

AMENDED IN SENATE JUNE 26, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 711**

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**Introduced by Committee on Environmental Safety and Toxic  
Materials (Jackson (Chair), Cohn, Longville, Lowenthal,  
Strom-Martin, and Washington)**

February 22, 2001

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An act to amend ~~Section 25187~~ *Sections 25187 and 25404.8* of the Health and Safety Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

AB 711, as amended, Committee on Environmental Safety and Toxic Materials. Administrative orders.

(1) Under existing law, the Department of Toxic Substances Control, a unified program agency, or a designated local public officer, as prescribed, is authorized to issue an order specifying a schedule for compliance or correction and imposing an administrative penalty if there is a violation of the hazardous waste control laws, laws regulating hazardous substances, or radioactive waste, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to those laws, or if the department, agency, or officer determines there has been a release of hazardous waste or constituents from a hazardous waste facility.

Existing law specifies procedures for the conduct of a hearing, upon the request of a person served with a corrective action order, and requires the hearing to be conducted within 90 days after receipt of the notice of defense by an administrative law judge of the Office of Administrative Hearings.

This bill would *delete the authority of a local health officer or public officer to issue such an order. The bill would instead authorize the department or unified program agency to issue an order requiring the violation be corrected, in the event of a violation, and to impose an administrative civil penalty, or to issue a corrective action order, when the department or unified program agency determines there has been a release. The bill would limit the authority of a unified program agency to issue an order or impose penalties to specified violations or releases. The bill would authorize a person served with a ~~corrective action~~ an order to request that a hearing be conducted by the department, pursuant to specified provisions of the Administrative Procedure Act or by the authorized unified program agency, ~~or the public officer, as specified pursuant to a 1 of 2 specified informal hearing procedure procedures.~~ The bill would require, if the uniform program agency conducts the hearing, that a decision ~~to~~ be issued by the unified program agency within 60 days after the hearing by the unified program agency is conducted. The bill would provide that an order issued by the unified program agency setting a penalty pursuant to the hearing by the unified program agency is final upon issuance ~~and would require payment be made within 60 days of issuance.~~ The bill would make conforming changes.*

The bill would impose a state-mandated local program by imposing new duties upon local agencies with regard to the enforcement of the hazardous waste control laws.

(2) Existing law requires that ~~half~~  $1/2$  of the penalties collected from actions brought by unified program agencies or designated local public officers pursuant to an order for corrective action be paid to the city or county whose agency or officer imposed the penalty, if the Director of Toxic Substances Control determines that the local agency enforcement is fair and reasonable. Existing law requires that ~~half~~  $1/2$  of those penalties collected from actions brought by those agencies or public officers be paid to the department and deposited in the Hazardous Waste Control Account. *Existing law, which is part of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65), provides for the apportionment of civil and criminal penalties collected pursuant to the hazardous waste control laws in a specified manner.*

This bill would instead require that all of the penalties collected from actions brought by unified program agencies ~~or designated local public officers pursuant to an order for corrective action~~ *specified in (1) above*, be paid to the city or county, and would delete the requirement that the



director make a determination regarding the enforcement action. *The bill would specify that the bill does not apply to any penalty subject to apportionment by Proposition 65.*

(3) *Existing law establishes the Rural CUPA Reimbursement Account in the General Fund, and requires the Secretary for Environmental Protection to allocate funds to eligible counties in amounts not to exceed designated percentages of the costs incurred by a CUPA in implementing a unified program.*

*This bill would instead provide that these allocations be made in amounts not to exceed designated percentages of budgeted costs as approved by the local governing body for implementation of the unified program.*

