with Section 62.1) of Title 22 of the Code
17 of Federal Regulations.

18 (j) A competition judge with a specialized skill set or expertise providing
19 services that require the exercise of discretion and independent judgment to an
20 organization for the purposes of determining the outcome or enforcing the rules of
21 a competition. This includes, but is not limited to, an amateur umpire or referee.

22 **Comment.** Section 2783 is amended to reflect nonsubstantive recodification of the California
23 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
24 Reports 207 (2019).

25 [This Comment is new.]

26 **Note.** Labor Code Section 2783 was just amended by 2021 Cal. Stat. ch. 422, § 4.5 (AB 1561
27 (Committee on Labor & Employment)). Among other things, the amendment inserted a CPRA
28 cross-reference, which now needs to be updated to reflect the CPRA recodification.

29 PENAL CODE

30 **Penal Code § 832.5 (amended). Complaint by member of public against peace officer or**
31 **custodial officer**

32 SEC. 72. Section 832.5 of the Penal Code is amended to read:

33 832.5. (a) (1) Each department or agency in this state that employs peace
34 officers shall establish a procedure to investigate complaints by members of the
35 public against the personnel of these departments or agencies, and shall make a
36 written description of the procedure available to the public.

37 (2) Each department or agency that employs custodial officers, as defined in
38 Section 831.5, may establish a procedure to investigate complaints by members of
39 the public against those custodial officers employed by these departments or
40 agencies, ~~provided~~ provided, however, that any procedure so established shall

1 comply with the provisions of this section and with the provisions of Section
2 832.7.

3 (b) Complaints and any reports or findings relating to these complaints,
4 including all complaints and any reports currently in the possession of the
5 department or agency, shall be retained for a period of no less than 5 years for
6 records where there was not a sustained finding of misconduct and for not less
7 than 15 years where there was a sustained finding of misconduct. A record shall
8 not be destroyed while a request related to that record is being processed or any
9 process or litigation to determine whether the record is subject to release is
10 ongoing. All complaints retained pursuant to this subdivision may be maintained
11 either in the peace or custodial officer's general personnel file or in a separate file
12 designated by the department or agency as provided by department or agency
13 policy, in accordance with all applicable requirements of law. However, prior to
14 any official determination regarding promotion, transfer, or disciplinary action by
15 an officer's employing department or agency, the complaints described by
16 subdivision (c) shall be removed from the officer's general personnel file and
17 placed in a separate file designated by the department or agency, in accordance
18 with all applicable requirements of law.

19 (c) Complaints by members of the public that are determined by the peace or
20 custodial officer's employing agency to be frivolous, as defined in Section 128.5
21 of the Code of Civil Procedure, or unfounded or exonerated, or any portion of a
22 complaint that is determined to be frivolous, unfounded, or exonerated, shall not
23 be maintained in that officer's general personnel file. However, these complaints
24 shall be retained in other, separate files that shall be deemed personnel records for
25 purposes of the California Public Records Act (~~Chapter 3.5 (commencing with~~
26 ~~Section 6250) of Division 7 (Division 10 (commencing with Section 7920.000)~~ of
27 Title 1 of the Government Code) and Section 1043 of the Evidence Code.

28 (1) Management of the peace or custodial officer's employing agency shall have
29 access to the files described in this subdivision.

30 (2) Management of the peace or custodial officer's employing agency shall not
31 use the complaints contained in these separate files for punitive or promotional
32 purposes except as permitted by subdivision (f) of Section 3304 of the
33 Government Code.

34 (3) Management of the peace or custodial officer's employing agency may
35 identify any officer who is subject to the complaints maintained in these files
36 which require counseling or additional training. However, if a complaint is
37 removed from the officer's personnel file, any reference in the personnel file to the
38 complaint or to a separate file shall be deleted.

39 (d) As used in this section, the following definitions apply:

40 (1) "General personnel file" means the file maintained by the agency containing
41 the primary records specific to each peace or custodial officer's employment,
42 including evaluations, assignments, status changes, and imposed discipline.

1 (2) “Unfounded” means that the investigation clearly established that the
2 allegation is not true.

3 (3) “Exonerated” means that the investigation clearly established that the actions
4 of the peace or custodial officer that formed the basis for the complaint are not
5 violations of law or department policy.

6 **Comment.** Section 832.5 is amended to reflect nonsubstantive recodification of the California
7 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
8 Reports 207 (2019).

9 The section is also amended to make a technical change.

10 [This Comment is from *Report of the California Law Revision Commission on Chapter 615 of*
11 *the Statutes of 2021 (Assembly Bill 474)*, 48 Cal. L. Revision Comm’n Reports __ (2021).]

12 **Note.** In 2021, Penal Code Section 832.5 was amended by the CPRA conforming revisions bill.
13 See 2021 Cal. Stat. ch. 615, § 338 (AB 474 (Chau)). The section was also amended by 2021 Cal.
14 Stat. ch. 402, § 2 (SB 16 (Skinner)).

15 Due to the subordination clause in the CPRA conforming revisions bill, the amendment made
16 by that bill was chaptered out by SB 16. See Gov’t Code § 9605 (“In the absence of any *express*
17 *provision to the contrary* in the statute that is enacted last, it shall be conclusively presumed that
18 the statute which is enacted last is intended to prevail over statutes that are enacted earlier at the
19 same session ...” (emphasis added)).

20 Consequently, the CPRA cross-reference in Penal Code Section 832.5 still needs to be updated
21 to reflect the CPRA recodification. The new conforming revision of Penal Code Section 832.5
22 (shown above) is based on 2021 Cal. Stat. ch. 402, § 2.

23 **Penal Code § 832.7 (amended). Peace officer personnel records**

24 SEC. 73. Section 832.7 of the Penal Code is amended to read:

25 832.7. (a) Except as provided in subdivision (b), the personnel records of peace
26 officers and custodial officers and records maintained by a state or local agency
27 pursuant to Section 832.5, or information obtained from these records, are
28 confidential and shall not be disclosed in any criminal or civil proceeding except
29 by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This
30 section does not apply to investigations or proceedings concerning the conduct of
31 peace officers or custodial officers, or an agency or department that employs those
32 officers, conducted by a grand jury, a district attorney’s office, or the Attorney
33 General’s office, or the Commission on Peace Officer Standards and Training.

34 (b) (1) Notwithstanding subdivision (a), ~~subdivision (f) of Section 6254 Article~~
35 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of
36 Title 1 of the Government Code, or any other law, the following peace officer or
37 custodial officer personnel records and records maintained by a state or local
38 agency shall not be confidential and shall be made available for public inspection
39 pursuant to the California Public Records Act (~~Chapter 3.5 (commencing with~~
40 ~~Section 6250) of Division 7 (Division 10 (commencing with Section 7920.000) of~~
41 Title 1 of the Government Code):

42 (A) A record relating to the report, investigation, or findings of any of the
43 following:

1 (i) An incident involving the discharge of a firearm at a person by a peace
2 officer or custodial officer.

3 (ii) An incident involving the use of force against a person by a peace officer or
4 custodial officer that resulted in death or in great bodily injury.

5 (iii) A sustained finding involving a complaint that alleges unreasonable or
6 excessive force.

7 (iv) A sustained finding that an officer failed to intervene against another officer
8 using force that is clearly unreasonable or excessive.

9 (B) (i) Any record relating to an incident in which a sustained finding was made
10 by any law enforcement agency or oversight agency that a peace officer or
11 custodial officer engaged in sexual assault involving a member of the public.

12 (ii) As used in this subparagraph, “sexual assault” means the commission or
13 attempted initiation of a sexual act with a member of the public by means of force,
14 threat, coercion, extortion, offer of leniency or other official favor, or under the
15 color of authority. For purposes of this subparagraph, the propositioning for or
16 commission of any sexual act while on duty is considered a sexual assault.

17 (iii) As used in this subparagraph, “member of the public” means any person not
18 employed by the officer’s employing agency and includes any participant in a
19 cadet, explorer, or other youth program affiliated with the agency.

20 (C) Any record relating to an incident in which a sustained finding was made by
21 any law enforcement agency or oversight agency involving dishonesty by a peace
22 officer or custodial officer directly relating to the reporting, investigation, or
23 prosecution of a crime, or directly relating to the reporting of, or investigation of
24 misconduct by, another peace officer or custodial officer, including, but not
25 limited to, false statements, filing false reports, destruction, falsifying, or
26 concealing of evidence, or perjury.

27 (D) Any record relating to an incident in which a sustained finding was made by
28 any law enforcement agency or oversight agency that a peace officer or custodial
29 officer engaged in conduct including, but not limited to, verbal statements,
30 writings, online posts, recordings, and gestures, involving prejudice or
31 discrimination against a person on the basis of race, religious creed, color, national
32 origin, ancestry, physical disability, mental disability, medical condition, genetic
33 information, marital status, sex, gender, gender identity, gender expression, age,
34 sexual orientation, or military and veteran status.

35 (E) Any record relating to an incident in which a sustained finding was made by
36 any law enforcement agency or oversight agency that the peace officer made an
37 unlawful arrest or conducted an unlawful search.

38 (2) Records that are subject to disclosure under clause (iii) or (iv) of
39 subparagraph (A) of paragraph (1), or under subparagraph (D) or (E) of paragraph
40 (1), relating to an incident that occurred before January 1, 2022, shall not be
41 subject to the time limitations in paragraph (8) until January 1, 2023.

42 (3) Records that shall be released pursuant to this subdivision include all
43 investigative reports; photographic, audio, and video evidence; transcripts or

1 recordings of interviews; autopsy reports; all materials compiled and presented for
2 review to the district attorney or to any person or body charged with determining
3 whether to file criminal charges against an officer in connection with an incident,
4 or whether the officer's action was consistent with law and agency policy for
5 purposes of discipline or administrative action, or what discipline to impose or
6 corrective action to take; documents setting forth findings or recommended
7 findings; and copies of disciplinary records relating to the incident, including any
8 letters of intent to impose discipline, any documents reflecting modifications of
9 discipline due to the Skelly or grievance process, and letters indicating final
10 imposition of discipline or other documentation reflecting implementation of
11 corrective action. Records that shall be released pursuant to this subdivision also
12 include records relating to an incident specified in paragraph (1) in which the
13 peace officer or custodial officer resigned before the law enforcement agency or
14 oversight agency concluded its investigation into the alleged incident.

15 (4) A record from a separate and prior investigation or assessment of a separate
16 incident shall not be released unless it is independently subject to disclosure
17 pursuant to this subdivision.

18 (5) If an investigation or incident involves multiple officers, information about
19 allegations of misconduct by, or the analysis or disposition of an investigation of,
20 an officer shall not be released pursuant to subparagraph (B), (C), (D), or (E) of
21 paragraph (1), unless it relates to a sustained finding regarding that officer that is
22 itself subject to disclosure pursuant to this section. However, factual information
23 about that action of an officer during an incident, or the statements of an officer
24 about an incident, shall be released if they are relevant to a finding against another
25 officer that is subject to release pursuant to subparagraph (B), (C), (D), or (E) of
26 paragraph (1).

27 (6) An agency shall redact a record disclosed pursuant to this section only for
28 any of the following purposes:

29 (A) To remove personal data or information, such as a home address, telephone
30 number, or identities of family members, other than the names and work-related
31 information of peace and custodial officers.

32 (B) To preserve the anonymity of whistleblowers, complainants, victims, and
33 witnesses.

34 (C) To protect confidential medical, financial, or other information of which
35 disclosure is specifically prohibited by federal law or would cause an unwarranted
36 invasion of personal privacy that clearly outweighs the strong public interest in
37 records about possible misconduct and use of force by peace officers and custodial
38 officers.

39 (D) Where there is a specific, articulable, and particularized reason to believe
40 that disclosure of the record would pose a significant danger to the physical safety
41 of the peace officer, custodial officer, or another person.

42 (7) Notwithstanding paragraph (6), an agency may redact a record disclosed
43 pursuant to this section, including personal identifying information, where, on the

1 facts of the particular case, the public interest served by not disclosing the
2 information clearly outweighs the public interest served by disclosure of the
3 information.

4 (8) An agency may withhold a record of an incident described in paragraph (1)
5 that is the subject of an active criminal or administrative investigation, in
6 accordance with any of the following:

7 (A) (i) During an active criminal investigation, disclosure may be delayed for up
8 to 60 days from the date the misconduct or use of force occurred or until the
9 district attorney determines whether to file criminal charges related to the
10 misconduct or use of force, whichever occurs sooner. If an agency delays
11 disclosure pursuant to this clause, the agency shall provide, in writing, the specific
12 basis for the agency's determination that the interest in delaying disclosure clearly
13 outweighs the public interest in disclosure. This writing shall include the estimated
14 date for disclosure of the withheld information.

15 (ii) After 60 days from the misconduct or use of force, the agency may continue
16 to delay the disclosure of records or information if the disclosure could reasonably
17 be expected to interfere with a criminal enforcement proceeding against an officer
18 who engaged in misconduct or used the force. If an agency delays disclosure
19 pursuant to this clause, the agency shall, at 180-day intervals as necessary,
20 provide, in writing, the specific basis for the agency's determination that
21 disclosure could reasonably be expected to interfere with a criminal enforcement
22 proceeding. The writing shall include the estimated date for the disclosure of the
23 withheld information. Information withheld by the agency shall be disclosed when
24 the specific basis for withholding is resolved, when the investigation or proceeding
25 is no longer active, or by no later than 18 months after the date of the incident,
26 whichever occurs sooner.

27 (iii) After 60 days from the misconduct or use of force, the agency may continue
28 to delay the disclosure of records or information if the disclosure could reasonably
29 be expected to interfere with a criminal enforcement proceeding against someone
30 other than the officer who engaged in misconduct or used the force. If an agency
31 delays disclosure under this clause, the agency shall, at 180-day intervals, provide,
32 in writing, the specific basis why disclosure could reasonably be expected to
33 interfere with a criminal enforcement proceeding, and shall provide an estimated
34 date for the disclosure of the withheld information. Information withheld by the
35 agency shall be disclosed when the specific basis for withholding is resolved,
36 when the investigation or proceeding is no longer active, or by no later than 18
37 months after the date of the incident, whichever occurs sooner, unless
38 extraordinary circumstances warrant continued delay due to the ongoing criminal
39 investigation or proceeding. In that case, the agency must show by clear and
40 convincing evidence that the interest in preventing prejudice to the active and
41 ongoing criminal investigation or proceeding outweighs the public interest in
42 prompt disclosure of records about misconduct or use of force by peace officers
43 and custodial officers. The agency shall release all information subject to

1 disclosure that does not cause substantial prejudice, including any documents that
2 have otherwise become available.

3 (iv) In an action to compel disclosure brought pursuant to ~~Section 6258~~ Sections
4 7923.000 and 7923.005 of the Government Code, an agency may justify delay by
5 filing an application to seal the basis for withholding, in accordance with Rule
6 2.550 of the California Rules of Court, or any successor rule, if disclosure of the
7 written basis itself would impact a privilege or compromise a pending
8 investigation.

9 (B) If criminal charges are filed related to the incident in which misconduct
10 occurred or force was used, the agency may delay the disclosure of records or
11 information until a verdict on those charges is returned at trial or, if a plea of
12 guilty or no contest is entered, the time to withdraw the plea pursuant to Section
13 1018.

14 (C) During an administrative investigation into an incident described in of
15 paragraph (1), the agency may delay the disclosure of records or information until
16 the investigating agency determines whether misconduct or the use of force
17 violated a law or agency policy, but no longer than 180 days after the date of the
18 employing agency's discovery of the misconduct or use of force, or allegation of
19 misconduct or use of force, by a person authorized to initiate an investigation.

20 (9) A record of a complaint, or the investigations, findings, or dispositions of
21 that complaint, shall not be released pursuant to this section if the complaint is
22 frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or if the
23 complaint is unfounded.

24 (10) The cost of copies of records subject to disclosure pursuant to this
25 subdivision that are made available upon the payment of fees covering direct costs
26 of duplication pursuant to ~~subdivision (b) of Section 6253~~ subdivision (a) of
27 Section 7922.530 of the Government Code shall not include the costs of searching
28 for, editing, or redacting the records.

29 (11) Except to the extent temporary withholding for a longer period is permitted
30 pursuant to paragraph (8), records subject to disclosure under this subdivision shall
31 be provided at the earliest possible time and no later than 45 days from the date of
32 a request for their disclosure.

33 (12) (A) For purposes of releasing records pursuant to this subdivision, the
34 lawyer-client privilege does not prohibit the disclosure of either of the following:

35 (i) Factual information provided by the public entity to its attorney or factual
36 information discovered in any investigation conducted by, or on behalf of, the
37 public entity's attorney.

38 (ii) Billing records related to the work done by the attorney so long as the
39 records do not relate to active and ongoing litigation and do not disclose
40 information for the purpose of legal consultation between the public entity and its
41 attorney.

1 (B) This paragraph does not prohibit the public entity from asserting that a
2 record or information within the record is exempted or prohibited from disclosure
3 pursuant to any other federal or state law.

4 (c) Notwithstanding subdivisions (a) and (b), a department or agency shall
5 release to the complaining party a copy of the complaining party's own statements
6 at the time the complaint is filed.

7 (d) Notwithstanding subdivisions (a) and (b), a department or agency that
8 employs peace or custodial officers may disseminate data regarding the number,
9 type, or disposition of complaints (sustained, not sustained, exonerated, or
10 unfounded) made against its officers if that information is in a form that does not
11 identify the individuals involved.

12 (e) Notwithstanding subdivisions (a) and (b), a department or agency that
13 employs peace or custodial officers may release factual information concerning a
14 disciplinary investigation if the officer who is the subject of the disciplinary
15 investigation, or the officer's agent or representative, publicly makes a statement
16 that they know to be false concerning the investigation or the imposition of
17 disciplinary action. Information may not be disclosed by the peace or custodial
18 officer's employer unless the false statement was published by an established
19 medium of communication, such as television, radio, or a newspaper. Disclosure
20 of factual information by the employing agency pursuant to this subdivision is
21 limited to facts contained in the officer's personnel file concerning the disciplinary
22 investigation or imposition of disciplinary action that specifically refute the false
23 statements made public by the peace or custodial officer or their agent or
24 representative.

25 (f) (1) The department or agency shall provide written notification to the
26 complaining party of the disposition of the complaint within 30 days of the
27 disposition.

28 (2) The notification described in this subdivision is not conclusive or binding or
29 admissible as evidence in any separate or subsequent action or proceeding brought
30 before an arbitrator, court, or judge of this state or the United States.

31 (g) This section does not affect the discovery or disclosure of information
32 contained in a peace or custodial officer's personnel file pursuant to Section 1043
33 of the Evidence Code.

34 (h) This section does not supersede or affect the criminal discovery process
35 outlined in Chapter 10 (commencing with Section 1054) of Title 6 of Part 2, or the
36 admissibility of personnel records pursuant to subdivision (a), which codifies the
37 court decision in *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

38 (i) Nothing in this chapter is intended to limit the public's right of access as
39 provided for in *Long Beach Police Officers Association v. City of Long Beach*
40 (2014) 59 Cal.4th 59.

41 **Comment.** Section 832.7 is amended to reflect nonsubstantive recodification of the California
42 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
43 Reports 207 (2019).

1 [This revised Comment replaces the one in *California Public Records Act Clean-Up*, 46 Cal. L.
2 Revision Comm’n Reports 207 (2019).]

3 **Note.** In 2021, Penal Code Section 832.7 was amended by the CPRA conforming revisions bill.
4 See 2021 Cal. Stat. ch. 615, § 339 (AB 474 (Chau)). The section was also amended by the
5 following bills:

- 6 (1) 2021 Cal. Stat. ch. 402, § 2 (SB 16 (Skinner)).
- 7 (2) 2021 Cal. Stat. ch. 409, §§ 5, 5.5 (SB 2 (Bradford)).

