

## Assembly Bill No. 1803

### CHAPTER 77

An act to amend Section 11472.1 of the Food and Agricultural Code, to amend Sections 7361, 12015, and 13007 of, and to add Section 13001.5 to, the Fish and Game Code, to amend Section 51283 of, and to add Sections 12805.6 and 67125 to, the Government Code, to amend Sections 25160, 25173.6, 25173.7, 25192, 25205.6, 25205.15, 25297.1, 25324, 25330.2, 25351.2, 25353, 25355.5, 25355.6, 25356.1, 25356.4, 25359.3, 25359.4.5, 25360, 25360.2, 25360.3, 25360.4, 25361, 25365.6, 25368.2, 25385.1, and 25385.6 of, to amend and repeal Sections 25330, 25334, 25385.3, and 25385.8 of, to add Sections 39607.4 and 42871 to, and to repeal Sections 25336, 25351.1, 25351.6, and 25385.9, and Chapter 6 (commencing with Section 42800) of Part 4 of Division 26 of, the Health and Safety Code, to amend Sections 4799.13, 5090.15, 5090.70, 30533, 42885, and 42889 of, to add Sections 4137, 5003.11, 5818.1, 5818.2, 8709.5, and 25731 to, and to repeal Chapter 8.5 (commencing with Section 25730) of Division 15 of, the Public Resources Code, to amend Section 38225 of the Vehicle Code, and to amend Sections 79441, 79452, and 79452.3 of, and to add Sections 141.5 and 79442 to, and Chapter 2.5 (commencing with Section 79473) to Division 26.4 of, the Water Code, relating to public resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 2006. Filed with  
Secretary of State July 18, 2006.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1803, Committee on Budget. Public resources.

(1) Existing law requires the Department of Pesticide Regulation to publish a financial report each year that describes the amount and source of funding of, and the cost to operate, each branch of the department, and the funding of the major programs within those branches.

This bill would instead require the department to report the amount and source of funding for the major programmatic functions of the department.

(2) Existing law, with certain exceptions, prohibits a person from sport fishing in the tidal waters of the San Francisco Bay-Delta and the main stem of the Sacramento and San Joaquin Rivers, including major tributaries, below the most downstream dam, unless the person obtains, in addition to a specified license and other applicable stamp or validation, a Bay-Delta Sport Fishing Enhancement Stamp or validation and affixes that stamp or validation to a specified license. Existing law establishes a base fee of \$5 for that stamp or validation, provides for the annual adjustment of that amount in a specified manner, and requires the funds generated by

the imposition of these fees to be deposited in a separate account in the Fish and Game Preservation Fund. Existing law requires the department to expend those funds for the long-term, sustainable benefit of the primary Bay-Delta sport fisheries in a manner that is consistent with specified laws and practices.

This bill would require the expenditure of those funds to be consistent with the ecosystem restoration component of the CALFED Programmatic Record of Decision dated August 28, 2000.

(3) Existing law requires all moneys collected under the provisions of the Fish and Game Code to be deposited in the Fish and Game Preservation Fund, unless otherwise provided.

This bill would require the Department of Fish and Game to prepare annually, for inclusion in the Governor's Budget, a fund condition statement for the Fish and Game Preservation Fund that displays information relating to revenues and expenditures with regard to the moneys in the fund, as specified. The bill would require the department to prepare, for posting on its Internet Web site on or before January 10, of each year, a fund condition statement for each account or subaccount in the fund.

(4) Existing law specifies that all moneys collected under the Fish and Game Code are deposited into the Fish and Game Preservation Fund, unless otherwise provided. Existing law provides that 33 ⅓% of the fees derived from the issuance of all sport fishing licenses, with a specified exception, are to be deposited into the Hatchery and Inland Fisheries Fund to be used, upon appropriation, to support programs related to the management, maintenance, and capital improvement of fish hatcheries, the Heritage and Wild Trout Program, and other eligible activities. Existing law sets forth production and restoration goals for trout, as provided. Existing law permits the Department of Fish and Game to utilize federal funds to meet these production and restoration goals. Existing law requires the department, by July 1, 2008, and biennially thereafter, to report back to the fiscal and policy committees in the Legislature on the implementation of these and other provisions relating to trout.