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

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

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

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 25187 of the Health and Safety Code is  
 2 amended to read:  
 3 25187. (a) (1) ~~(A) The department,~~ *The department or a*  
 4 *unified program agency authorized pursuant to paragraph (2), or*  
 5 ~~a local officer may issue an order specifying a schedule for~~  
 6 ~~compliance or correction,~~ *in accordance with subdivision (l), may*  
 7 *issue an order requiring that the violation be corrected, and*  
 8 *imposing an administrative penalty, for any violation of this*  
 9 *chapter or any permit, rule, regulation, standard, or requirement*  
 10 *issued or adopted pursuant to this chapter, whenever the*  
 11 ~~department, CUPA, or designated public officer determines any of~~  
 12 ~~the following:~~  
 13 ~~(i) A department or unified program agency determines that a~~  
 14 ~~person has violated, is in violation of, or threatens, as defined in~~  
 15 ~~subdivision (e) of Section 13304 of the Water Code, to violate, this~~  
 16 ~~chapter, or Chapter 6.8 (commencing with Section 25300), or~~  
 17 ~~Article 3 (commencing with Section 114990) of Chapter 8 of Part~~



1 ~~9 of Division 104, or any permit, rule, regulation, standard, or~~  
2 ~~requirement issued or adopted pursuant to this chapter, Chapter 6.8~~  
3 ~~(commencing with Section 25300) of this division, or Article 3~~  
4 ~~(commencing with Section 114990) of Chapter 8 of Part 9 of~~  
5 ~~Division 104.~~

6 ~~(ii) There this chapter or Chapter 6.8 (commencing with~~  
7 ~~Section 25300).~~

8 (2) *In an order proposing a penalty pursuant to this section, the*  
9 *department or unified program agency shall take into*  
10 *consideration the nature, circumstances, extent, and gravity of the*  
11 *violation, the violator's past and present efforts to prevent, abate,*  
12 *or clean up conditions posing a threat to the public health or safety*  
13 *or the environment, the violator's ability to pay the proposed*  
14 *penalty, and the prophylactic effect that the imposition of the*  
15 *proposed penalty would have on both the violator and the*  
16 *regulated community as a whole.*

17 (b) *The department or a unified program agency, in accordance*  
18 *with subdivision (l), may issue an order requiring corrective action*  
19 *whenever the department or unified program agency determines*  
20 *that there is or has been a release, as defined in Chapter 6.8*  
21 *(commencing with Section 25300), of hazardous waste or*  
22 *constituents into the environment from a hazardous waste facility.*

23 ~~(B)~~

24 (1) *In the case of a release of hazardous waste or constituents*  
25 *into the environment from a hazardous waste facility that is*  
26 *required to obtain a permit pursuant to Article 9 (commencing*  
27 *with Section 25200), the department shall pursue the remedies*  
28 *available under this chapter, including the issuance of an order for*  
29 *corrective action pursuant to this section, before using the legal*  
30 *remedies available pursuant to Chapter 6.8 (commencing with*  
31 *Section 25300), except in any of the following circumstances:*

32 ~~(i)~~

33 (A) *Where the person who is responsible for the release*  
34 *voluntarily requests in writing that the department issue an order*  
35 *to that person to take corrective action pursuant to Chapter 6.8*  
36 *(commencing with Section 25300).*

37 ~~(ii)~~

38 (B) *Where the person who is responsible for the release is*  
39 *unable to pay for the cost of corrective action to address the*  
40 *release. For purposes of this clause subparagraph, the inability of*



1 a person to pay for the cost of corrective action shall be determined  
2 in accordance with the policies of the Environmental Protection  
3 Agency for the implementation of Section 9605 of Title 42 of the  
4 United States Code.

5 ~~(iii)~~

6 (C) Where the person responsible for the release is unwilling  
7 to perform corrective action to address the release. For purposes  
8 of this ~~clause~~ *subparagraph*, the unwillingness of a person to take  
9 corrective action shall be determined in accordance with the  
10 policies of the Environmental Protection Agency for the  
11 implementation of Section 9605 of Title 42 of the United States  
12 Code.

13 ~~(iv)~~

14 (D) Where the release is part of a regional or multisite  
15 groundwater contamination problem that cannot, in its entirety, be  
16 addressed using the legal remedies available pursuant to this  
17 chapter and for which other releases that are part of the regional  
18 or multisite groundwater contamination problem are being  
19 addressed using the legal remedies available pursuant to Chapter  
20 6.8 (commencing with Section 25300).

21 ~~(v)~~

22 (E) Where an order for corrective action has already been  
23 issued against the person responsible for the release, or the  
24 department and the person responsible for the release have, prior  
25 to January 1, 1996, entered into an agreement to address the  
26 required cleanup of the release pursuant to Chapter 6.8  
27 (commencing with Section 25300).