8 Due to the subordination clause in the CPRA conforming revisions bill, the amendment made
9 by that bill was chaptered out by SB 2. See Gov’t Code § 9605 (“In the absence of any *express*
10 *provision to the contrary* in the statute that is enacted last, it shall be conclusively presumed that
11 the statute which is enacted last is intended to prevail over statutes that are enacted earlier at the
12 same session . . .” (emphasis added)).

13 Consequently, the CPRA cross-references in Penal Code Section 832.7 need to be updated to
14 reflect the CPRA recodification. Due to Government Code Sections 9600 and 9605, and the bill
15 coordination amendments in SB 2, the new conforming revision of Penal Code Section 832.7
16 (shown above) is based on 2021 Cal. Stat. ch. 409, § 5.5.

17 PUBLIC CONTRACT CODE

18 **Pub. Cont. Code § 10112.3 (amended). Procedures for Construction Manager/General**
19 **Contractor method projects**

20 SEC. 74. Section 10112.3 of the Public Contract Code is amended to read:

21 10112.3. Construction Manager/General Contractor method projects shall
22 progress as follows:

23 (a) (1) The department shall establish a procedure for the evaluation and
24 selection of a construction manager through a request for qualifications (RFQ).
25 The RFQ shall include, but not be limited to, the following:

26 (A) If the construction manager is a partnership, limited partnership, or other
27 association, a list of all of the partners, general partners, or association members
28 known at the time of the statement of qualifications submission who will
29 participate in the Construction Manager/General Contractor method contract.

30 (B) Evidence that the members of the construction manager have completed, or
31 demonstrated the experience, competency, capability, and capacity to complete
32 projects of similar size, scope, or complexity, and that proposed key personnel
33 have sufficient experience and training to competently manage and complete the
34 construction of the project, as well as a financial statement that assures the
35 department that the construction manager has the capacity to complete the project,
36 construction expertise, and an acceptable safety record.

37 (C) The licenses, registration, and credentials required to construct the project,
38 including information on the revocation or suspension of any license, registration,
39 or credential.

40 (D) Evidence that establishes that the construction manager has the capacity to
41 obtain all required payment and performance bonding, liability insurance, and
42 errors and omissions insurance.

1 (E) Any prior serious or willful violation of the California Occupational Safety
2 and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of
3 the Labor Code), or the federal Occupational Safety and Health Act of 1970
4 (Public Law 91-596), settled against any member of the construction manager, and
5 information concerning workers' compensation experience history and worker
6 safety program.

7 (F) Information concerning any debarment, disqualification, or removal from a
8 federal, state, or local government public works project. Any instance in which a
9 construction manager, its owners, officers, or managing employees submitted a
10 bid on a public works project and were found to be nonresponsive or were found
11 by an awarding body not to be a responsible bidder.

12 (G) Any instance in which the construction manager, or its owners, officers, or
13 managing employees, defaulted on a construction contract.

14 (H) Any violations of the Contractors' State License Law (Chapter 9
15 (commencing with Section 7000) of Division 3 of the Business and Professions
16 Code), excluding alleged violations of federal or state law including the payment
17 of wages, benefits, apprenticeship requirements, or personal income tax
18 withholding, or of the Federal Insurance Contributions Act (26 U.S.C. Sec. 3101,
19 et seq.) withholding requirements settled against any member of the construction
20 manager.

21 (I) Information concerning the bankruptcy or receivership of any member of the
22 construction manager, including information concerning any work completed by a
23 surety.

24 (J) Information concerning all settled adverse claims, disputes, or lawsuits
25 between the owner of a public works project and any member of the construction
26 manager during the five years preceding submission of a bid pursuant to this
27 section, in which the claim, settlement, or judgment exceeds fifty thousand dollars
28 (\$50,000). Information shall also be provided concerning any work completed by
29 a surety during this period.

30 (K) In the case of a partnership or other association that is not a legal entity, a
31 copy of the agreement creating the partnership or association and specifying that
32 all partners or association members agree to be fully liable for the performance
33 under the contract.

34 (L) For the purposes of this paragraph, a construction manager's safety record
35 shall be deemed acceptable if their experience modification rate for the most
36 recent three-year period is an average of 1.00 or less, and their average total
37 recordable injury/illness rate and average lost work rate for the most recent three-
38 year period does not exceed the applicable statistical standards for its business
39 category.

40 (2) The information required pursuant to this subdivision shall be verified under
41 oath by the construction manager and its members in the manner in which civil
42 pleadings in civil actions are verified. Information that is not a public record
43 pursuant to the California Public Records Act (~~Chapter 3.5 (commencing with~~

1 ~~Section 6250) of Division 7 (Division 10 (commencing with Section 7920.000) of~~
2 Title 1 of the Government Code) shall not be open to public inspection.

3 (b) For each RFQ, the department shall generate a final list of qualified persons
4 or firms that participated in the RFQ prior to entering into negotiations on the
5 contract or contracts to which the RFQ applies.

6 (c) (1) For each contract included in the RFQ, the department shall enter into
7 separate negotiations for the contract with the highest qualified person or firm on
8 the final list for that contract. However, if the RFQ is for multiple contracts and
9 specifies that all of the multiple contracts will be awarded to a single construction
10 manager, there may be a single negotiation for all of the multiple contracts. The
11 negotiations shall include consideration of compensation and other contract terms
12 that the department determines to be fair and reasonable to the department. In
13 making this decision, the department shall take into account the estimated value,
14 the scope, the complexity, and the nature of the professional services or
15 construction services to be rendered. If the department is not able to negotiate a
16 satisfactory contract with the highest qualified person or firm on the final list,
17 regarding compensation and on other contract terms the department determines to
18 be fair and reasonable, the department shall formally terminate negotiations with
19 that person or firm. The department may undertake negotiations with the next
20 most qualified person or firm on the final list in sequence until an agreement is
21 reached, or a determination is made to reject all persons or firms on the final list.

22 (2) If a contract for construction services is entered into pursuant to this article
23 and includes preconstruction services by the construction manager, the department
24 shall enter into a written contract with the construction manager for
25 preconstruction services under which contract the department shall pay the
26 construction manager a fee for preconstruction services in an amount agreed upon
27 by the department and the construction manager. The preconstruction services
28 contract may include fees for services to be performed during the contract period
29 provided, however, the department shall not request or obtain a fixed price or a
30 guaranteed maximum price for the construction contract from the construction
31 manager or enter into a construction contract with the construction manager until
32 after the department has entered into a preconstruction services contract that shall
33 provide for the subsequent negotiation for construction of all or any discreet phase
34 or phases of the project.

35 (3) A contract for construction services shall be awarded after the plans have
36 been sufficiently developed and either a fixed price or a guaranteed maximum
37 price has been successfully negotiated. If a fixed price or a guaranteed maximum
38 price is not negotiated, the department shall not award the contract for
39 construction services.

40 (4) The department is not required to award the construction services contract.

41 (5) Construction shall not commence on any phase, package, or element until the
42 department and construction manager agree in writing on either a fixed price that
43 the department will pay for the construction to be commenced or a guaranteed

1 maximum price for the construction to be commenced and construction schedule
2 for the project. The construction manager shall perform not less than 30 percent of
3 the work covered by the fixed price or guaranteed maximum price agreement
4 reached. Work that is not performed directly by the construction manager shall be
5 bid to subcontractors pursuant to Section 10112.5.

6 **Comment.** Section 10112.3 is amended to reflect nonsubstantive recodification of the
7 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
8 Comm'n Reports 207 (2019).

9 [This Comment is new.]

10 **Note.** Section 10112.3 was just added to the Public Contract Code by 2021 Cal. Stat. ch. 247 §
11 1 (SB 626 (Dodd)). The CPRA cross-reference in that section needs to be updated to reflect the
12 CPRA recodification.

13 **Pub. Cont. Code § 10208 (amended). Procurement process for design-build projects**

14 SEC. 75. Section 10208 of the Public Contract Code is amended to read:

15 10208. The procurement process for the design-build projects shall progress as
16 follows:

17 (a) (1) The director shall prepare a set of documents setting forth the scope and
18 estimated price of the project. The documents may include, but need not be limited
19 to, the size, type, and desired design character of the project, performance
20 specifications covering the quality of materials, equipment, workmanship,
21 preliminary plans or building layouts, or any other information deemed necessary
22 to describe adequately the department's needs. The performance specifications and
23 any plans shall be prepared by a design professional who is duly licensed and
24 registered in California.

25 (2) The documents shall not include a design-build-operate contract for any
26 project. The documents, however, may include operations during a training or
27 transition period but shall not include long-term operations for any project.

28 (b) The director shall prepare and issue a request for qualifications in order to
29 prequalify or short-list the design-build entities whose proposals shall be evaluated
30 for final selection. The request for qualifications shall include, but need not be
31 limited to, the following elements:

32 (1) Identification of the basic scope and needs of the project or contract, the
33 expected cost range, the methodology that will be used by the department to
34 evaluate proposals, the procedure for final selection of the design-build entity, and
35 any other information deemed necessary by the director to inform interested
36 parties of the contracting opportunity.

37 (2) Significant factors that the department reasonably expects to consider in
38 evaluating qualifications, including technical design and construction expertise,
39 and all other non-price-related factors.

40 (3) A standard template request for statements of qualifications prepared by the
41 department. In preparing the standard template, the department may consult with
42 the construction industry, the building trades and surety industry, and other

1 agencies interested in using the authorization provided by this article. The
2 template shall require the following information:

3 (A) If the design-build entity is a privately held corporation, limited liability
4 company, partnership, or joint venture, a listing of all of the shareholders, partners,
5 or members known at the time of statement of qualification submission who will
6 perform work on the project.

7 (B) Evidence that the members of the design-build team have completed, or
8 demonstrated the experience, competency, capability, and capacity to complete
9 projects of similar size, scope, or complexity, and that proposed key personnel
10 have sufficient experience and training to competently manage and complete the
11 design and construction of the project, and a financial statement that ensures that
12 the design-build entity has the capacity to complete the project.

13 (C) The licenses, registration, and credentials required to design and construct
14 the project, including, but not limited to, information on the revocation or
15 suspension of any license, credential, or registration.

16 (D) Evidence that establishes that the design-build entity has the capacity to
17 obtain all required payment and performance bonding, liability insurance, and
18 errors and omissions insurance.

19 (E) Information concerning workers' compensation experience history and a
20 worker safety program.

21 (F) If the proposed design-build entity is a corporation, limited liability
22 company, partnership, joint venture, or other legal entity, a copy of the
23 organizational documents or agreement committing to form the organization.

24 (G) An acceptable safety record. A proposer's safety record shall be deemed
25 acceptable if its experience modification rate for the most recent three-year period
26 is an average of 1.00 or less, and its average total recordable injury or illness rate
27 and average lost work rate for the most recent three-year period does not exceed
28 the applicable statistical standards for its business category or if the proposer is a
29 party to an alternative dispute resolution system as provided for in Section 3201.5
30 of the Labor Code.

31 (4) (A) The information required under this subdivision shall be certified under
32 penalty of perjury by the design-build entity and its general partners or joint
33 venture members.

34 (B) Information required under this subdivision that is not otherwise a public
35 record under the California Public Records Act (~~Chapter 3.5 (commencing with~~
36 ~~Section 6250) of Division 7 (Division 10 (commencing with Section 7920.000) of~~
37 Title 1 of the Government Code) shall not be open to public inspection.

38 (c) (1) A design-build entity shall not be prequalified or short-listed unless the
39 entity provides an enforceable commitment to the director that the entity and its
40 subcontractors at every tier will use a skilled and trained workforce to perform all
41 work on the project or contract that falls within an apprenticeable occupation in
42 the building and construction trades, in accordance with Chapter 2.9 (commencing
43 with Section 2600) of Part 1.

1 (2) This subdivision shall not apply if any of the following requirements are
2 met:

3 (A) The department has entered into a project labor agreement that will bind all
4 contractors and subcontractors performing work on the project or contract to use a
5 skilled and trained workforce, and the entity agrees to be bound by that project
6 labor agreement.

7 (B) The project or contract is being performed under the extension or renewal of
8 a project labor agreement that was entered into by the department prior to January
9 1, 2017.

10 (C) The entity has entered into a project labor agreement that will bind the entity
11 and all its subcontractors at every tier performing the project or contract to use a
12 skilled and trained workforce.

13 (3) For purposes of this subdivision, “project labor agreement” has the same
14 meaning as in paragraph (1) of subdivision (b) of Section 2500.

15 (d) Based on the documents prepared as described in subdivision (a), the
16 director shall prepare a request for proposals that invites prequalified or short-
17 listed entities to submit competitive sealed proposals in the manner prescribed by
18 the department. The request for proposals shall include, but need not be limited to,
19 the following elements:

20 (1) Identification of the basic scope and needs of the project or contract, the
21 estimated cost of the project, the methodology that will be used by the department
22 to evaluate proposals, whether the contract will be awarded on the basis of low bid
23 or best value, and any other information deemed necessary by the department to
24 inform interested parties of the contracting opportunity.

25 (2) Significant factors that the department reasonably expects to consider in
26 evaluating proposals, including, but not limited to, cost or price and all non-price-
27 related factors.

28 (3) The relative importance or the weight assigned to each of the factors
29 identified in the request for proposals.

30 (4) Where a best value selection method is used, the department may reserve the
31 right to request proposal revisions and hold discussions and negotiations with
32 responsive proposers, in which case the department shall so specify in the request
33 for proposals and shall publish separately or incorporate into the request for
34 proposals applicable procedures to be observed by the department to ensure that
35 any discussions or negotiations are conducted in good faith.

36 (e) For those projects utilizing low bid as the final selection method, the
37 competitive bidding process shall result in lump-sum bids by the prequalified or
38 short-listed design-build entities, and awards shall be made to the design-build
39 entity that is the lowest responsible bidder.

40 (f) For those projects utilizing best value as a selection method, the design-build
41 competition shall progress as follows:

42 (1) Competitive proposals shall be evaluated by using only the criteria and
43 selection procedures specifically identified in the request for proposals. The

1 following minimum factors, however, shall be weighted as deemed appropriate by
2 the department:

3 (A) Price, unless a stipulated sum is specified.

4 (B) Technical design and construction expertise.

5 (C) Life-cycle costs over 15 or more years.

6 (2) Pursuant to subdivision (d), the department may hold discussions or
7 negotiations with responsive proposers using the process articulated in the
8 department's request for proposals.

9 (3) When the evaluation is complete, the responsive proposers shall be ranked
10 based on a determination of value provided, provided that no more than three
11 proposers are required to be ranked.

12 (4) The award of the contract shall be made to the responsible design-build
13 entity whose proposal is determined by the director to have offered the best value
14 to the public.

15 (5) Notwithstanding any other provision of this code, upon issuance of a
16 contract award, the director shall publicly announce its award, identifying the
17 design-build entity to which the award is made, along with a statement regarding
18 the basis of the award.

19 (6) The statement regarding the director's contract award, described in
20 paragraph (5), and the contract file shall provide sufficient information to satisfy
21 an external audit.

22 **Comment.** Section 10208 is amended to reflect nonsubstantive recodification of the California
23 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
24 Reports 207 (2019).

25 [This Comment is new.]

26 **Note.** Section 10208 was just added to the Public Contract Code by 2021 Cal. Stat. ch. 247, § 4
27 (SB 626 (Dodd)). The CPRA cross-reference in that section needs to be updated to reflect the
28 CPRA recodification.

29 **Pub. Cont. Code § 20665.24 (amended). Bidding for job order contract with community**
30 **college district**

31 SEC. 76. Section 20665.24 of the Public Contract Code is amended to read:

32 20665.24. Bidding for job order contracts shall progress as follows:

33 (a) (1) A community college district shall prepare a set of documents for job
34 order contracts. The documents shall include a unit price catalog and
35 preestablished unit prices, job order contract technical specifications, and any
36 other information deemed necessary to describe adequately the community college
37 district's needs.

38 (2) Any architect, engineer, consultant, or contractor retained by the community
39 college district to assist in the development of the job order contract documents
40 shall not be eligible to bid or to participate in the preparation of a bid with any job
41 order contractor.

42 (b) Based on the documents prepared under subdivision (a), a community
43 college district shall prepare a request for bid that invites prequalified job order

1 contractors to submit competitive sealed bids in the manner prescribed by the
2 community college district.

3 (1) (A) The prequalified job order contractors, as determined by a community
4 college district, shall bid one or more adjustment factors to the unit prices listed in
5 the unit price catalog based on the job order contract technical specifications.
6 Awards shall be made to the prequalified bidders that the community college
7 district determines to be the most qualified based upon preestablished criteria
8 made by a community college district. The prequalified bidders shall be in
9 compliance with a community college district's project labor agreement.

10 (B) Compliance shall constitute no more than three major violations on any
11 community college district projects within the last three years. If a contractor has
12 more than three violations within a three-year period of time, the community
13 college district shall seek administrative review of the violations. Violations will
14 include, but are not limited to, the following:

15 (i) Failure to register core workers with the appropriate building trade union.

16 (ii) Failure to assign apprentices in accordance with Section 1777.5 of the Labor
17 Code.

18 (iii) Failure to comply with subdivision (c) of Section 20665.25.

19 (iv) Incorrect assignment of work in accordance with the community college
20 district's project labor agreement.

21 (2) The community college district may award multiple job order contracts
22 through a request for bid. Job order contracts shall be awarded to the most
23 qualified prequalified bidders described in this subdivision.

24 (3) The request for bids may encourage the participation of local construction
25 firms and the use of local subcontractors.

26 (c) (1) A community college district shall establish a procedure to prequalify job
27 order contractors using a standard questionnaire that includes, at a minimum, the
28 issues covered by the standardized questionnaire and model guidelines for rating
29 bidders developed by the Department of Industrial Relations pursuant to
30 subdivision (a) of Section 20101. This questionnaire shall require information
31 including, but not limited to, all of the following:

32 (A) If the job order contractor is a partnership, limited partnership, or other
33 association, a listing of all of the partners or association members known at the
34 time of bid submission who will participate in the job order contract.

35 (B) Evidence that the members of the job order contractor have the capacity to
36 complete projects of similar size, scope, or complexity, and that proposed key
37 personnel have sufficient experience and training to competently manage the
38 construction of the project, as well as a financial statement that assures the
39 community college district that the job order contractor has the capacity to
40 complete the project.

41 (C) The licenses, registration, and credentials required to perform construction,
42 including, but not limited to, information on the revocation or suspension of any
43 license, credential, or registration.

1 (D) Evidence that establishes that the job order contractor has the capacity to
2 obtain all required payment and performance bonding and liability insurance.

3 (E) Information concerning workers' compensation experience history, worker
4 safety programs, and apprenticeship programs.

5 (F) A full disclosure regarding all of the following that are applicable:

6 (i) Any serious or willful violation of Part 1 (commencing with Section 6300) of
7 Division 5 of the Labor Code or the federal Occupational Safety and Health Act of
8 1970 (Public Law 91-596), settled against any member of the job order contractor.

9 (ii) Any debarment, disqualification, or removal from a federal, state, or local
10 government public works project.

11 (iii) Any instance where the job order contractor, or its owners, officers, or
12 managing employees submitted a bid on a public works project and were found to
13 be nonresponsive, or were found by an awarding body not to be a responsible
14 bidder.

15 (iv) Any instance where the job order contractor, or its owners, officers, or
16 managing employees defaulted on a construction contract.

17 (v) Any violations of the Contractors' State License Law (Chapter 9
18 (commencing with Section 7000) of Division 3 of the Business and Professions
19 Code), excluding alleged violations of federal or state law regarding the payment
20 of wages, benefits, apprenticeship requirements, or personal income tax
21 withholding, or of Federal Insurance Contribution Act (FICA) withholding
22 requirements settled against any member of the job order contractor.