This bill would delete the provision permitting the department to utilize federal funds to meet the production and restoration goals, and instead would specify that the department may utilize federal funds to meet the 33 ⅓% requirement described above if those funds are otherwise legally available for that purpose.

(5) Existing law requires the Resources Agency in conjunction with specified entities within the agency to develop and maintain a database of lands and easements that have been acquired by the those entities.

This bill would require the Resources Agency to identify, for future conservation, key buffer properties adjacent to large ecologically valuable working landscapes that provide significant economic benefits to the state whose future viability could be threatened by encroachment of incompatible land use. The bill would require that an acquisition of a land

or conservation easement for use as a buffer property occur with a willing seller.

(6) Existing law requires that, of cancellation fees paid in connection with the cancellation of a land conservation contract transmitted to the Controller, the 1st \$2,036,000 paid in the 2004–05 fiscal year shall be paid into the Soil Conservation Fund, which is available for specified purposes upon appropriation by the Legislature.

This bill would increase the amount to be paid into the Soil Conservation Fund from fees paid in the 2004–05 fiscal year to \$2,536,000.

(7) Existing law, contained in the bistate Tahoe Regional Planning Compact, among other things, establishes the Tahoe Regional Planning Agency, as a separate legal entity composed of a California and a Nevada delegation, each composed of members appointed by local entities and state officials, as prescribed. Existing law requires the agency to adopt all necessary ordinances, rules, and regulations to effectuate the long-term general plan for the development of the Lake Tahoe region, as described.

Existing law creates the California Tahoe Regional Planning Agency and requires the agency to annually submit a request for state funds to the Legislature.

This bill would, for purposes of the annual California budget process, require that the agency be provided a baseline adjustment equivalent to fund California's  $\frac{2}{3}$  share for any increase in employee compensation or cost-of-living adjustment, in the same manner as applied to state agencies.

(8) Existing law requires any person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, to complete a manifest prior to the time the waste is transported or offered for transportation and to submit the manifest to the Department of Toxic Substances Control. Existing law requires any person who transports hazardous waste in a vehicle to have a manifest in his or her possession. Existing law defines the term manifest for purposes of those provisions. A violation of the laws regulating hazardous waste is a crime.

This bill would define the term “California Uniform Hazardous Waste Manifest” as a manifest document printed by the State of California for a shipment initiated on and before September 4, 2006, or the Uniform Hazardous Waste Manifest printed by a source registered with the United States Environmental Protection Agency for a shipment initiated on or after September 5, 2006. The bill would specify the date for determining when a shipment is initiated and would make conforming changes with regard to the use of the Uniform Hazardous Waste Manifest.

The bill would impose a state-mandated local program by creating a new crime with regard to the use of a manifest.

(9) Existing law creates the Toxic Substances Control Account in the General Fund and requires that specified funds be deposited in that account, including the charge imposed on corporations handling hazardous materials. The funds deposited in the Toxic Substances Control Account

are appropriated to the Department of Toxic Substances Control for specified purposes, including, among other things, the administration and implementation of the provisions governing hazardous substance response actions, railroad safety, emergency planning and response, unreimbursed removal and remedial action costs, for allocation to the Office of Environmental Health Hazard Assessment, and for the payment of the principal of, and interest on, bonds sold pursuant to the Johnston-Filante Hazardous Substance Cleanup Bond Act of 1984.

Existing law provides for the (A) Hazardous Substance Account in the General Fund, the (B) Hazardous Substance Clearing Account, which is used to pay the principal of, and interest on, those bonds, (C) the Hazardous Substance Cleanup Fund, in which the proceeds of those bonds are deposited, and (D) the Superfund Bond Trust Fund, which is a sinking fund to ensure the payment of principal of, and interest on, those bonds.