28 ~~(vi)~~

29 (F) Where the hazardous waste facility is owned or operated by  
30 the federal government.

31 ~~(2) The authority granted under this section to a unified  
32 program agency is limited to the issuance of orders to correct  
33 releases from, and violations of the requirements of this chapter  
34 listed in paragraph (1) of subdivision (e) of Section 25404  
35 occurring at, a unified program facility within the jurisdiction of  
36 the CUPA, and is subject to Section 25404.1.~~

37 (A) ~~Notwithstanding paragraph (1), within the jurisdiction of  
38 a CUPA, the unified program agencies shall be the only local  
39 agencies authorized to issue orders under this section to correct  
40 releases from, and violations of the requirements of this chapter~~



1 ~~listed to paragraph (1) of subdivision (c) of Section 25404~~  
2 ~~occurring at, a unified program facility.~~

3 ~~(B) The CUPA shall annually submit a summary report to the~~  
4 ~~department on the status of orders issued by the unified program~~  
5 ~~agencies under this section and Section 25187.1.~~

6 ~~(C) The CUPA shall consult with the district attorney for the~~  
7 ~~county on the development of policies to be followed in exercising~~  
8 ~~the authority delegated pursuant to this section and Section~~  
9 ~~25187.1.~~

10 ~~(D) The department shall adopt regulations to implement this~~  
11 ~~paragraph and paragraph (2) of subdivision (a) of Section 25187.1.~~  
12 ~~The regulations shall include, but not be limited to, all of the~~  
13 ~~following requirements:~~

14 ~~(i) Provisions to ensure coordinated and consistent application~~  
15 ~~of this section and Section 25187.1 when both the department and~~  
16 ~~the unified program agency have or will be issuing orders under~~  
17 ~~one or both of these sections at the same facility.~~

18 ~~(ii) Provisions to ensure that the enforcement authority granted~~  
19 ~~to the unified program agencies will be exercised consistently~~  
20 ~~throughout the state.~~

21 ~~(iii) A requirement that the unified program agency have the~~  
22 ~~ability to represent itself in administrative appeal hearings.~~

23 ~~(iv) Minimum training requirements for staff of the unified~~  
24 ~~program agency relative to this section and Section 25187.1.~~

25 ~~(v) Procedures to be followed by the department to rescind the~~  
26 ~~authority granted to a unified program agency under this section~~  
27 ~~and Section 25187.1, if the department finds that the unified~~  
28 ~~program agency is not exercising that authority in a manner~~  
29 ~~consistent with the provisions of this chapter and Chapter 6.11~~  
30 ~~(commencing with Section 25404) and the regulations adopted~~  
31 ~~pursuant thereto.~~

32 ~~(b) (1) An order issued pursuant to this section shall meet all~~  
33 ~~of the following requirements:~~

34 ~~(A)~~

35 (2) The order shall include a requirement that the person take  
36 corrective action with respect to hazardous waste, including the  
37 cleanup of the hazardous waste, abatement of the effects thereof,  
38 ~~and the release of hazardous waste or constituents, abate the~~  
39 ~~effects thereof, and take any other necessary remedial action.~~

40 ~~(B)~~



1 (3) If the order requires corrective action at a hazardous waste  
2 facility, the order shall require that corrective action be taken  
3 beyond the facility boundary, where necessary to protect human  
4 health or the environment.

5 ~~(C)~~

6 (4) The order shall incorporate, as a condition of the order, any  
7 applicable waste discharge requirements issued by the State Water  
8 Resources Control Board or a California regional water quality  
9 control board, and shall be consistent with all applicable water  
10 quality control plans adopted pursuant to Section 13170 of the  
11 Water Code and Article 3 (commencing with Section 13240) of  
12 Chapter 4 of Division 7 of the Water Code and state policies for  
13 water quality control adopted pursuant to Article 3 (commencing  
14 with Section 13140) of Chapter 3 of Division 7 of the Water Code  
15 existing at the time of the issuance of the order, to the extent that  
16 the department, ~~authorized unified program agency, or public~~  
17 ~~officer determines or unified program agency determines~~ that  
18 those plans and policies are not less stringent than this chapter and  
19 regulations adopted pursuant to this ~~chapter~~.