23 (vi) Any bankruptcy or receivership of any member of the job order contractor,
24 including, but not limited to, information concerning any work completed by a
25 surety.

26 (vii) Any settled adverse claims, disputes, or lawsuits between the owner of a
27 public works project and any member of the job order contractor during the five
28 years preceding submission of a bid under this article, in which the claim,
29 settlement, or judgment exceeds fifty thousand dollars (\$50,000). Information
30 shall also be provided concerning any work completed by a surety during this
31 period.

32 (G) In the case of a partnership or any association that is not a legal entity, a
33 copy of the agreement creating the partnership or association and specifying that
34 all partners or association members agree to be fully liable for the performance
35 under the job order contract.

36 (2) The information required under this subdivision shall be verified under oath
37 by the entity and its members in the manner in which civil pleadings in civil
38 actions are verified. Information that is not a public record under the California
39 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
40 Division 10 (commencing with Section 7920.000)) of Title 1 of the Government
41 Code) shall not be open to public inspection.

1 **Comment.** Section 20665.24 is amended to reflect nonsubstantive recodification of the
2 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
3 Comm'n Reports 207 (2019).

4 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
5 Reports 207 (2019).]

6 **Note.** Public Contract Code Section 20665.24 was scheduled to be repealed on Jan. 1, 2022,
7 pursuant to the version of Public Contract Code Section 20665.33 that was in effect in 2021. If
8 that repeal had happened as scheduled, it would not have been necessary to update the CPRA
9 cross-reference in Section 20665.24. Thus, AB 474 did not include a conforming revision of that
10 section.

11 However, the sunset date in Section 20665.33 was extended to Jan. 1, 2027, by 2021 Cal. Stat.
12 ch. 303, § 2 (AB 846 (Low)). Consequently, the CPRA cross-reference in Public Contract Code
13 Section 20665.24 now needs to be updated to reflect the CPRA recodification, as shown above.

14 **Pub. Cont. Code § 20919.24 (amended). Bidding for job order contract with school district**

15 SEC. 77. Section 20919.24 of the Public Contract Code is amended to read:

16 20919.24. Bidding for job order contracts shall progress as follows:

17 (a) (1) The school district shall prepare a set of documents for job order
18 contracts. The documents shall include a unit price catalog and preestablished unit
19 prices, job order contract technical specifications, and any other information
20 deemed necessary to describe adequately the school district's needs.

21 (2) Any architect, engineer, consultant, or contractor retained by the school
22 district to assist in the development of the job order contract documents shall not
23 be eligible to bid or to participate in the preparation of a bid with any job order
24 contractor.

25 (b) Based on the documents prepared under subdivision (a), the school district
26 shall prepare a request for bid that invites prequalified job order contractors to
27 submit competitive sealed bids in the manner prescribed by the school district.

28 (1) (A) The prequalified job order contractors, as determined by the school
29 district, shall bid one or more adjustment factors to the unit prices listed in the unit
30 price catalog based on the job order contract technical specifications. Awards shall
31 be made to the prequalified bidders that the school district determines to be the
32 most qualified based upon preestablished criteria made by the school district. The
33 prequalified bidders shall be in compliance with the school district's project labor
34 agreement.

35 (B) Compliance shall constitute no more than three major violations on any
36 school district projects within the last three years. If a contractor has more than
37 three violations within a three-year period of time, the school district shall seek
38 administrative review of the violations. Violations will include, but are not limited
39 to, the following:

40 (i) Failure to register core workers with the appropriate building trade union.

41 (ii) Failure to assign apprentices in accordance with Section 1777.5 of the Labor
42 Code.

43 (iii) Failure to comply with subdivision (c) of Section 20919.25.

1 (iv) Incorrect assignment of work in accordance with the school district’s project
2 labor agreement.

3 (2) The school district may award multiple job order contracts through a request
4 for bid. Job order contracts shall be awarded to the most qualified prequalified
5 bidders described in this subdivision.

6 (3) The request for bids may encourage the participation of local construction
7 firms and the use of local subcontractors.

8 (c) (1) The school district shall establish a procedure to prequalify job order
9 contractors using a standard questionnaire that includes, at a minimum, the issues
10 covered by the standardized questionnaire and model guidelines for rating bidders
11 developed by the Department of Industrial Relations pursuant to subdivision (a) of
12 Section 20101. This questionnaire shall require information including, but not
13 limited to, all of the following:

14 (A) If the job order contractor is a partnership, limited partnership, or other
15 association, a listing of all of the partners or association members known at the
16 time of bid submission who will participate in the job order contract.

17 (B) Evidence that the members of the job order contractor have the capacity to
18 complete projects of similar size, scope, or complexity, and that proposed key
19 personnel have sufficient experience and training to competently manage the
20 construction of the project, as well as a financial statement that assures the school
21 district that the job order contractor has the capacity to complete the project.

22 (C) The licenses, registration, and credentials required to perform construction,
23 including, but not limited to, information on the revocation or suspension of any
24 license, credential, or registration.

25 (D) Evidence that establishes that the job order contractor has the capacity to
26 obtain all required payment and performance bonding and liability insurance.

27 (E) Information concerning workers’ compensation experience history, worker
28 safety programs, and apprenticeship programs.

29 (F) A full disclosure regarding all of the following that are applicable:

30 (i) Any serious or willful violation of Part 1 (commencing with Section 6300) of
31 Division 5 of the Labor Code or the federal Occupational Safety and Health Act of
32 1970 (Public Law 91-596), settled against any member of the job order contractor.

33 (ii) Any debarment, disqualification, or removal from a federal, state, or local
34 government public works project.

35 (iii) Any instance where the job order contractor, or its owners, officers, or
36 managing employees submitted a bid on a public works project and were found to
37 be nonresponsive, or were found by an awarding body not to be a responsible
38 bidder.

39 (iv) Any instance where the job order contractor, or its owners, officers, or
40 managing employees defaulted on a construction contract.

41 (v) Any violations of the Contractors’ State License Law (Chapter 9
42 (commencing with Section 7000) of Division 3 of the Business and Professions
43 Code), excluding alleged violations of federal or state law regarding the payment

1 of wages, benefits, apprenticeship requirements, or personal income tax
2 withholding, or of Federal Insurance Contribution Act (FICA) withholding
3 requirements settled against any member of the job order contractor.

4 (vi) Any bankruptcy or receivership of any member of the job order contractor,
5 including, but not limited to, information concerning any work completed by a
6 surety.

7 (vii) Any settled adverse claims, disputes, or lawsuits between the owner of a
8 public works project and any member of the job order contractor during the five
9 years preceding submission of a bid under this article, in which the claim,
10 settlement, or judgment exceeds fifty thousand dollars (\$50,000). Information
11 shall also be provided concerning any work completed by a surety during this
12 period.

13 (G) In the case of a partnership or any association that is not a legal entity, a
14 copy of the agreement creating the partnership or association and specifying that
15 all partners or association members agree to be fully liable for the performance
16 under the job order contract.

17 (2) The information required under this subdivision shall be verified under oath
18 by the entity and its members in the manner in which civil pleadings in civil
19 actions are verified. Information that is not a public record under the California
20 Public Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
21 (Division 10 (commencing with Section 7920.000)) of Title 1 of the Government
22 Code) shall not be open to public inspection.

23 **Comment.** Section 20919.24 is amended to reflect nonsubstantive recodification of the
24 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
25 Comm'n Reports 207 (2019).

26 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
27 Reports 207 (2019).]

28 **Note.** Public Contract Code Section 20919.24 was scheduled to be repealed on Jan. 1, 2022,
29 pursuant to the version of Public Contract Code Section 20919.33 that was in effect in 2021. If
30 that repeal had happened as scheduled, it would not have been necessary to update the CPRA
31 cross-reference in Section 20919.24. Thus, AB 474 did not include a conforming revision of that
32 section.

33 However, the sunset date in Section 20919.33 was extended to Jan. 1, 2027, by 2021 Cal. Stat.
34 ch. 303, § 4 (AB 846 (Low)). Consequently, the CPRA cross-reference in Public Contract Code
35 Section 20919.24 now needs to be updated to reflect the CPRA recodification, as shown above.

36 PUBLIC RESOURCES CODE

37 **Pub. Res. Code § 21080.47 (amended). Exempt projects**

38 SEC. 78. Section 21080.47 of the Public Resources Code is amended to read:

39 21080.47. (a) For purposes of this section, the following definitions apply:

40 (1) "Community water system" means a public water system that serves at least
41 15 service connections used by yearlong residents or regularly serves at least 25
42 yearlong residents within the area served by the public water system.

1 (2) “Disadvantaged community” means a community with an annual median
2 household income that is less than 80 percent of the statewide annual median
3 household income.

4 (3) “Nontransient noncommunity water system” means a public water system
5 that is not a community water system and that regularly serves at least 25 of the
6 same persons more than six months per year.

7 (4) (A) “Project” means a project that consists solely of the installation, repair,
8 or reconstruction of one or more of the following:

9 (i) Drinking water groundwater wells with a maximum flow rate of up to 250
10 gallons per minute.

11 (ii) Drinking water treatment facilities with a footprint of less than 2,500 square
12 feet that are not located in an environmentally sensitive area.

13 (iii) Drinking water storage tanks with a capacity of up to 250,000 gallons.

14 (iv) Booster pumps and hydropneumatic tanks.

15 (v) Pipelines of less than one mile in length in a road right-of-way or up to seven
16 miles in length in a road right-of-way when the project is required to address
17 threatened or current drinking water violations.

18 (vi) Water service lines.

19 (vii) Minor drinking water system appurtenances, including, but not limited to,
20 system and service meters, fire hydrants, water quality sampling stations, valves,
21 air releases and vacuum break valves, emergency generators, backflow prevention
22 devices, and appurtenance enclosures.

23 (B) “Project” does not include either of the following categories of projects:

24 (i) Facilities that are constructed primarily to serve irrigation or future growth.

25 (ii) Facilities that are used to dam, divert, or convey surface water.

26 (5) “Project labor agreement” has the same meaning as in paragraph (1) of
27 subdivision (b) of Section 2500 of the Public Contract Code.

28 (6) “Public water system” means a system for the provision of water for human
29 consumption through pipes or other constructed conveyances that has 15 or more
30 service connections or regularly serves at least 25 individuals daily at least 60 days
31 out of the year, and shall include, but not be limited to, any of the following:

32 (A) Any collection, treatment, storage, and distribution facilities under the
33 control of, and used primarily in connection with, the public water system.

34 (B) Any collection or pretreatment storage facilities not under the control of the
35 operator of the public water system, but that are used primarily in connection with
36 the public water system.

37 (C) Any system for the provision of water for human consumption through pipes
38 or other constructed conveyances that treats water on behalf of one or more public
39 water systems for the purpose of rendering it safe for human consumption.

40 (7) “Skilled and trained workforce” has the same meaning as provided in
41 Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public
42 Contract Code.

1 (8) “Small community water system” means a community water system that
2 serves no more than 3,300 service connections or a yearlong population of no
3 more than 10,000 persons.

4 (9) “Small disadvantaged community water system” means either a small
5 community water system that serves one or more disadvantaged communities or a
6 nontransient noncommunity water system that primarily serves one or more
7 schools that serve one or more disadvantaged communities.

8 (10) “State small water system” means a system for the provision of piped water
9 to a disadvantaged community for human consumption that serves at least 5, but
10 not more than 14, service connections and does not regularly serve drinking water
11 to more than an average of 25 individuals daily for more than 60 days out of the
12 year.

13 (b) (1) This division does not apply to a project that meets the requirements of
14 subdivision (c) and subdivision (d) or (e), as appropriate, and that primarily
15 benefits a small disadvantaged community water system or a state small water
16 system in any of the following ways:

17 (A) Improving the small disadvantaged community water system’s or state small
18 water system’s water quality, water supply, or water supply reliability.

19 (B) Encouraging water conservation.

20 (C) Providing drinking water service to existing residences within a
21 disadvantaged community, a small disadvantaged community water system, or a
22 state small water system where there is evidence that the water exceeds maximum
23 contaminant levels for primary or secondary drinking water standards or where the
24 drinking water well is no longer able to produce an adequate supply of safe
25 drinking water.

26 (2) Before determining a project is exempt under this section, the lead agency
27 shall contact the State Water Resources Control Board to determine whether
28 claiming the exemption under this section will affect the ability of the small
29 disadvantaged community water system or the state small water system to receive
30 federal financial assistance or federally capitalized financial assistance.

31 (c) The project meets all of the following:

32 (1) Does not affect wetlands or sensitive habitats.

33 (2) Unusual circumstances do not exist that would cause a significant effect on
34 the environment.

35 (3) Is not located on a hazardous waste site that is included on any list compiled
36 pursuant to Section 65962.5 of the Government Code.

37 (4) Does not have the potential to cause a substantial adverse change in the
38 significance of a historical resource.

39 (5) The construction impacts are fully mitigated consistent with applicable law.

40 (6) The cumulative impact of successive reasonably anticipated projects of the
41 same type as the project, in the same place, over time, is not significant.

42 (d) (1) For a project undertaken by a public agency that is exempt from this
43 division pursuant to this section, except as provided in paragraph (2), an entity

1 shall not be prequalified or shortlisted or awarded a contract by the public agency
2 to perform any portion of the project unless the entity provides an enforceable
3 commitment to the public agency that the entity and its subcontractors at every tier
4 will use a skilled and trained workforce to perform all work on the project or
5 contract that falls within an apprenticeable occupation in the building and
6 construction trades.

7 (2) Paragraph (1) does not apply if any of the following requirements are met:

8 (A) The public agency has entered into a project labor agreement that will bind
9 all contractors and subcontractors performing work on the project or contract to
10 use a skilled and trained workforce, and the entity agrees to be bound by that
11 project labor agreement.

12 (B) The project or contract is being performed under the extension or renewal of
13 a project labor agreement that was entered into by the public agency before
14 January 1, 2021.

15 (C) The entity has entered into a project labor agreement that will bind the entity
16 and all of its subcontractors at every tier performing the project or contract to use a
17 skilled and trained workforce.

18 (e) For a project undertaken by a private entity that is exempt from this division
19 pursuant to this section, the project applicant shall do both of the following:

20 (1) Certify to the lead agency that either of the following is true:

21 (A) The entirety of the project is a public work for purposes of Chapter 1
22 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

23 (B) If the project is not in its entirety a public work, all construction workers
24 employed in the execution of the project will be paid at least the general prevailing
25 rate of per diem wages for the type of work and geographic area, as determined by
26 the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the
27 Labor Code, except that apprentices registered in programs approved by the Chief
28 of the Division of Apprenticeship Standards may be paid at least the applicable
29 apprentice prevailing rate. If the project is subject to this subparagraph, then, for
30 those portions of the project that are not a public work, all of the following shall
31 apply:

32 (i) The project applicant shall ensure that the prevailing wage requirement is
33 included in all contracts for the performance of the work.

34 (ii) All contractors and subcontractors shall pay to all construction workers
35 employed in the execution of the work at least the general prevailing rate of per
36 diem wages, except that apprentices registered in programs approved by the Chief
37 of the Division of Apprenticeship Standards may be paid at least the applicable
38 apprentice prevailing rate.

39 (iii) (I) Except as provided in subclause (III), all contractors and subcontractors
40 shall maintain and verify payroll records pursuant to Section 1776 of the Labor
41 Code and make those records available for inspection and copying as provided by
42 that section.

1 (II) Except as provided in subclause (III), the obligation of the contractors and
2 subcontractors to pay prevailing wages may be enforced by the Labor
3 Commissioner through the issuance of a civil wage and penalty assessment
4 pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to
5 Section 1742 of the Labor Code, within 18 months after the completion of the
6 project, by an underpaid worker through an administrative complaint or civil
7 action, or by a joint labor-management committee through a civil action under
8 Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is
9 issued, the contractor, subcontractor, and surety on a bond or bonds issued to
10 secure the payment of wages covered by the assessment shall be liable for
11 liquidated damages pursuant to Section 1742.1 of the Labor Code.

12 (III) Subclauses (I) and (II) do not apply if all contractors and subcontractors
13 performing work on the project are subject to a project labor agreement that
14 requires the payment of prevailing wages to all construction workers employed in
15 the execution of the project and provides for enforcement of that obligation
16 through an arbitration procedure.

17 (iv) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the
18 requirement that employer payments not reduce the obligation to pay the hourly
19 straight time or overtime wages found to be prevailing shall not apply if otherwise
20 provided in a bona fide collective bargaining agreement covering the worker. The
21 requirement to pay at least the general prevailing rate of per diem wages does not
22 preclude use of an alternative workweek schedule adopted pursuant to Section 511
23 or 514 of the Labor Code.

24 (2) Certify to the lead agency that a skilled and trained workforce will be used to
25 perform all construction work on the project. All of the following requirements
26 shall apply to the project:

27 (A) The applicant shall require in all contracts for the performance of work that
28 every contractor and subcontractor at every tier will individually use a skilled and
29 trained workforce to complete the project.

30 (B) Every contractor and subcontractor shall use a skilled and trained workforce
31 to complete the project.

32 (C) (i) Except as provided in clause (ii), the applicant shall provide to the lead
33 agency, on a monthly basis while the project or contract is being performed, a
34 report demonstrating compliance with Chapter 2.9 (commencing with Section
35 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report
36 provided to the lead agency pursuant to this clause shall be a public record under
37 the California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~
38 of Division 7 (Division 10 (commencing with Section 7920.000)) of Title 1 of the
39 Government Code) and shall be open to public inspection. An applicant that fails
40 to provide a monthly report demonstrating compliance with Chapter 2.9
41 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract
42 Code shall be subject to a civil penalty of ten thousand dollars (\$10,000) per
43 month for each month for which the report has not been provided. Any contractor

1 or subcontractor that fails to use a skilled and trained workforce shall be subject to
2 a civil penalty of two hundred dollars (\$200) per day for each worker employed in
3 contravention of the skilled and trained workforce requirement. Penalties may be
4 assessed by the Labor Commissioner within 18 months of completion of the
5 project using the same procedures for issuance of civil wage and penalty
6 assessments pursuant to Section 1741 of the Labor Code, and may be reviewed
7 pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall
8 be paid to the State Public Works Enforcement Fund.

9 (ii) Clause (i) does not apply if all contractors and subcontractors performing
10 work on the project are subject to a project labor agreement that requires
11 compliance with the skilled and trained workforce requirement and provides for
12 enforcement of that obligation through an arbitration procedure.

13 (f) If the lead agency determines that a project is not subject to this division
14 pursuant to this section, and the lead agency determines to approve or carry out
15 that project, the lead agency shall file a notice of exemption with the Office of
16 Planning and Research and the county clerk of the county in which the project is
17 located in the manner specified in subdivisions (b) and (c) of Section 21152.

18 (g) This section shall remain in effect only until January 1, 2028, and as of that
19 date is repealed.

20 **Comment.** Section 21080.47 is amended to reflect nonsubstantive recodification of the
21 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
22 Comm'n Reports 207 (2019).

23 [This Comment is new.]

24 **Note.** Section 21080.47 was added to the Public Resources Code by 2020 Cal. Stat. ch. 234, §
25 2 (SB 974 (Hurtado)). The section was not included in the CPRA conforming revisions bill (2021
26 Cal. Stat. ch. 615 (AB 474 (Chau))), so the CPRA cross-reference in it still needs to be updated to
27 reflect the CPRA recodification.