This bill would make those accounts and funds specified in (A) to (D) above, inoperative on July 1, 2006, and would repeal those accounts and funds on January 1, 2007. The bill would provide that the Toxic Substances Control Account is the successor fund of those accounts and funds, and would provide that the assets, liabilities, and surplus of those accounts and funds be transferred to, and become a part of the Toxic Substances Control Account. The bill would require all appropriations from those repealed accounts and funds, to the extent encumbered, to continue to be available for the same purposes and periods from the Toxic Substances Control Account. The bill would make conforming changes with regard to the repeal of those accounts and funds and would delete obsolete provisions with regard to that bond act.

(10) Existing law requires the department to provide specified information annually with regard to certain expenditures made pursuant to the Toxic Substances Control Account, including oversight and implementation of remedial and removal actions.

This bill would also require the department to submit a report to the Governor and the Legislature on the prior fiscal year's expenditures from the account.

(11) The existing Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) requires 50% of the penalties collected pursuant to the hazardous waste control laws act be deposited in the Hazardous Substance Account, 25% are to be paid to the prosecuting office or the person who brought the action in the public interest, and 25% are required to be used to fund the activities of certain local health officers.

This bill would require the 50% of the penalties to be deposited in the Toxic Substances Control Account instead of the Hazardous Substance Account.

The bill, in conformance with the requirements of Proposition 65, would make a legislative finding and declaration that these changes would further the purposes of the act.

(12) Existing law requires the department, on or before November 1 of each year, to provide the State Board of Equalization with a schedule of

codes that consist of the types of corporations that use, generate, store, or conduct activities in this state related to hazardous materials, as defined. Existing law imposes a tax upon those corporations and requires the revenues to be expended for response actions to hazardous substance releases. A violation of the hazardous waste control laws, including a failure to pay this tax, is a crime.

This bill, instead, would require the department to provide the board with a schedule of codes that consists of the types of organizations, as defined, that use, generate, store, or conduct activities in this state related to hazardous materials, as defined. The bill would impose the tax upon organizations that are not subject to the tax under existing law, thereby imposing a tax for purposes of Article XIII A of the California Constitution.

The bill would impose a state-mandated local program by creating a new crime with regard to the payment of the tax.

(13) Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to update the inventory of greenhouse gas emissions from all sources located in the state, as identified in a specified report and to perform related duties. Existing law requires the Secretary of the Resources Agency to establish a nonprofit public benefit corporation known as the California Climate Action Registry with prescribed functions relating to greenhouse gas emissions.

This bill would, on January 1, 2008, repeal these provisions. The bill would require the State Air Resources Board to prepare, adopt, and update that inventory of greenhouse gas emissions, as specified.

(14) Existing law requires the State Board of Forestry and Fire Protection to classify all lands within the state to determine areas in which the financial responsibility of preventing and suppressing fires is primarily the responsibility of the state. Existing law provides that the responsibility of preventing and suppressing fires in areas that are not classified as state responsibility areas is that of the local or federal government. Existing law authorizes a county, with the concurrence of the Director of Forestry and Fire Protection and except as provided otherwise, to assume responsibility for the prevention and suppression of all fires on all land in the county, including land in state responsibility areas, as specified. Existing law authorizes the Department of Forestry and Fire Protection or the director to enter into a contract with a city, county, or other specified entity, for the department to provide fire prevention and suppression services, as specified.

This bill would require the department, on or before January 10 of each year, to provide a report to the Legislature regarding the department's increased fire prevention activities. The bill would require the report to include certain information, including the percentage of fire prevention activities that occurred in state responsibility areas, the percentage of fire prevention activities that occurred in counties where, pursuant to a contract with the department, the county has agreed to provide fire protection

services in state responsibility areas within county boundaries on behalf of the department, the percentage of fire prevention activities that were undertaken pursuant to a contract with a local government for the department to provide local fire protection and emergency services, the percentage of fire prevention activities that occurred on other lands, and a listing of fire prevention performance measures that the department tracks annually, as specified.