20 ~~(2) The department, authorized unified program agency, or~~  
21 ~~public officer also may include any more stringent requirement in~~  
22 ~~an order issued pursuant to this section that the department,~~  
23 ~~authorized chapter. The order may include any more stringent~~  
24 ~~requirement that the department or unified program agency, or~~  
25 ~~public officer determines is necessary or appropriate to protect~~  
26 ~~water quality.~~

27 ~~(3) Persons who are subject to an order pursuant to this section~~

28 (5) *Persons who are subject to an order pursuant to this*  
29 *subdivision* include present and prior owners, lessees, or operators  
30 of the property where the hazardous waste is located, present or  
31 past generators, storers, treaters, transporters, disposers, and  
32 handlers of hazardous waste, and persons who arrange, or have  
33 arranged, by contract or other agreement, to store, treat, transport,  
34 dispose of, or otherwise handle hazardous waste.

35 ~~(4) In an order proposing a penalty pursuant to this section, the~~  
36 ~~department, authorized unified program agency, or public officer~~  
37 ~~shall take into consideration the nature, circumstances, extent, and~~  
38 ~~gravity of the violation, the violator's past and present efforts to~~  
39 ~~prevent, abate, or clean up conditions posing a threat to the public~~  
40 ~~health or safety or the environment, the violator's ability to pay the~~



1 ~~proposed civil penalty, and the prophylactic effect that imposition~~  
2 ~~of the proposed penalty would have on both the violator and the~~  
3 ~~regulated community as a whole.~~

4 ~~(5) For purposes of subdivision (a), “hazardous waste facility”~~

5 ~~(6) For purposes of this subdivision, “hazardous waste~~  
6 ~~facility” includes the entire site that is under the control of an~~  
7 ~~owner or operator engaged in the management of hazardous waste.~~

8 ~~(c) Any order issued pursuant to subdivision (a) this section~~  
9 ~~shall be served by personal service or certified mail and shall~~  
10 ~~inform the person so served of the right to a hearing.~~

11 ~~(d) (4) Any person served with an order pursuant to~~  
12 ~~subdivision (e) this section who has been unable to resolve any~~  
13 ~~violation or deficiency on an informal basis with the department,~~  
14 ~~authorized or unified program agency, or public officer may,~~  
15 ~~within 15 days after service of the order, request a hearing pursuant~~  
16 ~~to subdivision (e) or (f) by filing with the department, authorized~~  
17 ~~unified program agency, or public officer or unified program~~  
18 ~~agency a notice of defense. The notice shall be filed with the office~~  
19 ~~that issued the order. A notice of defense shall be deemed filed~~  
20 ~~within the 15-day period provided by this subdivision if it is~~  
21 ~~postmarked within that 15-day period. If no notice of defense is~~  
22 ~~filed within the time limits provided by this subdivision, the order~~  
23 ~~shall become final.~~

24 ~~(2) If a person served with an order pursuant to subdivision (e)~~  
25 ~~chooses to resolve the content, terms, or conditions of the order~~  
26 ~~directly with the department, authorized unified program agency,~~  
27 ~~or public officer and does not file an administrative or judicial~~  
28 ~~appeal, the person may request, and the department, authorized~~  
29 ~~unified program agency, or public officer shall prepare, a written~~  
30 ~~statement, that the department, authorized unified program~~  
31 ~~agency, or authorized local public officer shall amend into the~~  
32 ~~order, that explains the violation and the penalties applied,~~  
33 ~~including the nature, extent, and gravity of the violations, and that~~  
34 ~~includes a brief description of any mitigating circumstances and~~  
35 ~~any explanations by the respondent. Any amendment to include~~  
36 ~~the written statement prepared pursuant to this subdivision does~~  
37 ~~not constitute a new order and does not create new appeal rights.~~

38 ~~(e) Except as provided in subdivisions (f) and (h), any hearing~~  
39 ~~requested under subdivision (d) shall be conducted~~



1 (e) Any hearing requested on an order issued by the department  
2 shall be conducted within 90 days after receipt of the notice of  
3 defense by an administrative law judge of the Office of  
4 Administrative Hearings of the Department of General Services in  
5 accordance with Chapter 5 (~~commencing with Section 11500~~) 4.5  
6 (*commencing with Section 11400*) of Part 1 of Division 3 of Title  
7 2 of the Government Code, and the department, ~~authorized unified~~  
8 ~~program agency, or authorized local public officer~~ shall have all  
9 the authority granted to an agency by those provisions.