28 **Pub. Res. Code § 21168.6.9 (amended). Environmental leadership transit project**

29 SEC. 79. Section 21168.6.9 of the Public Resources Code is amended to read:

30 21168.6.9. (a) For purposes of this section, the following definitions apply:

31 (1) “Environmental leadership transit project” or “project” means a project to
32 construct a fixed guideway and related fixed facilities that meets all of the
33 following conditions:

34 (A) The fixed guideway operates at zero emissions.

35 (B) (i) If the project is more than two miles in length, the project reduces
36 emissions by no less than 400,000 metric tons of greenhouse gases directly in the
37 corridor of the project defined in the applicable environmental document over the
38 useful life of the project, without using offsets.

39 (ii) If the project is no more than two miles in length, the project reduces
40 emissions by no less than 50,000 metric tons of greenhouse gases directly in the
41 corridor of the project defined in the applicable environmental document over the
42 useful life of the project, without using offsets.

1 (C) The project reduces no less than 30,000,000 vehicle miles traveled in the
2 corridor of the project defined in the applicable environmental document over the
3 useful life of the project.

4 (D) The project is consistent with the applicable sustainable communities
5 strategy or alternative planning strategy.

6 (E) The project is consistent with the applicable regional transportation plan.

7 (F) The project applicant demonstrates how it has incorporated sustainable
8 infrastructure practices to achieve sustainability, resiliency, and climate change
9 mitigation and adaptation goals in the project, including principles, frameworks, or
10 guidelines as recommended by one or more of the following:

11 (i) The sustainability, resiliency, and climate change policies and standards of
12 the American Society of Civil Engineers.

13 (ii) The Envision Rating System of the Institute for Sustainable Infrastructure.

14 (iii) The Leadership in Energy and Environment Design (LEED) rating system
15 of the United States Green Building Council.

16 (G) The environmental leadership transit project is located wholly within the
17 County of Los Angeles or connects to an existing transit project wholly located in
18 the County of Los Angeles.

19 (H) For a project meeting the requirements of subparagraphs (A) to (G),
20 inclusive, for which the environmental review pursuant to this division has
21 commenced before January 1, 2022, the project applicant demonstrates that the
22 record of proceedings is being, or has been, prepared in accordance with
23 subdivision (f).

24 (2) “Fixed guideway” has the same meaning as defined in Section 5302 of Title
25 49 of the United States Code.

26 (3) “Project applicant” means a public or private entity or its affiliates that
27 proposes an environmental leadership transit project, and its successors, heirs, and
28 assignees.

29 (4) “Project labor agreement” has the same meaning as in paragraph (1) of
30 subdivision (b) of Section 2500 of the Public Contract Code.

31 (5) “Skilled and trained workforce” has the same meaning as provided in
32 Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public
33 Contract Code.

34 (b) This section applies to an environmental leadership transit project if the
35 project applicant does all of the following:

36 (1) The project applicant demonstrates compliance with the requirements of
37 Chapter 12.8 (commencing with Section 42649) and Chapter 12.9 (commencing
38 with Section 42649.8) of Part 3 of Division 30, as applicable.

39 (2) (A) Except as provided in subparagraph (B), the project applicant has
40 entered into a binding and enforceable agreement that all mitigation measures
41 required under this division shall be conditions of approval of the project, and
42 those conditions will be fully enforceable by the lead agency or another agency
43 designated by the lead agency. In the case of environmental mitigation measures,

1 the project applicant agrees, as an ongoing obligation, that those measures will be
2 monitored and enforced by the lead agency for the life of the obligation.

3 (B) For a project applicant that is a public agency and is also the lead agency,
4 the public agency conditions the approval of the environmental leadership transit
5 project on, and performs, all mitigation measures required under this division. In
6 the case of environmental mitigation measures, the public agency, as an ongoing
7 obligation, shall monitor those measures for the life of the obligation.

8 (3) The project applicant agrees to pay the costs of the trial court and the court
9 of appeal in hearing and deciding any case challenging a lead agency's action on
10 an environmental leadership transit project under this division, including payment
11 of the costs for the appointment of a special master if deemed appropriate by the
12 court, in a form and manner specified by the Judicial Council, as provided in the
13 California Rules of Court adopted by the Judicial Council under subdivision (d).

14 (4) The project applicant agrees to bear the costs of preparing the record of
15 proceedings for the project concurrent with review and consideration of the project
16 under this division, in a form and manner specified by the lead agency for the
17 project.

18 (c) (1) (A) If the project applicant is a public agency, the project applicant of an
19 environmental leadership transit project shall obtain an enforceable commitment
20 that any bidder, contractor, or other entity undertaking the project will use a
21 skilled and trained workforce to complete the project.

22 (B) Subparagraph (A) does not apply if either of the following are met:

23 (i) The project applicant has entered into a project labor agreement that will bind
24 all contractors and subcontractors performing work on the project to use a skilled
25 and trained workforce.

26 (ii) The bidder, contractor, or other entity has entered into a project labor
27 agreement that will bind all contractors and subcontractors at every tier
28 performing work on the project to use a skilled and trained workforce.

29 (2) If the project applicant is a private entity, the project applicant of an
30 environmental leadership transit project shall do both of the following:

31 (A) Certify to the lead agency that either of the following is true:

32 (i) The entirety of the project is a public work for purposes of Chapter 1
33 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

34 (ii) If the project is not in its entirety a public work and the project applicant is
35 not required to pay prevailing wages to all construction workers under Article 2
36 (commencing with Section 1720) of Chapter 1 of Part 2 of Division 2 of the Labor
37 Code, all construction workers employed on construction of the project will be
38 paid at least the general prevailing rate of per diem wages for the type of work and
39 geographic area, as determined by the Director of Industrial Relations pursuant to
40 Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in
41 programs approved by the Chief of the Division of Apprenticeship Standards may
42 be paid at least the applicable apprentice prevailing rate. If the project is subject to

1 this clause, then for those portions of the project that are not a public work all of
2 the following shall apply:

3 (I) The project applicant shall ensure that the prevailing wage requirement is
4 included in all contracts for the performance of all construction work.

5 (II) All contractors and subcontractors at every tier shall pay to all construction
6 workers employed in the execution of the work at least the general prevailing rate
7 of per diem wages, except that apprentices registered in programs approved by the
8 Chief of the Division of Apprenticeship Standards may be paid at least the
9 applicable apprentice prevailing rate.

10 (III) Except as provided in subclause (V), all contractors and subcontractors at
11 every tier shall maintain and verify payroll records pursuant to Section 1776 of the
12 Labor Code and make those records available for inspection and copying as
13 provided by that section.

14 (IV) Except as provided in subclause (V), the obligation of the contractors and
15 subcontractors at every tier to pay prevailing wages may be enforced by the Labor
16 Commissioner through the issuance of a civil wage and penalty assessment
17 pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to
18 Section 1742 of the Labor Code, within 18 months after the completion of the
19 project, or by an underpaid worker through an administrative complaint or civil
20 action, or by a joint labor-management committee through a civil action under
21 Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is
22 issued, the contractor, subcontractor, and surety on a bond or bonds issued to
23 secure the payment of wages covered by the assessment shall be liable for
24 liquidated damages pursuant to Section 1742.1 of the Labor Code.

25 (V) Subclauses (III) and (IV) do not apply if all contractors and subcontractors
26 at every tier performing work on the project are subject to a project labor
27 agreement that requires the payment of prevailing wages to all construction
28 workers employed in the execution of the project and provides for enforcement of
29 that obligation through an arbitration procedure.

30 (VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the
31 requirement that employer payments not reduce the obligation to pay the hourly
32 straight time or overtime wages found to be prevailing shall not apply if otherwise
33 provided in a bona fide collective bargaining agreement covering the worker. The
34 requirement to pay at least the general prevailing rate of per diem wages does not
35 preclude use of an alternative workweek schedule adopted pursuant to Section 511
36 or 514 of the Labor Code.

37 (B) Certify to the lead agency that a skilled and trained workforce will be used
38 to perform all construction work on the project. All of the following requirements
39 shall apply to the project:

40 (i) The project applicant shall require in all contracts for the performance of
41 work that every contractor and subcontractor at every tier will individually use a
42 skilled and trained workforce to construct the project.

1 (ii) Every contractor and subcontractor at every tier shall use a skilled and
2 trained workforce to construct the project.

3 (iii) (I) Except as provided in subclause (II), the project applicant shall provide
4 to the lead agency, on a monthly basis while the project or contract is being
5 performed, a report demonstrating compliance with Chapter 2.9 (commencing
6 with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly
7 report provided to the lead agency pursuant to this subclause shall be a public
8 record under the California Public Records Act (~~Chapter 3.5 (commencing with~~
9 ~~Section 6250) of Division 7 (Division 10 (commencing with Section 7920.000) of~~
10 Title 1) and shall be open to public inspection. A project applicant that fails to
11 provide a monthly report demonstrating compliance with Chapter 2.9
12 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract
13 Code shall be subject to a civil penalty of ten thousand dollars (\$10,000) per
14 month for each month for which the report has not been provided. Any contractor
15 or subcontractor that fails to use a skilled and trained workforce shall be subject to
16 a civil penalty of two hundred dollars (\$200) per calendar day for each worker
17 employed in contravention of the skilled and trained workforce requirement.
18 Penalties may be assessed by the Labor Commissioner within 18 months of
19 completion of the project using the same procedures for issuance of civil wage and
20 penalty assessments pursuant to Section 1741 of the Labor Code, and may be
21 reviewed pursuant to the same procedures in Section 1742 of the Labor Code.
22 Penalties shall be paid to the State Public Works Enforcement Fund.

23 (II) Subclause (I) shall not apply if all contractors and subcontractors at every
24 tier performing work on the project are subject to a project labor agreement that
25 requires compliance with the skilled and trained workforce requirement and
26 provides for enforcement of that obligation through an arbitration procedure.

27 (d) On or before January 1, 2023, the Judicial Council shall adopt rules of court
28 that apply to any action or proceeding brought to attack, review, set aside, void, or
29 annul the certification of an environmental impact report for an environmental
30 leadership transit project or the granting of any project approval that require the
31 action or proceeding, including any potential appeals to the court of appeal or the
32 Supreme Court, to be resolved, to the extent feasible, within 365 calendar days of
33 the filing of the certified record of proceedings with the court.

34 (e) (1) (A) The draft and final environmental impact report for an environmental
35 leadership transit project shall include a notice in not less than 12-point type
36 stating the following:

37
38 THIS ENVIRONMENTAL IMPACT REPORT IS SUBJECT TO SECTION
39 21168.6.9 OF THE PUBLIC RESOURCES CODE, WHICH PROVIDES,
40 AMONG OTHER THINGS, THAT THE LEAD AGENCY NEED NOT
41 CONSIDER CERTAIN COMMENTS FILED AFTER THE CLOSE OF THE
42 PUBLIC COMMENT PERIOD, IF ANY, FOR THE DRAFT
43 ENVIRONMENTAL IMPACT REPORT. ANY JUDICIAL ACTION

1 CHALLENGING THE CERTIFICATION OR ADOPTION OF THE
2 ENVIRONMENTAL IMPACT REPORT OR THE APPROVAL OF THE
3 PROJECT DESCRIBED IN SECTION 21168.6.9 OF THE PUBLIC
4 RESOURCES CODE IS SUBJECT TO THE PROCEDURES SET FORTH IN
5 THAT SECTION. A COPY OF SECTION 21168.6.9 OF THE PUBLIC
6 RESOURCES CODE IS INCLUDED IN THE APPENDIX TO THIS
7 ENVIRONMENTAL IMPACT REPORT.

8
9 (B) For an environmental leadership transit project for which a draft
10 environmental impact report was issued before January 1, 2022, the lead agency
11 shall, before February 1, 2022, or before the public hearing on the certification of
12 the environmental impact report, whichever is earlier, provide the notice specified
13 in subparagraph (A), in writing, to all parties that have requested notification
14 regarding the project. The lead agency shall include that notice and the appendix
15 required pursuant to paragraph (2) in the final environmental impact report for the
16 project.

17 (C) For an environmental leadership transit project for which a final
18 environmental impact report was issued before January 1, 2022, the lead agency
19 shall, before February 1, 2022, or before the issuance of the notice of
20 determination, whichever is earlier, do both of the following:

21 (i) Issue an addendum to the final environmental impact report containing the
22 notice specified in subparagraph (A) and the appendix required pursuant to
23 paragraph (2).

24 (ii) Provide notice, in writing, of the addendum to all parties that have requested
25 notification regarding the project.

26 (2) The draft environmental impact report and final environmental impact report
27 shall contain, as an appendix, the full text of this section.

28 (3) Within 10 calendar days after the release of the draft environmental impact
29 report, the lead agency shall conduct an informational workshop to inform the
30 public of the key analyses and conclusions of that document, as applicable.

31 (4) Within 10 calendar days before the close of the public comment period, the
32 lead agency shall hold a public hearing to receive testimony on the draft
33 environmental impact report. A transcript of the hearing shall be included as an
34 appendix to the final environmental impact report, as applicable.

35 (5) (A) Within five calendar days following the close of the public comment
36 period, a commenter on the draft environmental impact report may submit to the
37 lead agency a written request for nonbinding mediation, as applicable. The lead
38 agency shall participate in nonbinding mediation with all commenters who
39 submitted timely comments on the draft environmental impact report and who
40 requested the mediation. Mediation conducted pursuant to this paragraph shall end
41 no later than 35 calendar days after the close of the public comment period.

42 (B) A request for mediation shall identify all areas of dispute raised in the
43 comment submitted by the commenter that are to be mediated.

1 (C) The lead agency shall select one or more mediators who shall be retired
2 judges or recognized experts with at least five years' experience in land use and
3 environmental law or science, or mediation. The lead agency shall bear the costs
4 of mediation.

5 (D) A mediation session shall be conducted on each area of dispute with the
6 parties requesting mediation on that area of dispute.

7 (E) The lead agency shall adopt, as a condition of approval, any measures
8 agreed upon by the lead agency and any commenter who requested mediation. A
9 commenter who agrees to a measure pursuant to this subparagraph shall not raise
10 the issue addressed by that measure as a basis for an action or proceeding
11 challenging the lead agency's decision to certify the environmental impact report
12 or to grant project approval.

13 (6) The lead agency need not consider written comments on the draft
14 environmental impact report submitted after the close of the public comment
15 period, unless those comments address any of the following:

16 (A) New issues raised in the response to comments by the lead agency.

17 (B) New information released by the lead agency subsequent to the release of
18 the draft environmental impact report, such as new information set forth or
19 embodied in a staff report, proposed permit, proposed resolution, ordinance, or
20 similar documents.

21 (C) Changes made to the project after the close of the public comment period.

22 (D) Proposed conditions for approval, mitigation measures, or proposed findings
23 required by Section 21081 or a proposed reporting or monitoring program required
24 by paragraph (1) of subdivision (a) of Section 21081.6, if the lead agency releases
25 those documents subsequent to the release of the draft environmental impact
26 report.

27 (E) New information that was not reasonably known and could not have been
28 reasonably known during the public comment period.

29 (7) The lead agency shall file the notice required by subdivision (a) of Section
30 21152 within five calendar days after the last initial project approval.

31 (f) (1) The lead agency shall prepare and certify the record of proceedings in
32 accordance with this subdivision and in accordance with Rule 3.1365 of the
33 California Rules of Court.

34 (2) No later than three business days following the date of the release of the
35 draft environmental impact report, the lead agency shall make available to the
36 public in a readily accessible electronic format the draft environmental impact
37 report and all other documents relied on by the lead agency in the preparation of
38 the draft environmental impact report. A document prepared by the lead agency
39 after the date of the release of the draft environmental impact report that is a part
40 of the record of proceedings shall be made available to the public in a readily
41 accessible electronic format within five business days after the document is
42 prepared by the lead agency.

1 (3) Notwithstanding paragraph (2), documents relied on by the lead agency that
2 were not prepared specifically for the project and are copyright protected are not
3 required to be made readily accessible in an electronic format. For those copyright
4 protected documents, the lead agency shall make an index of the documents
5 available in an electronic format no later than the date of the release of the draft
6 environmental impact report, or within five business days if the document is
7 received or relied on by the lead agency after the release of the draft
8 environmental impact report. The index shall specify the libraries or lead agency
9 offices in which hardcopies of the copyrighted materials are available for public
10 review.

11 (4) The lead agency shall encourage written comments on the project to be
12 submitted in a readily accessible electronic format, and shall make any such
13 comments available to the public in a readily accessible electronic format within
14 five calendar days of their receipt.

15 (5) Within seven business days after the receipt of any comment that is not in an
16 electronic format, the lead agency shall convert that comment into a readily
17 accessible electronic format and make it available to the public in that format.

18 (6) The lead agency shall indicate in the record of proceedings comments
19 received that were not considered by the lead agency pursuant to paragraph (6) of
20 subdivision (e) and need not include the content of the comments as a part of the
21 record of proceedings.

22 (7) Within five calendar days after the filing of the notice required by
23 subdivision (a) of Section 21152, the lead agency shall certify the record of
24 proceedings for the approval or determination and shall provide an electronic copy
25 of the record of proceedings to a party that has submitted a written request for a
26 copy. The lead agency may charge and collect a reasonable fee from a party
27 requesting a copy of the record of proceedings for the electronic copy, which shall
28 not exceed the reasonable cost of reproducing that copy.

29 (8) Within 10 calendar days after being served with a complaint or a petition for
30 a writ of mandate, the lead agency shall lodge a copy of the certified record of
31 proceedings with the superior court.

32 (9) Any dispute over the content of the record of proceedings shall be resolved
33 by the superior court. Unless the superior court directs otherwise, a party disputing
34 the content of the record of proceedings shall file a motion to augment the record
35 of proceedings at the time it files its initial brief.

36 (10) The contents of the record of proceedings shall be as set forth in
37 subdivision (e) of Section 21167.6.

38 (g) This section applies only to an environmental leadership transit project that
39 is approved by the lead agency on or before January 1, 2024.

40 (h) This section shall only apply to the first seven projects obtaining a certified
41 environmental impact report and meeting the requirements of this section.

42 (i) This section shall remain in effect only until January 1, 2025, and as of that
43 date is repealed.

1 **Comment.** Section 21168.6.9 is amended to reflect nonsubstantive recodification of the
2 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
3 Comm'n Reports 207 (2019).

4 [This Comment is new.]

5 **Note.** Section 21168.6.9 was just added to the Public Resources Code by 2021 Cal. Stat. ch.
6 633, § 2 (SB 44 (Allen)). The CPRA cross-reference in that section needs to be updated to reflect
7 the CPRA recodification.

8 **Pub. Res. Code § 21183.5 (amended). Workforce requirements for projects**

9 SEC. 80. Section 21183.5 of the Public Resources Code is amended to read:

10 21183.5. (a) For purposes of this section, the following definitions apply:

11 (1) "Project labor agreement" has the same meaning as set forth in paragraph (1)
12 of subdivision (b) of Section 2500 of the Public Contract Code.

13 (2) "Skilled and trained workforce" has the same meaning as set forth in Chapter
14 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract
15 Code.

16 (b) (1) For a project undertaken by a public agency that is certified under this
17 chapter, except as provided in paragraph (2), an entity shall not be prequalified or
18 shortlisted or awarded a contract by the public agency to perform any portion of
19 the project unless the entity provides an enforceable commitment to the public
20 agency that the entity and its contractors and subcontractors at every tier will use a
21 skilled and trained workforce to perform all work on the project or contract that
22 falls within an apprenticeable occupation in the building and construction trades.

23 (2) Paragraph (1) does not apply if any of the following requirements are met:

24 (A) The public agency has entered into a project labor agreement that will bind
25 all contractors and subcontractors at every tier performing work on the project or
26 contract to use a skilled and trained workforce, and the entity agrees to be bound
27 by that project labor agreement.

28 (B) The project or contract is being performed under the extension or renewal of
29 a project labor agreement that was entered into by the public agency before
30 January 1, 2021.