10 ~~(f) If a person served with an order pursuant to subdivision (e)~~  
11 ~~requests a hearing to be conducted pursuant to this subdivision, the~~  
12 ~~department, the authorized unified program agency, or the public~~  
13 ~~officer shall conduct the hearing pursuant to Article 10~~  
14 ~~(commencing with Section 11445.10) of Chapter 4.5 of Part 1 of~~  
15 ~~Division 3 of Title 2 of the Government Code. After conducting~~  
16 ~~the hearing requested pursuant to subdivision (d), the department,~~  
17 ~~authorized unified program agency, or public officer shall, within~~  
18 ~~60 days of the hearing, issue a decision, including an order setting~~  
19 ~~the amount of penalty imposed.~~

20 ~~(g) An order setting a penalty issued pursuant to a hearing~~  
21 ~~conducted in accordance with subdivision (f) shall be effective and~~  
22 ~~final upon issuance and payment shall be made within 30 days of~~  
23 ~~issuance. Copies of the order shall be served by personal service~~

24 (f) A person requesting a hearing on an order issued by a  
25 unified program agency may select the hearing process specified  
26 in either paragraph (1) or (2) in the notice of defense filed with the  
27 unified program agency. Within 90 days of receipt of the notice of  
28 defense by the uniform program agency, the hearing shall be  
29 conducted using one of the following procedures:

30 (1) An administrative law judge of the Office of Administrative  
31 Hearings of the Department of General Services shall conduct the  
32 hearing in accordance with Chapter 4.5 (*commencing with*  
33 *Section 11400*) of Part 1 of Division 3 of Title 2 of the Government  
34 Code.

35 (2) A hearing officer designated by the unified program agency  
36 shall conduct the hearing in accordance with Chapter 4.5  
37 (*commencing with Section 11400*) of Part 1 of Division 3 of Title  
38 2 of the Government Code, and the unified program agency shall  
39 have all the authority granted to an agency by those provisions.  
40 When a hearing is conducted by a unified program agency



1 pursuant to this paragraph, the unified program agency shall,  
2 within 60 days of the hearing, issue a decision.

3 (g) The hearing decision issued pursuant to subdivision (f)  
4 shall be effective and final upon issuance. Copies of the decision  
5 shall be served by personal service or by certified mail upon the  
6 party served with the order and upon other persons who appeared  
7 at the hearing and requested a copy.

8 (h) Any provision of an order issued under ~~subdivision (a) this~~  
9 ~~section, except the imposition of an administrative penalty or an~~  
10 ~~order issued pursuant to subdivision (g), shall take effect upon~~  
11 ~~issuance by the department, unified program agency, or public~~  
12 ~~officer if the department, unified program agency or public officer~~  
13 ~~or unified program agency if the department or unified program~~  
14 ~~agency finds that the violation or violations of law associated with~~  
15 ~~that provision may pose an imminent and substantial~~  
16 ~~endangerment to the public health or safety or the environment,~~  
17 ~~and a request for a hearing shall not stay the effect of that provision~~  
18 ~~of the order pending a decision by the hearing officer under~~  
19 ~~subdivision (e). However, if the department, unified program~~  
20 ~~agency, or public officer determines that any or pending a hearing~~  
21 ~~decision. However, if the department or unified program agency~~  
22 ~~determines that any or all provisions of the order are so related that~~  
23 ~~the public health or safety or the environment can be protected~~  
24 ~~only by immediate compliance with the order as a whole, then the~~  
25 ~~order as a whole, except the imposition of an administrative~~  
26 ~~penalty, shall take effect upon issuance by the department, unified~~  
27 ~~program agency or public officer or unified program agency. A~~  
28 ~~request for a hearing shall not stay the effect of the order as a whole~~  
29 ~~pending a decision by the hearing officer under subdivision (e).~~  
30 ~~Any order issued after a hearing conducted pursuant to subdivision~~  
31 ~~(e) shall take effect upon issuance by the department, unified~~  
32 ~~program agency or public officer. hearing decision.~~

33 (i) A decision issued pursuant to this section may be reviewed  
34 by the court pursuant to Section 11523 of the Government Code.  
35 In all proceedings pursuant to this ~~subdivision~~ section, the court  
36 shall uphold the decision of the department, ~~authorized unified~~  
37 ~~program agency, or public officer or unified program agency~~ if the  
38 decision is based upon substantial evidence in the whole record.  
39 The filing of a petition for writ of mandate shall not stay any  
40 ~~corrective~~ action required pursuant to this chapter or the accrual



1 of any penalties assessed pursuant to this chapter. This subdivision  
2 does not prohibit the court from granting any appropriate relief  
3 within its jurisdiction.

4 ~~(j) Except as otherwise provided in subdivision (k), all~~  
5 ~~administrative penalties collected under this~~

6 *(j) All administrative penalties collected from actions brought*  
7 *by the department pursuant to this section shall be placed in a*  
8 *separate subaccount in the Toxic Substances Control Account and*  
9 *shall be available only for transfer to the Site Remediation*  
10 *Account or the Expedited Site Remediation Trust Fund and for*  
11 *expenditure by the department upon appropriation by the*  
12 *Legislature.*

13 ~~(k) The penalties collected from actions brought by unified~~  
14 ~~program agencies or public officers~~

15 *(k) All administrative penalties collected from an action*  
16 *brought by a unified program agency pursuant to this section shall*  
17 *be paid to the city or county whose unified program agency or*  
18 *public officer imposed the penalty, and shall be deposited into a*  
19 *special account that may shall be expended to fund the activities*  
20 *of the unified program agency or public officer in enforcing this*  
21 *chapter pursuant to Section 25180.*

22 ~~(j) For purposes of this section “public officer” means a local~~  
23 ~~health officer or local public officer designated by the director~~  
24 ~~pursuant to subdivision (a) of Section 25180.~~

25 ~~SEC. 2.~~

26 *(l) The authority granted under this section to a unified*  
27 *program agency is limited to both of the following:*

28 *(1) The issuance of orders to impose penalties and to correct*  
29 *violations of the requirements of this chapter and its implementing*  
30 *regulations, only when the violations are violations of*  
31 *requirements applicable to hazardous waste generators and*  
32 *persons operating pursuant to a permit-by-rule, conditional*  
33 *authorization, or conditional exemption, when the violations*  
34 *occur at a unified program facility within the jurisdiction of the*  
35 *CUPA.*

36 *(2) The issuance of orders to require corrective action when*  
37 *there has been a release of hazardous waste or constituents only*  
38 *when the unified program agency is authorized to do so pursuant*  
39 *to Section 25404.1.*



1 (m) The CUPA shall annually submit a summary report to the  
2 department on the status of orders issued by the unified program  
3 agencies under this section and Section 25187.1.

4 (n) The CUPA shall consult with the district attorney for the  
5 county on the development of policies to be followed in exercising  
6 the authority delegated pursuant to this section and Section  
7 25187.1, as they relate to the authority of unified program  
8 agencies to issue orders.

9 (o) The CUPA shall arrange to have appropriate legal  
10 representation in administrative hearings that are conducted by an  
11 administrative law judge of the Office of Administrative Hearings  
12 of the Department of General Services, and when a decision issued  
13 pursuant to this section is appealed to the Superior Court.

14 (p) The department may adopt regulations to implement this  
15 section and paragraph (2) of subdivision (a) of Section 25187.1 as  
16 they relate to the authority of unified program agencies to issue  
17 orders. The regulations shall include, but not be limited to, all of  
18 the following requirements:

19 (1) Provisions to ensure coordinated and consistent  
20 application of this section and Section 25187.1 when both the  
21 department and the unified program agency have or will be issuing  
22 orders under one or both of these sections at the same facility.