31 (C) The entity has entered into a project labor agreement that will bind the entity
32 and all of its contractors and subcontractors at every tier performing work on the
33 project or contract to use a skilled and trained workforce.

34 (c) For a project undertaken by a private entity that is certified under this
35 chapter, the applicant shall do both of the following:

36 (1) Certify to the lead agency that either of the following is true:

37 (A) The entirety of the project is a public work for purposes of Chapter 1
38 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

39 (B) If the project is not in its entirety a public work, all construction workers
40 employed in the execution of the project will be paid at least the general prevailing
41 rate of per diem wages for the type of work and geographic area, as determined by
42 the Director of Industrial Relations under Sections 1773 and 1773.9 of the Labor
43 Code, except that apprentices registered in programs approved by the Chief of the

1 Division of Apprenticeship Standards may be paid at least the applicable
2 apprentice prevailing rate. If the project is subject to this subparagraph, then, for
3 those portions of the project that are not a public work, all of the following shall
4 apply:

5 (i) The applicant shall ensure that the prevailing wage requirement is included in
6 all contracts for the performance of the work.

7 (ii) All contractors and subcontractors at every tier shall pay to all construction
8 workers employed in the execution of the work on the project or contract at least
9 the general prevailing rate of per diem wages, except that apprentices registered in
10 programs approved by the Chief of the Division of Apprenticeship Standards may
11 be paid at least the applicable apprentice prevailing rate.

12 (iii) (I) Except as provided in subclause (III), all contractors and subcontractors
13 at every tier shall maintain and verify payroll records under Section 1776 of the
14 Labor Code and make those records available for inspection and copying as
15 provided by that section.

16 (II) Except as provided in subclause (III), the obligation of all contractors and
17 subcontractors at every tier to pay prevailing wages may be enforced by the Labor
18 Commissioner through the issuance of a civil wage and penalty assessment under
19 Section 1741 of the Labor Code, which may be reviewed under Section 1742 of
20 the Labor Code, within 18 months after the completion of the project, by an
21 underpaid worker through an administrative complaint or civil action, or by a joint
22 labor-management committee through a civil action under Section 1771.2 of the
23 Labor Code. If a civil wage and penalty assessment is issued, the contractor,
24 subcontractor, and surety on a bond or bonds issued to secure the payment of
25 wages covered by the assessment shall be liable for liquidated damages under
26 Section 1742.1 of the Labor Code.

27 (III) Subclauses (I) and (II) do not apply if all contractors and subcontractors at
28 every tier performing work on the project or contract are subject to a project labor
29 agreement that requires the payment of prevailing wages to all construction
30 workers employed in the execution of the project or contract and provides for
31 enforcement of that obligation through an arbitration procedure.

32 (iv) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the
33 requirement that employer payments not reduce the obligation to pay the hourly
34 straight time or overtime wages found to be prevailing shall not apply if otherwise
35 provided in a bona fide collective bargaining agreement covering the worker. The
36 requirement to pay at least the general prevailing rate of per diem wages does not
37 preclude use of an alternative workweek schedule adopted under Section 511 or
38 514 of the Labor Code.

39 (2) Certify to the lead agency that a skilled and trained workforce will be used to
40 perform all construction work on the project or contract. All of the following
41 requirements shall apply to the project:

1 (A) The applicant shall require in all contracts for the performance of work that
2 every contractor and subcontractor at every tier will individually use a skilled and
3 trained workforce to complete the project.

4 (B) Every contractor and subcontractor at every tier shall use a skilled and
5 trained workforce to complete the project.

6 (C) (i) Except as provided in clause (ii), the applicant shall provide to the lead
7 agency, on a monthly basis while the project or contract is being performed, a
8 report demonstrating compliance with Chapter 2.9 (commencing with Section
9 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report
10 provided to the lead agency under this clause shall be a public record under the
11 California Public Records Act (~~Chapter 3.5 (commencing with Section 6250)~~ of
12 ~~Division 7~~ Division 10 (commencing with Section 7920.000) of Title 1 of the
13 Government Code) and shall be open to public inspection. An applicant that fails
14 to provide a monthly report demonstrating compliance with Chapter 2.9
15 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract
16 Code shall be subject to a civil penalty of ten thousand dollars (\$10,000) per
17 month for each month for which the report has not been provided. Any contractor
18 or subcontractor that fails to use a skilled and trained workforce shall be subject to
19 a civil penalty of two hundred dollars (\$200) per day for each worker employed in
20 contravention of the skilled and trained workforce requirement. Penalties may be
21 assessed by the Labor Commissioner within 18 months of completion of the
22 project using the same procedures for issuance of civil wage and penalty
23 assessments under Section 1741 of the Labor Code, and may be reviewed under
24 the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to
25 the State Public Works Enforcement Fund.

26 (ii) Clause (i) does not apply if all contractors and subcontractors at every tier
27 performing work on the project are subject to a project labor agreement that
28 requires compliance with the skilled and trained workforce requirement and
29 provides for enforcement of that obligation through an arbitration procedure.

30 **Comment.** Section 21183.5 is amended to reflect nonsubstantive recodification of the
31 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
32 Comm'n Reports 207 (2019).

33 [This Comment is new.]

34 **Note.** Section 21183.5 was just added to the Public Resources Code by 2021 Cal. Stat. ch. 19,
35 § 1 (SB 7 (Atkins), an urgency bill enacted 5/20/21). The CPRA cross-reference in that section
36 needs to be updated to reflect the CPRA recodification.

37 **Pub. Res. Code § 21189.70.8 (amended). Workforce requirements for transit and**
38 **transportation facilities projects**

39 SEC. 81. Section 21189.70.8 of the Public Resources Code is amended to read:

40 21189.70.8. (a) (1) For a transit and transportation facilities project undertaken
41 by a public agency, except as provided in paragraph (2), an entity shall not be
42 prequalified or shortlisted or awarded a contract by the public agency to perform
43 any portion of the transit and transportation facilities project unless the entity

1 provides an enforceable commitment to the public agency that the entity and its
2 subcontractors at every tier will use a skilled and trained workforce to perform all
3 work on the transit and transportation facilities project or contract that falls within
4 an apprenticeable occupation in the building and construction trades.

5 (2) Paragraph (1) does not apply if any of the following requirements are met:

6 (A) The public agency has entered into a project labor agreement that will bind
7 all contractors and subcontractors performing work on the transit and
8 transportation facilities project or contract to use a skilled and trained workforce,
9 and the entity agrees to be bound by that project labor agreement.

10 (B) The transit and transportation facilities project or contract is being
11 performed under the extension or renewal of a project labor agreement that was
12 entered into by the public agency before January 1, 2021.

13 (C) The entity has entered into a project labor agreement that will bind the entity
14 and all of its subcontractors at every tier performing the transit and transportation
15 facilities project or contract to use a skilled and trained workforce.

16 (b) For a transit and transportation facilities project undertaken by a private
17 entity, the transit and transportation facilities project proponent shall do both of
18 the following:

19 (1) Certify to the lead agency that either of the following is true:

20 (A) The entirety of the transit and transportation facilities project is a public
21 work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of
22 Division 2 of the Labor Code.

23 (B) If the transit and transportation facilities project is not in its entirety a public
24 work, all construction workers employed in the execution of the transit and
25 transportation facilities project will be paid at least the general prevailing rate of
26 per diem wages for the type of work and geographic area, as determined by the
27 Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor
28 Code, except that apprentices registered in programs approved by the Chief of the
29 Division of Apprenticeship Standards may be paid at least the applicable
30 apprentice prevailing rate. If the transit and transportation facilities project is
31 subject to this subparagraph, then, for those portions of the transit and
32 transportation facilities project that are not a public work, all of the following shall
33 apply:

34 (i) The transit and transportation facilities project proponent shall ensure that the
35 prevailing wage requirement is included in all contracts for the performance of the
36 work.

37 (ii) All contractors and subcontractors shall pay to all construction workers
38 employed in the execution of the work at least the general prevailing rate of per
39 diem wages, except that apprentices registered in programs approved by the Chief
40 of the Division of Apprenticeship Standards may be paid at least the applicable
41 apprentice prevailing rate.

42 (iii) (I) Except as provided in subclause (III), all contractors and subcontractors
43 shall maintain and verify payroll records pursuant to Section 1776 of the Labor

1 Code and make those records available for inspection and copying as provided by
2 that section.

3 (II) Except as provided in subclause (III), the obligation of the contractors and
4 subcontractors to pay prevailing wages may be enforced by the Labor
5 Commissioner through the issuance of a civil wage and penalty assessment
6 pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to
7 Section 1742 of the Labor Code, within 18 months after the completion of the
8 transit and transportation facilities project, by an underpaid worker through an
9 administrative complaint or civil action, or by a joint labor-management
10 committee through a civil action under Section 1771.2 of the Labor Code. If a civil
11 wage and penalty assessment is issued, the contractor, subcontractor, and surety on
12 a bond or bonds issued to secure the payment of wages covered by the assessment
13 shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor
14 Code.

15 (III) Subclauses (I) and (II) do not apply if all contractors and subcontractors
16 performing work on the transit and transportation facilities project are subject to a
17 project labor agreement that requires the payment of prevailing wages to all
18 construction workers employed in the execution of the transit and transportation
19 facilities project and provides for enforcement of that obligation through an
20 arbitration procedure.

21 (iv) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the
22 requirement that employer payments not reduce the obligation to pay the hourly
23 straight time or overtime wages found to be prevailing shall not apply if otherwise
24 provided in a bona fide collective bargaining agreement covering the worker. The
25 requirement to pay at least the general prevailing rate of per diem wages does not
26 preclude use of an alternative workweek schedule adopted pursuant to Section 511
27 or 514 of the Labor Code.

28 (2) Certify to the lead agency that a skilled and trained workforce will be used to
29 perform all construction work on the transit and transportation facilities project.
30 All of the following requirements shall apply to the transit and transportation
31 facilities project:

32 (A) The transit and transportation facilities project proponent shall require in all
33 contracts for the performance of work that every contractor and subcontractor at
34 every tier will individually use a skilled and trained workforce to complete the
35 transit and transportation facilities project.

36 (B) Every contractor and subcontractor shall use a skilled and trained workforce
37 to complete the transit and transportation facilities project.

38 (C) (i) Except as provided in clause (ii), the transit and transportation facilities
39 project proponent shall provide to the lead agency, on a monthly basis while the
40 transit and transportation facilities project or contract is being performed, a report
41 demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of
42 Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the
43 lead agency pursuant to this clause shall be a public record under the California

1 ~~Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7~~
2 ~~(Division 10 (commencing with Section 7920.000) of Title 1 of the Government~~
3 ~~Code) and shall be open to public inspection. A transit and transportation facilities~~
4 ~~project proponent that fails to provide a monthly report demonstrating compliance~~
5 ~~with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the~~
6 ~~Public Contract Code shall be subject to a civil penalty of ten thousand dollars~~
7 ~~(\$10,000) per month for each month for which the report has not been provided.~~
8 ~~Any contractor or subcontractor that fails to use a skilled and trained workforce~~
9 ~~shall be subject to a civil penalty of two hundred dollars (\$200) per day for each~~
10 ~~worker employed in contravention of the skilled and trained workforce~~
11 ~~requirement. Penalties may be assessed by the Labor Commissioner within 18~~
12 ~~months of completion of the transit and transportation facilities project using the~~
13 ~~same procedures for issuance of civil wage and penalty assessments pursuant to~~
14 ~~Section 1741 of the Labor Code, and may be reviewed pursuant to the same~~
15 ~~procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State~~
16 ~~Public Works Enforcement Fund.~~

17 (ii) Clause (i) does not apply if all contractors and subcontractors performing
18 work on the transit and transportation facilities project are subject to a project
19 labor agreement that requires compliance with the skilled and trained workforce
20 requirement and provides for enforcement of that obligation through an arbitration
21 procedure.

22 **Comment.** Section 21189.70.8 is amended to reflect nonsubstantive recodification of the
23 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
24 Comm'n Reports 207 (2019).

25 [This Comment is new.]

26 **Note.** Section 21189.70.8 was added to the Public Resources Code by 2020 Cal. Stat. ch. 291,
27 § 2 (AB 2731 (Gloria)). The section was not included in the CPRA conforming revisions bill. See
28 2021 Cal. Stat. ch. 615 (AB 474 (Chau)). Consequently, the CPRA cross-reference in Public
29 Resources Code Section 21189.70.8 still needs to be updated to reflect the CPRA recodification.

30 **Pub. Res. Code § 41821.5 (amended). Information on handling, processing, and disposal of**
31 **solid wastes and recyclable materials**

32 SEC. 82. Section 41821.5 of the Public Resources Code is amended to read:

33 41821.5. (a) Disposal facility operators shall submit information on the disposal
34 tonnages by jurisdiction or region of origin that are disposed of at each disposal
35 facility to the department, and to counties that request the information, in a form
36 prescribed by the department. To enable disposal facility operators to provide that
37 information, solid waste handlers and transfer station operators shall provide
38 information to disposal facility operators on the origin of the solid waste that they
39 deliver to the disposal facility.

40 (b) (1) Recycling and composting operations and facilities shall submit periodic
41 information to the department on the types and quantities of materials that are
42 disposed of, sold, or transferred to other recycling or composting facilities, end

1 users inside of the state or outside of the state, or exporters, brokers, or
2 transporters for sale inside of the state or outside of the state.

3 (2) Exporters, brokers, self-haulers, and transporters of recyclables or compost
4 shall submit periodic information to the department on the types, quantities, and
5 destinations of materials that are disposed of, sold, or transferred. The department
6 shall develop regulations implementing this section that define “self-hauler” to
7 include, at a minimum, a person or entity that generates and transports, utilizing its
8 own employees and equipment, more than one cubic yard per week of its own
9 food waste to a location or facility that is not owned and operated by that person or
10 entity.

11 (3) The information in the reports submitted pursuant to this subdivision may be
12 provided to the department on an aggregated facilitywide basis and may exclude
13 financial data, such as contract terms and conditions (including information on
14 pricing, credit terms, volume ~~discounts~~ discounts, and other proprietary business
15 terms), the jurisdiction of the origin of the materials, or information on the entities
16 from which the materials are received. The department may provide this
17 information to jurisdictions, aggregated by company, upon request. The
18 aggregated information, other than that aggregated by company, is public
19 information.

20 (4) (A) Notwithstanding paragraph (3), the information in the report submitted
21 pursuant to this subdivision shall include the jurisdiction or region of origin for
22 exported materials that are a mixture of plastic wastes. This subparagraph does not
23 apply to plastic waste consisting of only plastic resin 1, 2, or 5, as assigned to resin
24 types under Section 18015, or a mixture of plastic waste consisting only of a
25 combination of those resins.

26 (B) The department shall make publicly available information on the jurisdiction
27 or region of origin and tonnage information for exported materials that are a
28 mixture of plastic wastes.

29 (C) For purposes of this subdivision, “export” has the same definition as set
30 forth in Section 41781.4.

31 (c) The department shall adopt regulations pursuant to this section requiring
32 practices and procedures that are reasonable and necessary to implement this
33 section, and that provide a representative accounting of solid wastes and
34 recyclable materials that are handled, processed, or disposed. Those regulations
35 approved by the department shall not impose an unreasonable burden on waste and
36 recycling handling, processing, or disposal operations or otherwise interfere with
37 the safe handling, processing, and disposal of solid waste and recyclables. The
38 department shall include in those regulations both of the following:

39 (1) Procedures to ensure that an opportunity to comply is provided prior to
40 initiation of enforcement authorized by Section 41821.7.

41 (2) Factors to be considered in determining penalty amounts that are similar to
42 those provided in Section 45016.

1 (d) Any person who refuses or fails to submit information required by
2 regulations adopted pursuant to this section is liable for a civil penalty of not less
3 than five hundred dollars (\$500) and not more than five thousand dollars (\$5,000)
4 for each violation of a separate provision or, for continuing violations, for each
5 day that the violation continues.

6 (e) Any person who knowingly or willfully files a false report, or any person
7 who refuses to permit the department or any of its representatives to make
8 inspection or examination of records, or who fails to keep any records for the
9 inspection of the department, or who alters, cancels, or obliterates entries in the
10 records for the purpose of falsifying the records as required by regulations adopted
11 pursuant to this section, is liable for a civil penalty of not less than five hundred
12 dollars (\$500) and not more than ten thousand dollars (\$10,000) for each violation
13 of a separate provision or, for continuing violations, for each day that the violation
14 continues.

15 (f) Liability under this section may be imposed in a civil action, or liability may
16 be imposed administratively pursuant to this article.

17 (g) (1) Notwithstanding Title 5 (commencing with Section 3426) of Part 1 of
18 Division 4 of the Civil Code and Article 11 (commencing with Section 1060) of
19 Chapter 4 of Division 8 of the Evidence Code, all records that the facility or
20 operator is reasonably required to keep to allow the department to verify
21 information in, or verification of, the reports required pursuant to subdivisions (a)
22 and (b) and implementing regulations shall be subject to inspection and copying
23 by the department, but shall be confidential and shall not be subject to disclosure
24 under the California Public Records Act (~~Chapter 3.5 (commencing with Section~~
25 ~~6250) of Division 7 (Division 10 (commencing with Section 7920.000)~~ of Title 1
26 of the Government Code).

27 (2) Notwithstanding Title 5 (commencing with Section 3426) of Part 1 of
28 Division 4 of the Civil Code and Article 11 (commencing with Section 1060) of
29 Chapter 4 of Division 8 of the Evidence Code, an employee of a government
30 entity may, at the disposal facility, inspect and copy records related to tonnage
31 received at the facility on or after July 1, 2015, and originating within the
32 government entity's geographic jurisdiction. Those records shall be limited to
33 weight tags that identify the hauler, vehicle, quantity, date, type, and origin of
34 waste received at a disposal facility. Those records shall be available to those
35 government entities for the purposes of subdivision (a) and as necessary to enforce
36 the collection of local fees, but those records shall be confidential and shall not be
37 subject to disclosure under the California Public Records Act (~~Chapter 3.5~~
38 ~~(commencing with Section 6250) of Division 7 (Division 10 (commencing with~~
39 ~~Section 7920.000)~~ of Title 1 of the Government Code). Names of haulers using
40 specific landfills shall not be disclosed by a government entity unless necessary as
41 part of an administrative or judicial enforcement proceeding to fund local
42 programs or enforce local franchises.

1 (3) A government entity may petition the superior court for injunctive or
2 declaratory relief to enforce its authority under paragraph (2). The times for
3 responsive pleadings and hearings in these proceedings shall be set by the judge of
4 the court with the object of securing a decision as to these matters at the earliest
5 possible time.

6 (4) For purposes of this section, a government entity is an entity identified in
7 Section 40145 or an entity formed pursuant to Section 40976.

8 (5) For purposes of this subdivision, “disposal” and “disposal facility” have the
9 same meanings as prescribed by Sections 40120.1 and 40121, respectively.

10 (6) Nothing in this subdivision shall be construed to limit or expand the
11 authority of a government entity that may have been provided by this section and
12 implementing regulations as they read on December 31, 2015.

13 (7) The records subject to inspection and copying by the department pursuant to
14 paragraph (1) or by an employee of a government entity pursuant to paragraph (2)
15 may be redacted by the operator before inspection to exclude confidential pricing
16 information contained in the records, such as contract terms and conditions
17 (including information on pricing, credit terms, volume discounts, and other
18 proprietary business terms), if the redacted information is not information that is
19 otherwise required to be reported to the department.

20 (h) Notwithstanding the Uniform Electronic Transactions Act (Title 2.5
21 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code),
22 reports required by this section shall be submitted electronically, using an
23 electronic reporting format system established by the department.