23 (2) Provisions to ensure that the enforcement authority granted  
24 to the unified program agencies will be exercised consistently  
25 throughout the state.

26 (3) Minimum training requirements for staff of the unified  
27 program agency relative to this section and Section 25187.1.

28 (4) Procedures to be followed by the department to rescind the  
29 authority granted to a unified program agency under this section  
30 and Section 25187.1, if the department finds that the unified  
31 program agency is not exercising that authority in a manner  
32 consistent with this chapter and Chapter 6.11 (commencing with  
33 Section 25404) and the regulations adopted pursuant thereto.

34 SEC. 2. Section 25404.8 of the Health and Safety Code is  
35 amended to read:

36 25404.8. (a) In a county for which a CUPA has not been  
37 certified on or before January 1, 2000, and where the unified  
38 program is implemented pursuant to paragraph (2) of subdivision  
39 (f) of Section 25404.3, the CUPA is eligible for an allocation  
40 pursuant to subdivision (d). The CUPA shall institute a single fee



1 system that meets the requirements of Section 25404.5, except that  
2 the amounts to be paid by each person regulated by the unified  
3 program under the single fee system shall be set at a level so that  
4 the revenues collected under the single fee system and the amount  
5 allocated pursuant to subdivision (d) are sufficient to pay the  
6 necessary costs incurred by the CUPA in implementing the unified  
7 program. The CUPA shall determine the level to be paid by  
8 persons regulated under the unified program by conducting a  
9 workload analysis that establishes the direct and indirect costs to  
10 the CUPA of implementing the unified program.

11 (b) A CUPA that implements the unified program pursuant to  
12 paragraph (2) of subdivision (f) of Section 25404.3 shall use the  
13 funding allocated pursuant to subdivision (d) to implement the  
14 unified program within the jurisdiction of the CUPA in accordance  
15 with the implementation agreement reached with the secretary  
16 pursuant to paragraph (2) of subdivision (f) of Section 25404.3.

17 (c) The Rural CUPA Reimbursement Account is hereby  
18 established in the General Fund and the secretary may expend the  
19 money in the account to make the allocations specified in  
20 subdivision (d).

21 (d) (1) Except as provided in paragraph (2), the secretary shall  
22 allocate the following amounts from the Rural CUPA  
23 Reimbursement Account to an eligible county:

24 (A) If the county has a population of less than 70,000 persons,  
25 the amount of the funds allocated from the account shall not  
26 exceed 75 percent of the *budgeted* costs ~~incurred by the CUPA in~~  
27 ~~implementing~~ *as approved by the local governing body for*  
28 *implementation of the unified program.*

29 (B) If the county has a population of more than 70,000, but less  
30 than 100,000 persons, the amount of the funds allocated from the  
31 account shall not exceed 50 percent of the *budgeted* costs ~~incurred~~  
32 ~~by the CUPA in implementing~~ *as approved by the local governing*  
33 *body for implementation of the unified program.*

34 (C) If the county has a population of more than 100,000, but  
35 less than 150,000 persons, the amount of the funds allocated from  
36 the account shall not exceed 35 percent of the *budgeted* costs  
37 ~~incurred by the CUPA in implementing~~ *as approved by the local*  
38 *governing body for implementation of the unified program.*



1 (2) The secretary shall not allocate more than sixty thousand  
2 dollars (\$60,000) for all CUPAs in an eligible county. *The funds*  
3 *shall be allocated without regard to fiscal year.*

4 (e) This section shall become operative July 1, 2001.

5 *SEC. 3. Nothing in this act shall be construed to apply any*  
6 *penalty subject to apportionment by Section 25192 of the Health*  
7 *and Safety Code.*

8 *SEC. 4. No reimbursement is required by this act pursuant to*  
9 *Section 6 of Article XIII B of the California Constitution because*  
10 *a local agency or school district has the authority to levy service*  
11 *charges, fees, or assessments sufficient to pay for the program or*  
12 *level of service mandated by this act, within the meaning of*  
13 *Section 17556 of the Government Code.*