24 (i) All records provided in accordance with this section shall be subject to
25 Section 40062.

26 **Comment.** Section 41821.5 is amended to reflect nonsubstantive recodification of the
27 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
28 Comm’n Reports 207 (2019).

29 The section is also amended to make a technical change.

30 [This Comment replaces the revised Comment in *Report of the California Law Revision*
31 *Commission on Chapter 615 of the Statutes of 2021 (Assembly Bill 474)*, 48 Cal. L. Revision
32 Comm’n Reports __ (2021).]

33 **Note.** In 2021, Public Resources Code Section 41821.5 was amended by the CPRA conforming
34 revisions bill. See 2021 Cal. Stat. ch. 615, § 390 (AB 474 (Chau)). The section was also amended
35 by 2021 Cal. Stat. ch. 501, § 2 (AB 881 (Lorena Gonzalez)).

36 Due to the subordination clause in the CPRA conforming revisions bill, the amendment made
37 by that bill was chaptered out by AB 881. See Gov’t Code § 9605 (“In the absence of any *express*
38 *provision to the contrary* in the statute that is enacted last, it shall be conclusively presumed that
39 the statute which is enacted last is intended to prevail over statutes that are enacted earlier at the
40 same session ...” (emphasis added)).

41 Consequently, the CPRA cross-references in Public Resources Code Section 41821.5 still need
42 to be updated to reflect the CPRA recodification. The new conforming revision of Public
43 Resources Code Section 41821.5 (shown above) is based on 2021 Cal. Stat. ch. 501, § 2.

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PUBLIC UTILITIES CODE

Pub. Util. Code § 3420 (amended). Golden State Energy

SEC. 83. Section 3420 of the Public Utilities Code is amended to read:

3420. (a) The Governor, or the Governor’s designee, may incorporate Golden State Energy as a nonprofit public benefit corporation pursuant to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) for the purpose of owning, controlling, operating, or managing electrical and gas services for its ratepayers and for the benefit of all Californians.

(b) (1) Golden State Energy’s initial board of directors shall consist of nine members.

(2) (A) The initial board members shall be appointed as follows: five members appointed by the Governor, two members appointed by the Senate Committee on Rules, and two members appointed by the Speaker of the Assembly.

(B) Of the initial board members, one appointee from each of the appointing authorities shall initially serve a two-year term, three appointees by the Governor shall initially serve four-year terms, and one appointee from each of the appointing authorities shall initially serve a six-year term.

(3) (A) The initial board of directors shall amend Golden State Energy’s bylaws to include procedures for the transition to a board consisting of three appointed members, with one member appointed by each of the appointing authorities specified in paragraph (2), who shall serve four-year terms, and six members elected by Golden State Energy’s customers, who shall serve a maximum of six-year terms. The procedures for the transition shall provide for the following:

(i) The initial board members serving the two-year term shall be replaced by elected members.

(ii) The initial board members serving the four-year term shall be replaced by elected members.

(iii) The initial board members serving the six-year term shall be replaced by appointed members, with one member appointed by each of the appointing authorities. The appointing authority may reappoint a board member whose term has expired.

(B) Election procedures adopted by the initial board shall include all of the following:

(i) Nomination of members for election to the board shall be based on a matrix of skills, including the following expertise and experience:

- (I) Wildfire safety, preparedness, prevention, mitigation, response, or recovery.
- (II) Workforce safety and safety culture.
- (III) Nuclear generation safety.
- (IV) Leadership in the energy or utility industry.
- (V) Utility operations and engineering.

- 1 (VI) Innovation and technology in renewable energy.
2 (VII) Risk management, including enterprise risk management.
3 (VIII) Climate change mitigation or climate resilience.
4 (IX) Financial performance and planning.
5 (X) Legal, regulatory, or government experience related to utilities.
6 (XI) Audit.
7 (XII) Corporate governance or executive compensation.
8 (XIII) Labor relations.
9 (XIV) Large-scale customer experience.
10 (XV) Utility board experience.
- 11 (ii) Measures to maximize board member diversity and the selection of
12 California residents located in the service territory of Golden State Energy.
- 13 (iii) Selection by the board, or a committee of the board, of a slate of candidates
14 for election that shall include no less than two candidates for each open board seat
15 using search firms to identify, evaluate, and recommend the most qualified
16 candidates for election.
- 17 (iv) Incorporation of stakeholder input into the board selection process.
- 18 (C) All elected or appointed members of the board, including those appointed
19 pursuant to paragraph (2), shall be free of conflicts of interest that violate state law
20 or the by-laws of Golden State Energy, and shall have demonstrated expertise or
21 experience in one or more of the areas listed in subclauses (I) to (XV), inclusive,
22 of clause (i) of subparagraph (B).
- 23 (4) The initial board of directors shall amend Golden State Energy’s bylaws to
24 include provisions that do all of the following:
- 25 (A) Ensure that the purposes and functions of Golden State Energy are
26 consistent with the purposes and functions of nonprofit, public benefit
27 corporations in the state, including duties of care and conflict-of-interest standards
28 for officers and board members of a corporation.
- 29 (B) Maintain open meeting standards and meeting notice requirements
30 consistent with the general policies of the Bagley-Keene Open Meeting Act
31 (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3
32 of Title 2 of the Government Code) and affording the public the greatest possible
33 access, consistent with other duties of the corporation.
- 34 (C) Provide public access to corporate records consistent with the general
35 policies of the California Public Records Act (~~Chapter 3.5 (commencing with~~
36 ~~Section 6250) of Division 7 (Division 10 (commencing with Section 7920.000)~~ of
37 Title 1 of the Government Code) and affording the public the greatest possible
38 access, consistent with the other duties of the corporation.
- 39 (5) Upon the adoption or amendment of Golden State Energy’s bylaws, the
40 board shall submit the adopted or amended bylaws to the Governor, the
41 Legislature, and the commission.

1 **Comment.** Section 3420 is amended to reflect nonsubstantive recodification of the California
2 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
3 Reports 207 (2019).

4 [This Comment is new.]

5 **Note.** Section 3420 was added to the Public Utilities Code by 2020 Cal. Stat. ch. 27, § 12 (SB
6 350 (Hill)), and amended by 2021 Cal. Stat. ch. 124, § 37 (AB 938 (Davies)). The section was not
7 included in the CPRA conforming revisions bill (2021 Cal. Stat. ch. 615 (AB 474 (Chau))), so the
8 CPRA cross-reference in it still needs to be updated to reflect the CPRA recodification.

9 REVENUE AND TAXATION CODE

10 **Rev. & Tax. Code § 17053.99 (amended). Certification of certified studio construction**
11 **project by California Film Commission**

12 SEC. 84. Section 17053.99 of the Revenue and Taxation Code is amended to
13 read:

14 17053.99. A taxpayer seeking certification of a certified studio construction
15 project by the California Film Commission shall do both of the following:

16 (a) Certify to the California Film Commission that either of the following is
17 true:

18 (1) The entirety of the project is a public work for purposes of Chapter 1
19 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

20 (2) The project is not in its entirety a public work for which prevailing wages
21 must be paid under Article 1 (commencing with Section 1720) of Chapter 1 of Part
22 7 of Division 2 of the Labor Code, but all construction workers employed on the
23 project will be paid at least the general prevailing rate of per diem wages for the
24 type of work and geographic area, as determined by the Director of Industrial
25 Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that
26 apprentices registered in programs approved by the Chief of the Division of
27 Apprenticeship Standards may be paid at least the applicable apprentice prevailing
28 rate. If the project is subject to this paragraph, then for those portions of the
29 project that are not a public work all of the following shall apply:

30 (A) The taxpayer shall ensure that the prevailing wage requirement is included
31 in all contracts for the performance of all construction work.

32 (B) All contractors and subcontractors shall pay to all construction workers
33 employed in the execution of the work at least the general prevailing rate of per
34 diem wages, except that apprentices registered in programs approved by the Chief
35 of the Division of Apprenticeship Standards may be paid at least the applicable
36 apprentice prevailing rate.

37 (C) Except as provided in subparagraph (E), all contractors and subcontractors
38 performing construction work shall maintain and verify payroll records pursuant to
39 Section 1776 of the Labor Code and make those records available for inspection
40 and copying as provided therein.

1 (D) Except as provided in subparagraph (E), the obligation of the contractors
2 and subcontractors to pay prevailing wages may be enforced by the Labor
3 Commissioner through the issuance of a civil wage and penalty assessment
4 pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to
5 Section 1742 of the Labor Code, within 18 months after the completion of the
6 project, or by an underpaid worker through an administrative complaint or civil
7 action, or by a joint labor-management committee through a civil action under
8 Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is
9 issued, the contractor, subcontractor, and surety on a bond or bonds issued to
10 secure the payment of wages covered by the assessment shall be liable for
11 liquidated damages pursuant to Section 1742.1 of the Labor Code.

12 (E) Subparagraphs (C) and (D) shall not apply if all contractors and
13 subcontractors performing construction work on the project are subject to a project
14 labor agreement that requires the payment of prevailing wages to all construction
15 workers employed in the execution of the project and provides for enforcement of
16 that obligation through an arbitration procedure. For purposes of this
17 subparagraph, “project labor agreement” has the same meaning as set forth in
18 paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

19 (b) Certify to the California Film Commission that a skilled and trained
20 workforce will be used to perform all construction work on the proposed project.

21 (1) For purposes of this section, “skilled and trained workforce” has the same
22 meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of
23 Division 2 of the Public Contract Code.

24 (2) If the taxpayer has certified that a skilled and trained workforce will be used
25 to construct all work on the project, the following shall apply:

26 (A) The taxpayer shall require in all contracts for the performance of work that
27 every contractor and subcontractor at every tier will individually use a skilled and
28 trained workforce to construct the project.

29 (B) Every contractor and subcontractor shall use a skilled and trained workforce
30 to construct the project.

31 (C) For purposes of this subdivision, “taxpayer” has the same meaning as
32 “awarding body” as provided in Chapter 2.9 (commencing with Section 2600) of
33 Part 1 of Division 2 of the Public Contract Code.

34 (D) Contractors and subcontractors that fail to use a skilled and trained
35 workforce shall be subject to the penalties provided in Section 2603 of the Public
36 Contract Code. Penalties for a contractor’s or subcontractor’s failure to comply
37 with the requirement to use a skilled and trained workforce may be assessed by the
38 Labor Commissioner within 18 months of completion of the project using the
39 same procedures for issuance of civil wage and penalty assessments pursuant to
40 Section 2603 of the Public Contract Code. Penalties shall be paid to the State
41 Public Works Enforcement Fund.

42 (E) The taxpayer shall provide copies of the monthly reports demonstrating
43 compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of

1 Division 2 of the Public Contract Code to the California Film Commission on a
2 monthly basis while the project or contract is being performed. These reports shall
3 be a public record under the California Public Records Act (~~Chapter 3.5~~
4 ~~(commencing with Section 6250)~~ of Division 7 (Division 10 (commencing with
5 Section 7920.000) of Title 1 of the Government Code) and shall be open to public
6 inspection.

7 (F) Subparagraphs (C) to (E), inclusive, shall not apply if all contractors and
8 subcontractors performing work on the project are subject to a project labor
9 agreement that requires compliance with the skilled and trained workforce
10 requirement and provides for enforcement of that obligation through an arbitration
11 procedure. For purposes of this subparagraph, “project labor agreement” has the
12 same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of
13 the Public Contract Code.

14 **Comment.** Section 17053.99 is amended to reflect nonsubstantive recodification of the
15 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
16 Comm’n Reports 207 (2019).

17 [This Comment is new.]

18 **Note.** Section 17053.99 was just added to the Revenue and Taxation Code by 2021 Cal. Stat.
19 ch. 114, § 3 (SB 144 (Portantino)), a tax levy bill enacted on 7/21/21. The CPRA cross-reference
20 in that section needs to be updated to reflect the CPRA recodification.

21 **Rev. & Tax. Code § 18410.2 (amended). California Competes Tax Credit Committee**

22 SEC. 85. Section 18410.2 of the Revenue and Taxation Code is amended to
23 read:

24 18410.2. (a) The California Competes Tax Credit Committee is hereby
25 established. The committee shall consist of the Treasurer, the Director of Finance,
26 and the Director of the Governor’s Office of Business and Economic
27 Development, who shall serve as chair of the committee, or their designated
28 representatives, and one appointee each by the Speaker of the Assembly and the
29 Senate Committee on Rules. A Member of the Legislature shall not be appointed.

30 (b) For purposes of Article 4.4 (commencing with Section 12096.6) of Chapter
31 1.6 of Part 2 of Division 3 of Title 2 of the Government Code and Sections
32 17059.2 and 23689, the California Competes Tax Credit Committee shall do all of
33 the following:

34 (1) Approve or reject any written agreement for a tax credit or grant allocation
35 by resolution at a duly noticed public meeting held in accordance with the Bagley-
36 Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter
37 1 of Part 1 of Division 3 of Title 2 of the Government Code), but only after receipt
38 of the fully executed written agreement between the taxpayer and the Governor’s
39 Office of Business and Economic Development.

40 (2) Approve or reject any recommendation to recapture, in whole or in part, a
41 tax credit or grant allocation by resolution at a duly noticed public meeting held in
42 accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing

1 with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the
2 Government Code), but only after receipt of the recommendation from the
3 Governor’s Office of Business and Economic Development pursuant to the terms
4 of the fully executed written agreement.

5 (c) For purposes of Article 4.4 (commencing with Section 12096.6) of Chapter
6 1.6 of Part 2 of Division 3 of Title 2 of the Government Code and Sections
7 17059.2 and 23689, the Governor’s Office of Business and Economic
8 Development shall provide a member of the committee, or their designated
9 representatives, listed in subdivision (a), upon request of that member, with any
10 information necessary to fulfill their duties or otherwise comply with the
11 requirements of this section. Nothing in this subdivision shall be construed to
12 require the Governor’s Office of Business and Economic Development to provide
13 information to the member or their designated representative that the applicant
14 considers to be a trade secret, confidential, privileged, or otherwise exempt from
15 disclosure under the California Public Records Act (~~Chapter 3.5 (commencing~~
16 ~~with Section 6250) of Division 7 (Division 10 (commencing with Section~~
17 7920.000) of Title 1 of the Government Code).

18 **Comment.** Section 18410.2 is amended to reflect nonsubstantive recodification of the
19 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
20 Comm’n Reports 207 (2019).

21 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n
22 Reports 207 (2019).]

23 **Note.** In 2021, Revenue and Taxation Code Section 18410.2 was amended by the CPRA
24 conforming revisions bill. See 2021 Cal. Stat. ch. 615, § 417 (AB 474 (Chau)). The section was
25 also amended by a budget-related bill, which took effect upon enactment: 2021 Cal. Stat. ch. 74,
26 § 21 (SB 151 (Committee on Budget and Fiscal Review)), enacted on 7/12/21.

27 Due to Government Code Sections 9600 and 9605, and the subordination clause in the CPRA
28 conforming revisions bill, the amendment made by that bill was chaptered out by SB 151.

29 Consequently, the CPRA cross-reference in Revenue and Taxation Code Section 18410.2 still
30 needs to be updated to reflect the CPRA recodification. The new conforming revision of Revenue
31 and Taxation Code Section 18410.2 (shown above) is based on 2021 Cal. Stat. ch. 74, § 21.

32 VEHICLE CODE

33 **Veh. Code § 40240 (as amended by 2021 Cal. Stat. ch. 709, § 1) (operative until Jan. 1, 2027)**
34 **(amended). Automated forward facing parking control devices**

35 SEC. 86. Section 40240 of the Vehicle Code (as amended by Section 1 of
36 Chapter 709 of the Statutes of 2021) is amended to read:

37 40240. (a) A public transit operator, as defined in Section 99210 of the Public
38 Utilities Code, may install automated forward facing parking control devices on
39 city-owned or district-owned public transit vehicles, as defined by Section 99211
40 of the Public Utilities Code, for the purpose of video imaging of parking violations
41 occurring in transit-only traffic lanes and at transit stops. Citations shall be issued
42 only for violations captured during the posted hours of operation for a transit-only

1 traffic lane or during the scheduled operating hours at transit stops. The devices
2 shall be angled and focused so as to capture video images of parking violations
3 and not unnecessarily capture identifying images of other drivers, vehicles, and
4 pedestrians. The devices shall record the date and time of the violation at the same
5 time as the video images are captured. Transit agencies may share the relevant
6 data, video, and images of parking violations collected by automated forward
7 facing parking control devices with the local parking enforcement entity and local
8 agency in the jurisdiction where the violation occurred. A transit operator,
9 including the City and County of San Francisco and the Alameda-Contra Costa
10 Transit District, may only install forward facing cameras pursuant to this section if
11 the examiner or issuing agency, as described in Section 40215, includes options to
12 reduce or waive the payment of a parking penalty if the examiner or issuing
13 agency determines that the person is an indigent person as defined in Section
14 40220.

15 (b) Prior to issuing notices of parking violations pursuant to subdivision (a) of
16 Section 40241, a public transit operator, in partnership with a city, county, city and
17 county, or local enforcement authority, shall commence a program to issue only
18 warning notices for 60 days and shall also make a public announcement of the
19 program and provide the public with information about the enforcement program,
20 existing parking regulations, and the payment options available for low-income
21 persons at least 60 days prior to commencement of issuing notices of parking
22 violations.

23 (c) A designated employee of a city, county, city and county, or a contracted law
24 enforcement agency for a special transit district, who is qualified by a city, county,
25 city and county, or district to issue parking citations, shall review video image
26 recordings for the purpose of determining whether a parking violation occurred in
27 a transit-only traffic lane or at a transit stop. A violation of a statute, regulation, or
28 ordinance governing vehicle parking under this code, under a federal or state
29 statute or regulation, or under an ordinance enacted by a city, county, city and
30 county, or special transit district occurring in a transit-only traffic lane or at a
31 transit stop observed by the designated employee in the recordings is subject to a
32 civil penalty.

33 (d) The registered owner shall be permitted to review the video image evidence
34 of the alleged violation during normal business hours at no cost.

35 (e) (1) Except as it may be included in court records described in Section 68152
36 of the Government Code, or as provided in paragraph (2), the video image
37 evidence may be retained for up to six months from the date the information was
38 first obtained, or 60 days after final disposition of the citation, whichever date is
39 later, after which time the information shall be destroyed.

40 (2) Notwithstanding Section 26202.6 of the Government Code, video image
41 evidence from forward facing automated enforcement devices that does not
42 contain evidence of a parking violation occurring in a transit-only traffic lane or at
43 a transit stop shall be destroyed within 15 days after the information was first

1 obtained. Video image data and records collected pursuant to this section shall not
2 be used or processed by an automated license plate recognition system, as defined
3 in Section 1798.90.5 of the Civil Code, unless the public transit operator, city,
4 county, city and county, or local enforcement authority meets the requirements in
5 this paragraph and paragraph (1), the requirements of subdivision (f), and the
6 requirements of subdivision (e) of Section 40241.

7 (f) Notwithstanding ~~Section 6253~~ Article 1 (commencing with Section
8 7922.500) and Article 2 (commencing with Section 7922.525) of Chapter 1 of Part
9 3 of Division 10 of Title 1 of the Government Code, or any other law, the video
10 image records are confidential. Public agencies shall use and allow access to these
11 records only for the purposes authorized by this article.

12 (g) The following definitions shall apply for purposes of this article:

13 (1) “Local agency” means a public transit operator as defined in Section 99210
14 of the Public Utilities Code or a local city, county, or city and county parking
15 enforcement authority.

16 (2) “Transit-only traffic lane” means any designated transit-only lane on which
17 use is restricted to mass transit vehicles, or other designated vehicles including
18 taxis and vanpools, during posted times.

19 (h) This section shall remain in effect only until January 1, 2027, and as of that
20 date is repealed.

21 **Comment.** Section 40240 (as amended by 2021 Cal. Stat. ch. 709, § 1) is amended to reflect
22 nonsubstantive recodification of the California Public Records Act. See *California Public*
23 *Records Act Clean-Up*, 46 Cal. L. Revision Comm’n Reports 207 (2019).

24 [This Comment for Section 40240 (as amended by 2021 Cal. Stat. ch. 709, § 1) and the
25 Comment for Section 40240 (as added by 2021 Cal. Stat. ch. 709, § 2) replace the Comment for
26 Section 54953 in *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n Reports
27 207 (2019).]

28 **Note.** In 2021, Vehicle Code Section 40240 was amended by the CPRA conforming revisions
29 bill. See 2021 Cal. Stat. ch. 615, § 427 (AB 474 (Chau)). The section was also revised in two
30 ways by 2021 Cal. Stat. ch. 709, §§ 1, 2 (AB 917 (Bloom)).

31 In particular, AB 917 inserted a 1/1/27 sunset clause into Vehicle Code Section 40240. See
32 2021 Cal. Stat. ch. 709, § 1. AB 917 also added a new version of Vehicle Code Section 40240 to
33 the codes, which will become operative on 1/1/27. See 2021 Cal. Stat. ch. 709, § 2.

34 Due to Government Code Section 9605, AB 474’s amendment of Vehicle Code Section 40240
35 was chaptered out by 2021 Cal. Stat. ch. 709, § 1.

36 Consequently, the CPRA cross-reference in Vehicle Code Section 40240 still needs to be
37 updated to reflect the CPRA recodification. That should be done in *both* versions of Section
38 40240: (1) the version that will sunset on 1/1/27 (2021 Cal. Stat. ch. 709, § 1) and (2) the version
39 that will become operative on 1/1/27 (2021 Cal. Stat. ch. 709, § 2).

40 The conforming revision of Vehicle Code Section 40240 shown above is based on 2021 Cal.
41 Stat. ch. 709, § 1.

42 **Veh. Code § 40240 (as added by 2021 Cal. Stat. ch. 709, § 2) (operative Jan. 1, 2027)**
43 **(amended). Automated forward facing parking control devices**

44 SEC. 87. Section 40240 of the Vehicle Code (as added by Section 2 of Chapter
45 709 of the Statutes of 2021) is amended to read:

1 40240. (a) The City and County of San Francisco may install automated forward
2 facing parking control devices on city-owned or district-owned public transit
3 vehicles, as defined in Section 99211 of the Public Utilities Code, for the purpose
4 of video imaging of parking violations occurring in transit-only traffic lanes and at
5 transit stops. Citations shall be issued only for violations captured during the
6 posted hours of operation for a transit-only traffic lane or during the scheduled
7 operating hours at transit stops. The devices shall be angled and focused so as to
8 capture video images of parking violations and not unnecessarily capture
9 identifying images of other drivers, vehicles, and pedestrians. The devices shall
10 record the date and time of the violation at the same time as the video images are
11 captured. Transit agencies may share the relevant data, video, and images of
12 parking violations collected by automated forward facing parking control devices
13 with the local parking enforcement entity and local agency in the jurisdiction
14 where the violation occurred. The City and County of San Francisco may only
15 install forward facing cameras pursuant to this section if the examiner or issuing
16 agency, as described in Section 40215, includes options to reduce or waive the
17 payment of a parking penalty if the examiner or issuing agency determines that the
18 person is an indigent person as defined in Section 40220.

19 (b) Prior to issuing notices of parking violations pursuant to subdivision (a) of
20 Section 40241, the City and County of San Francisco shall commence a program
21 to issue only warning notices for 60 days and shall also make a public
22 announcement of the program and provide the public with information about the
23 enforcement program, existing parking regulations, and the payment options
24 available for low-income persons at least 60 days prior to commencement of
25 issuing notices of parking violations.

26 (c) A designated employee of the City and County of San Francisco who is
27 qualified to issue parking citations shall review video image recordings for the
28 purpose of determining whether a parking violation occurred in a transit-only
29 traffic lane or at a transit stop. A violation of a statute, regulation, or ordinance
30 governing vehicle parking under this code, under a federal or state statute or
31 regulation, or under an ordinance enacted by the City and County of San Francisco
32 occurring in a transit-only traffic lane or at a transit stop observed by the
33 designated employee in the recordings is subject to a civil penalty.

34 (d) The registered owner shall be permitted to review the video image evidence
35 of the alleged violation during normal business hours at no cost.

36 (e) (1) Except as it may be included in court records described in Section 68152
37 of the Government Code, or as provided in paragraph (2), the video image
38 evidence may be retained for up to six months from the date the information was
39 first obtained, or 60 days after final disposition of the citation, whichever date is
40 later, after which time the information shall be destroyed.

41 (2) Notwithstanding Section 26202.6 of the Government Code, video image
42 evidence from forward facing automated enforcement devices that does not
43 contain evidence of a parking violation occurring in a transit-only traffic lane or at

1 a transit stop shall be destroyed within 15 days after the information was first
2 obtained. Video image data and records collected pursuant to this section shall not
3 be used or processed by an automated license plate recognition system, as defined
4 in Section 1798.90.5 of the Civil Code, unless the public transit operator, city,
5 county, city and county, or local enforcement authority meets the requirements of
6 this paragraph and paragraph (1), the requirements of subdivision (f), and the
7 requirements of subdivision (e) of Section 40241.

8 (f) Notwithstanding ~~Section 6253~~ Article 1 (commencing with Section
9 7922.500) and Article 2 (commencing with Section 7922.525) of Chapter 1 of Part
10 3 of Division 10 of Title 1 of the Government Code or any other law, the video
11 image records are confidential. Public agencies shall use and allow access to these
12 records only for the purposes authorized by this article.

13 (g) For purposes of this article, “transit-only traffic lane” means any designated
14 transit-only lane on which use is restricted to mass transit vehicles or other
15 designated vehicles, including taxis and vanpools, during posted times.

16 (h) This section shall become operative on January 1, 2027.

17 **Comment.** Section 40240 (as added by 2021 Cal. Stat. ch. 709, § 2) is amended to reflect
18 nonsubstantive recodification of the California Public Records Act. See *California Public*
19 *Records Act Clean-Up*, 46 Cal. L. Revision Comm’n Reports 207 (2019).

20 [This Comment for Section 40240 (as added by 2021 Cal. Stat. ch. 709, § 2) and the Comment
21 for Section 40240 (as amended by 2021 Cal. Stat. ch. 709, § 1) replace the Comment for Section
22 54953 in *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm’n Reports 207
23 (2019).]

24 **Note.** In 2021, Vehicle Code Section 40240 was amended by the CPRA conforming revisions
25 bill. See 2021 Cal. Stat. ch. 615, § 427 (AB 474 (Chau)). The section was also revised in two
26 ways by 2021 Cal. Stat. ch. 709, §§ 1, 2 (AB 917 (Bloom)).

27 In particular, AB 917 inserted a 1/1/27 sunset clause into Vehicle Code Section 40240. See
28 2021 Cal. Stat. ch. 709, § 1. AB 917 also added a new version of Vehicle Code Section 40240 to
29 the codes, which will become operative on 1/1/27. See 2021 Cal. Stat. ch. 709, § 2.

30 Due to Government Code Section 9605, AB 474’s amendment of Vehicle Code Section 40240
31 was chaptered out by 2021 Cal. Stat. ch. 709, § 1.

32 Consequently, the CPRA cross-reference in Vehicle Code Section 40240 still needs to be
33 updated to reflect the CPRA recodification. That should be done in *both* versions of Section
34 40240: (1) the version that will sunset on 1/1/27 (2021 Cal. Stat. ch. 709, § 1) and (2) the version
35 that will become operative on 1/1/27 (2021 Cal. Stat. ch. 709, § 2).

36 The conforming revision of Vehicle Code Section 40240 shown above is based on 2021 Cal.
37 Stat. ch. 709, § 2.

38 WELFARE AND INSTITUTIONS CODE

39 **Welf. & Inst. Code § 8257 (amended). Interagency Council on Homelessness**

40 SEC. 88. Section 8257 of the Welfare and Institutions Code is amended to read:

41 8257. (a) The Governor shall create an Interagency Council on Homelessness.

42 (b) The council shall have all of the following goals:

43 (1) To oversee implementation of this chapter.

1 (2) To identify mainstream resources, benefits, and services that can be accessed
2 to prevent and end homelessness in California.

3 (3) To create partnerships among state agencies and departments, local
4 government agencies, participants in the United States Department of Housing and
5 Urban Development’s Continuum of Care Program, federal agencies, the United
6 States Interagency Council on Homelessness, nonprofit entities working to end
7 homelessness, homeless services providers, and the private sector, for the purpose
8 of arriving at specific strategies to end homelessness.

9 (4) To promote systems integration to increase efficiency and effectiveness
10 while focusing on designing systems to address the needs of people experiencing
11 homelessness, including unaccompanied youth under 25 years of age.

12 (5) To coordinate existing funding and applications for competitive funding.
13 Any action taken pursuant to this paragraph shall not restructure or change any
14 existing allocations or allocation formulas.

15 (6) To make policy and procedural recommendations to legislators and other
16 governmental entities.

17 (7) To identify and seek funding opportunities for state entities that have
18 programs to end homelessness, including, but not limited to, federal and
19 philanthropic funding opportunities, and to facilitate and coordinate those state
20 entities’ efforts to obtain that funding.

21 (8) To broker agreements between state agencies and departments and between
22 state agencies and departments and local jurisdictions to align and coordinate
23 resources, reduce administrative burdens of accessing existing resources, and
24 foster common applications for services, operating, and capital funding.

25 (9) To serve as a statewide facilitator, coordinator, and policy development
26 resource on ending homelessness in California.

27 (10) To report to the Governor, federal Cabinet members, and the Legislature on
28 homelessness and work to reduce homelessness.

29 (11) To ensure accountability and results in meeting the strategies and goals of
30 the council.

31 (12) To identify and implement strategies to fight homelessness in small
32 communities and rural areas.

33 (13) To create a statewide data system or warehouse, which shall be known as
34 the Homeless Data Integration System, that collects local data through Homeless
35 Management Information Systems, with the ultimate goal of matching data on
36 homelessness to programs impacting homeless recipients of state programs, such
37 as the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3
38 of Division 9) and CalWORKs (Chapter 2 (commencing with Section 11200) of
39 Part 3 of Division 9). Upon creation of the Homeless Data Integration System, all
40 continuums of care, as defined in Section 578.3 of Title 24 of the Code of Federal
41 Regulations, that are operating in California shall provide collected data elements,
42 including, but not limited to, health information, in a manner consistent with
43 federal law, to the Homeless Data Integration System.

1 (A) Council staff shall specify the form and substance of the required data
2 elements.

3 (B) Council staff may, as required by operational necessity, and in accordance
4 with paragraph (8) of subdivision (d) of Section 8256, amend or modify data
5 elements, disclosure formats, or disclosure frequency.

6 (C) To further the efforts to improve the public health, safety, and welfare of
7 people experiencing homelessness in the state, council staff may collect data from
8 the continuums of care as provided in this paragraph.

9 (D) Any health information or personal identifying information provided to, or
10 maintained within, the Homeless Data Integration System shall not be subject to
11 public inspection or disclosure under the California Public Records Act (~~Chapter~~
12 ~~3.5 (commencing with Section 6250) of Division 7 (Division 10 (commencing~~
13 ~~with Section 7920.000) of Title 1 of the Government Code).~~

14 (E) For purposes of this paragraph, “health information” includes “protected
15 health information,” as defined in Part 160.103 of Title 45 of the Code of Federal
16 Regulations, and “medical information,” as defined in subdivision (j) of Section
17 56.05 of the Civil Code.

18 (14) To set goals to prevent and end homelessness among California’s youth.

19 (15) To improve the safety, health, and welfare of young people experiencing
20 homelessness in the state.

21 (16) To increase system integration and coordinating efforts to prevent
22 homelessness among youth who are currently or formerly involved in the child
23 welfare system or the juvenile justice system.

24 (17) To lead efforts to coordinate a spectrum of funding, policy, and practice
25 efforts related to young people experiencing homelessness.

26 (18) To identify best practices to ensure homeless minors who may have
27 experienced maltreatment, as described in Section 300, are appropriately referred
28 to, or have the ability to self-refer to, the child welfare system.

29 (19) To collect, compile, and make available to the public financial data
30 provided to the council from all state-funded homelessness programs.

31 (c) (1) The council shall consist of the following members:

32 (A) The Secretary of the Business, Consumer Services and Housing Agency and
33 the Secretary of the California Health and Human Services Agency, who both
34 shall serve as cochairs of the council.

35 (B) The Director of Transportation.

36 (C) The Director of Housing and Community Development.

37 (D) The Director of Social Services.

38 (E) The Director of the California Housing Finance Agency.

39 (F) The Director or the State Medicaid Director of Health Care Services.

40 (G) The Secretary of Veterans Affairs.

41 (H) The Secretary of the Department of Corrections and Rehabilitation.

42 (I) The Executive Director of the California Tax Credit Allocation Committee in
43 the Treasurer’s office.

- 1 (J) The State Public Health Officer.
- 2 (K) The Director of the California Department of Aging.
- 3 (L) The Director of Rehabilitation.
- 4 (M) The Director of State Hospitals.
- 5 (N) The executive director of the California Workforce Development Board.
- 6 (O) The Director of the Office of Emergency Services.
- 7 (P) A representative from the State Department of Education, who shall be
- 8 appointed by the Superintendent of Public Instruction.
- 9 (Q) A representative of the state public higher education system who shall be
- 10 from one of the following:
- 11 (i) The California Community Colleges.
- 12 (ii) The University of California.
- 13 (iii) The California State University.
- 14 (2) The Senate Committee on Rules and the Speaker of the Assembly shall each
- 15 appoint one member to the council from two different stakeholder organizations.
- 16 (3) The council may, at its discretion, invite stakeholders, individuals who have
- 17 experienced homelessness, members of philanthropic communities, and experts to
- 18 participate in meetings or provide information to the council.
- 19 (4) The council shall hold public meetings at least once every quarter.
- 20 (d) The council shall regularly seek guidance from and, at least twice a year,
- 21 meet with an advisory committee. The cochairs of the council shall appoint
- 22 members to this advisory committee that reflects racial and gender diversity, and
- 23 shall include the following:
- 24 (1) A survivor of gender-based violence who formerly experienced
- 25 homelessness.
- 26 (2) Representatives of local agencies or organizations that participate in the
- 27 United States Department of Housing and Urban Development’s Continuum of
- 28 Care Program.
- 29 (3) Stakeholders with expertise in solutions to homelessness and best practices
- 30 from other states.
- 31 (4) Representatives of committees on African Americans, youth, and survivors
- 32 of gender-based violence.
- 33 (5) A current or formerly homeless person who lives in California.
- 34 (6) A current or formerly homeless youth who lives in California.
- 35 (7) This advisory committee shall designate one of the above-described
- 36 members to participate in every quarterly council meeting to provide a report to
- 37 the council on advisory committee activities.
- 38 (e) Within existing funding, the council may establish working groups, task
- 39 forces, or other structures from within its membership or with outside members to
- 40 assist it in its work. Working groups, task forces, or other structures established by
- 41 the council shall determine their own meeting schedules.
- 42 (f) Upon request of the council, a state agency or department that administers
- 43 one or more state homelessness programs, including, but not limited to, an agency

1 or department represented on the council pursuant to subdivision (c), the agency or
2 department shall be required to do both of the following:

3 (1) Participate in council workgroups, task forces, or other similar administrative
4 structures.

5 (2) Provide to the council any relevant information regarding those state
6 homelessness programs.

7 (g) The members of the council shall serve without compensation, except that
8 members of the council who are, or have been, homeless may receive
9 reimbursement for travel, per diem, or other expenses.

10 (h) The appointed members of the council or committees, as described in this
11 section, shall serve at the pleasure of their appointing authority.

12 (i) The Business, Consumer Services and Housing Agency shall provide staff for
13 the council.

14 (j) The members of the council may enter into memoranda of understanding
15 with other members of the council to achieve the goals set forth in this chapter, as
16 necessary, in order to facilitate communication and cooperation between the
17 entities the members of the council represent.

18 (k) There shall be an executive officer of the council under the direction of the
19 Secretary of Business, Consumer Services and Housing.

20 (l) The council shall be under the direction of the executive officer and staffed
21 by employees of the Business, Consumer Services and Housing Agency.

22 **Comment.** Section 8257 is amended to reflect nonsubstantive recodification of the California
23 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
24 Reports 207 (2019).

25 [This Comment is new.]

26 **Note.** Section 8257 was just added to the Welfare and Institutions Code by 2021 Cal. Stat. ch.
27 398, § 5.5 (AB 1220 (Luz Rivas)). The CPRA cross-reference in that section needs to be updated
28 to reflect the CPRA recodification.

29 **Welf. & Inst. Code § 13405 (amended). Personally identifiable information**

30 SEC. 89. Section 13405 of the Welfare and Institutions Code is amended to
31 read:

32 13405. Notwithstanding any other law, any personally identifiable information,
33 including name, birth date, and destination address, as well as shelter location,
34 shall be subject to the requirements of Section 10850 and shall be exempt from
35 inspection under the California Public Records Act (~~Chapter 3.5 (commencing~~
36 ~~with Section 6250) of Division 7 (Division 10 (commencing with Section~~
37 7920.000) of Title 1 of the Government Code).

38 **Comment.** Section 13405 is amended to reflect nonsubstantive recodification of the California
39 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
40 Reports 207 (2019).

41 [This Comment is new.]

42 **Note.** Welfare and Institutions Code Section 13405 was added to the codes by 2019 Cal. Stat.
43 ch. 27, § 96 (SB 80 (Committee on Budget & Fiscal Review)), a budget-related bill enacted on

1 6/27/19. It was not included in the CPRA conforming revisions bill (2021 Cal. Stat. ch. 615 (AB
2 474 (Chau)), so the CPRA cross-reference in it still needs to be updated to reflect the CPRA
3 recodification.

4 **Welf. & Inst. Code § 13652 (amended). Exemptions and immunity**

5 SEC. 90. Section 13652 of the Welfare and Institutions Code is amended to
6 read:

7 13652. Notwithstanding any other law:

8 (a) Contracts or grants awarded pursuant to this chapter shall be exempt from
9 the personal services contracting requirements of Article 4 (commencing with
10 Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government
11 Code.

12 (b) Contracts or grants awarded pursuant to this chapter shall be exempt from
13 the Public Contract Code and the State Contracting Manual, and shall not be
14 subject to the approval of the Department of General Services.

15 (c) The client information and records of legal services provided pursuant to this
16 chapter shall be subject to the requirements of Section 10850 and shall be exempt
17 from inspection under the California Public Records Act (~~Chapter 3.5~~
18 ~~(commencing with Section 6250)~~ of Division 7 (Division 10 (commencing with
19 Section 7920.000) of Title 1 of the Government Code).

20 (d) The state shall be immune from any liability resulting from the
21 implementation of this chapter.

22 (e) Notwithstanding the rulemaking provisions of the Administrative Procedure
23 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
24 Title 2 of the Government Code), the department may implement, interpret, or
25 make specific this chapter without taking regulatory action.

26 **Comment.** Section 13652 is amended to reflect nonsubstantive recodification of the California
27 Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
28 Reports 207 (2019).

29 [This Comment is new.]

30 **Note.** Section 13652 was just added to the Welfare and Institutions Code by 2021 Cal. Stat. ch.
31 85, § 60 (AB 135 (Committee on Budget)), a budget-related bill enacted on 7/16/21. The CPRA
32 cross-reference in that section needs to be updated to reflect the CPRA recodification.

33 **Welf. & Inst. Code § 14105.22 (amended). Reimbursement for clinical laboratory or**
34 **laboratory services**

35 SEC. 91. Section 14105.22 of the Welfare and Institutions Code is amended to
36 read:

37 14105.22. (a) (1) It is the intent of the Legislature that the department develop
38 reimbursement rates for clinical laboratory or laboratory services that are
39 comparable to the payment amounts received from other payers for clinical
40 laboratory or laboratory services. Development of these rates will enable the
41 department to reimburse clinical laboratory or laboratory service providers in
42 compliance with state and federal law.

1 (2) (A) The requirements specified in subdivision (a) of Section 51501 of Title
2 22 of the California Code of Regulations shall not apply to laboratory providers
3 reimbursed under the new rate methodology developed for clinical laboratories or
4 laboratory services pursuant to this subdivision.

5 (B) In addition to subparagraph (A), laboratory providers reimbursed under any
6 payment reductions implemented pursuant to this section shall not be subject to
7 the requirements specified in subdivision (a) of Section 51501 of Title 22 of the
8 California Code of Regulations until July 1, 2015.

9 (3) Reimbursement to providers for clinical laboratory or laboratory services
10 shall not exceed the lowest of the following:

11 (A) The amount billed.

12 (B) The charge to the general public.

13 (C) (i) For dates of service before July 1, 2022, 80 percent of the lowest
14 maximum allowance established by the federal Medicare program for the same or
15 similar services.

16 (ii) For dates of service on or after July 1, 2022, 100 percent of the lowest
17 maximum allowance established by the federal Medicare program for the same or
18 similar services.

19 (D) A reimbursement rate based on an average of the lowest amount that other
20 payers and other state Medicaid programs are paying for similar clinical laboratory
21 or laboratory services.

22 (4) (A) In addition to the payment reductions implemented pursuant to Section
23 14105.192, payments shall be reduced by up to 10 percent for clinical laboratory
24 or laboratory services, as defined in Section 51137.2 of Title 22 of the California
25 Code of Regulations, for dates of service on and after July 1, 2012. The payment
26 reductions pursuant to this paragraph shall continue until the new rate
27 methodology under this subdivision has been approved by the federal Centers for
28 Medicare and Medicaid Services.

29 (B) Notwithstanding subparagraph (A), the Family Planning, Access, Care, and
30 Treatment Program pursuant to subdivision (aa) of Section 14132 shall be exempt
31 from the payment reduction specified in this section.

32 (5) (A) For purposes of establishing reimbursement rates for clinical laboratory
33 or laboratory services pursuant to subparagraph (D) of paragraph (3), laboratory
34 service providers shall submit data reports according to the following schedule:

35 (i) The data initially provided shall be for the 2018 calendar year. For each
36 subsequent reporting year, the data shall be based on the previous calendar year.

37 (ii) For purposes of clause (i), “reporting year” means 2019 and every third year
38 thereafter.

39 (B) A data report submitted pursuant to subparagraph (A) shall specify the
40 provider’s lowest amounts other payers are paying, including other state Medicaid
41 programs and private insurance, minus discounts and rebates. The specific data
42 required for submission under this subparagraph and the format for the data

1 submission shall be determined and specified by the department after receiving
2 stakeholder input pursuant to paragraph (7).

3 (C) The data submitted pursuant to subparagraph (A) may be used to determine
4 reimbursement rates by procedure code based on an average of the lowest amount
5 other payers are paying providers for similar clinical laboratory or laboratory
6 services, excluding significant deviations of cost or volume factors and with
7 consideration to geographical areas. The department shall have the discretion to
8 determine the specific methodology and factors used in the development of the
9 lowest average amount under this subparagraph to ensure compliance with federal
10 Medicaid law and regulations as specified in paragraph (9).

11 (D) For purposes of subparagraph (C), the department may contract with a
12 vendor for the purposes of collecting payment data reports from clinical
13 laboratories, analyzing payment information, and calculating a proposed rate.

14 (E) The proposed rates calculated by the vendor, as described in subparagraph
15 (D), may be used in determining the lowest reimbursement rate for clinical
16 laboratories or laboratory services in accordance with paragraph (3).

17 (F) Data reports submitted to the department shall be certified by the provider's
18 certified financial officer or an authorized individual.

19 (G) Clinical laboratory providers that fail to submit data reports within 30
20 working days from the time requested by the department shall be subject to the
21 suspension standards of subdivisions (a) and (c) of Section 14123.

22 (6) Data reports provided to the department pursuant to this section shall be
23 confidential and shall be exempt from disclosure under the California Public
24 Records Act (~~Chapter 3.5 (commencing with Section 6250) of Division 7~~
25 (Division 10 (commencing with Section 7920.000)) of Title 1 of the Government
26 Code).

27 (7) The department shall seek stakeholder input on the ratesetting methodology.

28 (8) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of
29 Division 3 of Title 2 of the Government Code, the department may implement this
30 section, in whole or in part, by means of provider bulletins or notices, policy
31 letters, or other similar instructions, without taking any further regulatory action.

32 (9) (A) The department shall implement this section in a manner that is
33 consistent with federal Medicaid law and regulations. The director shall seek any
34 necessary federal approvals for the implementation of this section. This section
35 shall be implemented only to the extent that federal approvals are obtained and
36 federal financial participation is available and is not otherwise jeopardized.

37 (B) In determining whether federal financial participation is available, the
38 director shall determine whether the rates and payments comply with applicable
39 federal Medicaid requirements, including those set forth in Section
40 1396a(a)(30)(A) of Title 42 of the United States Code.

41 (C) To the extent that the director determines that the rates and payments do not
42 comply with applicable federal Medicaid requirements or that federal financial
43 participation is not available with respect to any reimbursement rate, the director

1 retains the discretion not to implement that rate or payment and may revise the rate
2 or payment as necessary to comply with federal Medicaid requirements. The
3 department shall notify the Joint Legislative Budget Committee 10 days prior to
4 revising the rate or payment to comply with federal Medicaid requirements.

5 (b) Reimbursement rates developed pursuant to subparagraph (D) of paragraph
6 (3) of subdivision (a) and the changes made by the act that added this subdivision
7 shall be effective beginning on July 1, 2020, and on July 1 of every third year
8 thereafter.

9 (c) Notwithstanding subdivisions (a) and (b), for dates of service from July 1,
10 2021, to June 30, 2022, inclusive, the department shall establish the
11 reimbursement rates for clinical laboratory or laboratory services at the rates in
12 effect and approved in the Medi-Cal State Plan as of December 31, 2019, pursuant
13 to Section 14105.222.

14 **Comment.** Section 14105.22 is amended to reflect nonsubstantive recodification of the
15 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
16 Comm'n Reports 207 (2019).

17 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
18 Reports 207 (2019).]

19 **Note.** In 2021, Welfare and Institutions Code Section 14105.22 was amended by the CPRA
20 conforming revisions bill. See 2021 Cal. Stat. ch. 615, § 448 (AB 474 (Chau)). The section was
21 also amended by a budget-related bill, which took effect upon enactment: 2021 Cal. Stat. ch. 143,
22 § 376 (AB 133 (Committee on Budget)), enacted on 7/27/21.

23 Due to Government Code Sections 9600 and 9605, and the subordination clause in the CPRA
24 conforming revisions bill, the amendment made by that bill was chaptered out by AB 133.

25 Consequently, the CPRA cross-reference in Welfare and Institutions Code Section 14105.22
26 still needs to be updated to reflect the CPRA recodification. The new conforming revision of
27 Welfare and Institutions Code Section 14105.22 (shown above) is based on 2021 Cal. Stat. ch.
28 143, § 376.

29 **Welf. & Inst. Code § 14301.1 (amended). Capitation rates**

30 SEC. 92. Section 14301.1 of the Welfare and Institutions Code is amended to
31 read:

32 14301.1. (a) For rates established on or after August 1, 2007, the department
33 shall pay capitation rates to health plans participating in the Medi-Cal managed
34 care program using actuarial methods and may establish health-plan- and county-
35 specific rates. Notwithstanding any other law, this section shall apply to any
36 managed care organization, licensed under the Knox-Keene Health Care Service
37 Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of
38 the Health and Safety Code), that has contracted with the department as a primary
39 care case management plan pursuant to Article 2.9 (commencing with Section
40 14088) of Chapter 7 to provide services to beneficiaries who are HIV positive or
41 who have been diagnosed with AIDS for rates established on or after July 1, 2012.
42 The department shall utilize a county- and model-specific rate methodology to
43 develop Medi-Cal managed care capitation rates for contracts entered into between
44 the department and any entity pursuant to Article 2.7 (commencing with Section

1 14087.3), Article 2.8 (commencing with Section 14087.5), and Article 2.91
2 (commencing with Section 14089) of Chapter 7 that includes, but is not limited to,
3 all of the following:

4 (1) Health-plan-specific encounter and claims data.

5 (2) Supplemental utilization and cost data submitted by the health plans.

6 (3) Fee-for-service data for the underlying county of operation or other
7 appropriate counties as deemed necessary by the department.

8 (4) Department of Managed Health Care financial statement data specific to
9 Medi-Cal operations.

10 (5) Other demographic factors, such as age, gender, or diagnostic-based risk
11 adjustments, as the department deems appropriate.

12 (b) To the extent that the department is unable to obtain sufficient actual plan
13 data, it may substitute plan model, similar plan, or county-specific fee-for-service
14 data.

15 (c) The department shall develop rates that include administrative costs, and
16 may apply different administrative costs with respect to separate aid code groups.

17 (d) The department shall develop rates that shall include, but are not limited to,
18 assumptions for underwriting, return on investment, risk, contingencies, changes
19 in policy, and a detailed review of health plan financial statements to validate and
20 reconcile costs for use in developing rates.

21 (e) The department may develop rates that pay plans based on performance
22 incentives, including quality indicators, access to care, and data submission.

23 (f) The department may develop and adopt condition-specific payment rates for
24 health conditions, including, but not limited to, childbirth delivery.

25 (g) (1) Before finalizing Medi-Cal managed care capitation rates, the department
26 shall provide health plans with information on how the rates were developed,
27 including rate sheets for that specific health plan, and provide the plans with the
28 opportunity to provide additional supplemental information.

29 (2) For contracts entered into between the department and any entity pursuant to
30 Article 2.8 (commencing with Section 14087.5) of Chapter 7, the department, by
31 June 30 of each year, or, if the budget has not passed by that date, no later than
32 five working days after the budget is signed, shall provide preliminary rates for the
33 upcoming fiscal year.

34 (h) For the purposes of developing capitation rates through implementation of
35 this ratesetting methodology, Medi-Cal managed care health plans shall provide
36 the department with financial and utilization data in a form and substance as
37 deemed necessary by the department to establish rates. These data shall be
38 considered proprietary and shall be exempt from disclosure as official information
39 pursuant to ~~subdivision (k) of Section 6254~~ Section 7927.705 of the Government
40 Code as contained in the California Public Records Act (~~Chapter 3.5 (commencing~~
41 ~~with Section 6250) of Division 7~~ (Division 10 (commencing with Section
42 7920.000) of Title 1 of the Government Code).

1 (i) Notwithstanding any other law, on and after the effective date of the act
2 adding this subdivision, the department may apply this section to the capitation
3 rates it pays under any managed care health plan contract.

4 (j) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of
5 Division 3 of Title 2 of the Government Code, the department may set and
6 implement managed care capitation rates, and interpret or make specific this
7 section and any applicable federal waivers and state plan amendments by means of
8 plan letters, plan or provider bulletins, or similar instructions, without taking
9 regulatory action.

10 (k) (1) The department shall report, upon request, to the fiscal and policy
11 committees of the respective houses of the Legislature regarding implementation
12 of this section.

13 (2) The department shall publish on its public internet website a description of
14 the rate methodology, data used for rate development, and core actuarial
15 assumptions and adjustments in each year that the department develops rates
16 pursuant to this section.

17 (l) Before October 1, 2011, the risk-adjusted countywide capitation rate shall
18 comprise no more than 20 percent of the total capitation rate paid to each Medi-
19 Cal managed care plan.

20 (m) (1) It is the intent of the Legislature to preserve the policy goal to support
21 and strengthen traditional safety net providers who treat high volumes of
22 uninsured and Medi-Cal patients when Medi-Cal enrollees are defaulted into
23 Medi-Cal managed care plans.

24 (2) As the department adds additional factors, such as managed care plan costs,
25 to the Medi-Cal managed care plan default assignment algorithm, it shall consult
26 with the Auto Assignment Performance Incentive Program stakeholder workgroup
27 to develop cost factor disregards related to intergovernmental transfers and
28 required wraparound payments that support safety net providers.

29 (n) (1) The department shall develop and pay capitation rates to entities
30 contracted pursuant to Chapter 8.75 (commencing with Section 14591), using
31 actuarial methods and in a manner consistent with this section, except as provided
32 in this subdivision.

33 (2) (A) The department may develop capitation rates using a standardized rate
34 methodology across managed care plan models for comparable populations. The
35 specific rate methodology applied to PACE organizations shall address features of
36 PACE that distinguishes it from other managed care plan models.

37 (B) The rate methodology shall be consistent with actuarial rate development
38 principles and shall provide for all reasonable, appropriate, and attainable costs for
39 each PACE organization within a region.

40 (3) The department may develop statewide rates and apply geographic
41 adjustments, using available data sources deemed appropriate by the department.
42 Consistent with actuarial methods, the primary source of data used to develop

1 rates for each PACE organization shall be its Medi-Cal cost and utilization data or
2 other data sources as deemed necessary by the department.

3 (4) Rates developed pursuant to this subdivision shall reflect the level of care
4 associated with the specific populations served under the contract.

5 (5) The rate methodology developed pursuant to this subdivision shall contain a
6 mechanism to account for the costs of high-cost drugs and treatments.

7 (6) Rates developed pursuant to this subdivision shall be actuarially certified
8 before implementation.

9 (7) The department shall consult with those entities contracted pursuant to
10 Chapter 8.75 (commencing with Section 14591) in developing a rate methodology
11 according to this subdivision.

12 (8) Consistent with the requirements of federal law, the department shall
13 calculate an upper payment limit for payments to PACE organizations. In
14 calculating the upper payment limit, the department shall correct the applicable
15 data as necessary and shall consider the risk of nursing home placement for the
16 comparable population when estimating the level of care and risk of PACE
17 participants.

18 (9) The department shall pay the entity at a rate within the certified actuarially
19 sound rate range developed with respect to that entity, to the extent consistent with
20 federal requirements and subject to paragraph (11), as necessary to mitigate the
21 impact to the entity of the methodology developed pursuant to this subdivision.

22 (10) During the first two years in which a new PACE organization or existing
23 PACE organization enters a previously unserved area, the department shall pay at
24 a rate within the certified actuarially sound rate range developed with respect to
25 that entity, to the extent consistent with federal requirements and subject to
26 paragraph (11), to reflect the lower enrollment and higher operating costs
27 associated with a new PACE organization relative to a PACE organization with
28 higher enrollment and more experience providing managed care interventions to
29 its beneficiaries.

30 (11) This subdivision shall be implemented only to the extent that any necessary
31 federal approvals are obtained and federal financial participation is available.

32 (12) This subdivision shall apply for rates implemented no earlier than January
33 1, 2017.

34 (o) (1) Notwithstanding any other law, as a component of the CalAIM Initiative
35 authorized pursuant to Article 5.51 (commencing with Section 14184.100) of
36 Chapter 7, and any successor waiver, demonstration, or state plan amendment
37 authorizing the Medi-Cal managed care program, the department may establish
38 capitation rates to contracted health plans on a regional basis in lieu of health plan
39 and county-specific rates.

40 (2) Before initially implementing regional-based capitation rates under this
41 subdivision, the department shall report to the Legislature on the process for
42 developing those regional rates and determining the regional groups.

1 (3) The department shall provide a briefing to providers and stakeholders,
2 including, but not limited to, physicians, hospitals, and consumer advocates, that
3 describes the actuarial assumptions and rate methodologies used by the department
4 following submission of rates to the federal government for approval that initially
5 implement regional-based capitation rates under this subdivision. This publicly
6 noticed meeting to providers and other stakeholders shall occur no more than 60
7 days after submission of the capitation rates to the federal government for
8 approval. The meeting shall be for explanatory purposes and shall not otherwise
9 impact the methodology and data provided to the federal government for approval.

10 (4) The department shall consult with affected contracted health plans in
11 developing the regional groups and rate methodologies, consistent with applicable
12 federal requirements, actuarial methods, and the CalAIM Terms and Conditions as
13 defined in subdivision (c) of Section 14184.101 prior to implementing this
14 subdivision. In developing and implementing any methodology pursuant to this
15 subdivision, the department shall seek to incentivize improved quality and
16 outcomes for Medi-Cal managed care enrollees.

17 (5) This subdivision shall be implemented only to the extent that the department
18 obtains any necessary federal approvals, and that federal financial participation is
19 available and not otherwise jeopardized.

20 (p) (1) It is the intent of the Legislature that both affected contracted health plans
21 and the state have appropriate actuarial protections against the risk of either
22 significant overpayments or significant underpayments in capitation rates
23 developed and paid pursuant to this section that are associated with the changes to
24 the Medi-Cal managed care program described in Article 5.51 (commencing with
25 Section 14184.100) of Chapter 7, as identified by the department.

26 (2) (A) Notwithstanding any other law, as a component of the CalAIM initiative
27 authorized pursuant to Article 5.51 (commencing with Section 14184.100) of
28 Chapter 7, and any successor waiver, demonstration, or state plan amendment
29 authorizing the Medi-Cal managed care program, the department may develop and
30 implement appropriate actuarial methods to prevent significant overpayments or
31 significant underpayments as described in paragraph (1), subject to paragraph (4).
32 This may include, but need not be limited to, one or more of the following:

33 (i) A medical or profit and loss risk corridor.

34 (ii) Blended capitation rates based on projected member risk.

35 (iii) Other prospective or retrospective shared savings or risk models.

36 (B) The methods or models described in subparagraph (A) shall seek to
37 encourage quality improvement and promote appropriate utilization incentives,
38 including, but not limited to, reduced rehospitalization and shorter lengths of
39 institutional stay.

40 (3) The department shall consult with affected contracted health plans in
41 implementing this subdivision.

1 (4) This subdivision shall be implemented only to the extent that the department
2 obtains any necessary federal approvals, and that federal financial participation is
3 available and not otherwise jeopardized.

4 **Comment.** Section 14301.1 is amended to reflect nonsubstantive recodification of the
5 California Public Records Act. See *California Public Records Act Clean-Up*, 46 Cal. L. Revision
6 Comm'n Reports 207 (2019).

7 [This Comment is from *California Public Records Act Clean-Up*, 46 Cal. L. Revision Comm'n
8 Reports 207 (2019).]

9 **Note.** In 2021, Welfare and Institutions Code Section 14301.1 was amended by the CPRA
10 conforming revisions bill. See 2021 Cal. Stat. ch. 615, § 456 (AB 474 (Chau)). The section was
11 also amended by a budget-related bill, which took effect upon enactment: 2021 Cal. Stat. ch. 143,
12 § 416 (AB 133 (Committee on Budget)), enacted on 7/27/21.

13 Due to Government Code Sections 9600 and 9605, and the subordination clause in the CPRA
14 conforming revisions bill, the amendment made by that bill was chaptered out by AB 133.

15 Consequently, the CPRA cross-reference in Welfare and Institutions Code Section 14301.1 still
16 needs to be updated to reflect the CPRA recodification. The new conforming revision of Welfare
17 and Institutions Code Section 14301.1 (shown above) is based on 2021 Cal. Stat. ch. 143, § 416.