(15) Under existing law, money in the Forest Resources Improvement Fund may be expended, upon appropriation, only for specified programs and purposes relating to forest resources, including state lands operated or demonstration state forests if those lands are managed so they produce revenue to offset the management costs, and to reimburse the General Fund for the costs of operation of state forests administered by the Director of Forestry and Fire Protection.

The bill instead would provide that money in the Forest Resources Improvement Fund may be expended, upon appropriation by the Legislature, only for the cost of operations associated with the management of state lands operated as demonstration state forests by the Department of Forestry and Fire Protection. The bill would require all money in the fund, in excess of the amount needed to support those operations, to be deposited in the General Fund.

(16) Under existing law, the Department of Parks and Recreation is required to operate, manage, and maintain units of the state park system. Existing law regulates the sale of surplus state property.

This bill would authorize the Director of the Department of Parks and Recreation to grant to the City of Malibu, subject to specified conditions, all of the rights, title, and interest of the State of California in an approximately 10.81-acre portion of the Malibu Bluffs unit of Malibu Lagoon State Beach, known as Malibu Bluffs Community Park in the County of Los Angeles. The bill would require that the real property conveyed be operated, maintained, and improved by the City of Malibu for park purposes. The bill would require Attorney General review and approval of the deposit of the net proceeds, as specified.

(17) Existing law, the Off-Highway Motor Vehicle Recreation Act of 2003, provides for the acquisition, operation, and funding of state off-highway vehicular recreation areas and trails. Specified taxes imposed upon the distribution of motor vehicle fuel and certain fees, fines, forfeitures, and reimbursements are required to be deposited in the Off-Highway Vehicle Trust Fund for allocation, upon appropriation by the Legislature, by the Off-Highway Motor Vehicle Recreation Commission.

All of the above provisions in existing law are to be repealed on January 1, 2007, except that the statute creating the commission is to become inoperative on July 1, 2007, and is to be repealed on January 1, 2008.

This bill would extend the January 1, 2007, repeal date until January 1, 2008, delete the July 1, 2007, inoperative date, and would extend a January 1, 2007, repeal date, currently applicable to the collection and disposition of certain related fees, to January 1, 2008. This bill would

delete obsolete provisions regarding a 2004 Off-Highway Vehicle Fuel Tax study and report.

(18) Existing law, the Keene-Nejedly California Wetlands Preservation Act, authorizes the Department of Fish and Game and the State Coastal Conservancy to acquire interests in real property in furthering the public's interest in the protection, preservation, restoration, and enhancement of wetlands. Existing law provides that wetlands protection, preservation, restoration, and enhancement projects are eligible for funding from the Resources Account in the Energy and Resources Fund.

This bill would establish the Coastal Wetlands Fund in the State Treasury and would require the fund to be an interest-bearing fund administered by the Department of Fish and Game. The bill would prohibit the principal of the Coastal Wetlands Fund from being expended, and require it to be maintained, so that the interest earned on the fund would provide a continuous funding source for wetlands maintenance. The bill would provide that interest in the fund is available only upon appropriation in the annual Budget Act, and would require that 60% of the interest appropriated be allocated to the Department of Fish and Game for expenditure of coastal wetlands owned by the department, and the remaining 40% be allocated to the State Coastal Conservancy for expenditure in the form of grants for maintenance of coastal wetlands property owned by the state, a conservancy of the state, a local government agency, or a nonprofit organization, as specified. The bill would authorize the department and the conservancy to accept contributions to the Coastal Wetlands Fund, as specified.

(19) Existing law establishes the School Land Bank Fund, as a continuously appropriated fund, in order that the State Lands Commission, acting as the School Land Bank Trustee, may acquire real property or any interest in real property for the purposes of facilitating management of school lands for generating revenues. Existing law authorizes the trustee, in addition to the purchase price, to pay from the fund the costs and expenses attributable to the acquisition.

This bill would expand the purposes for which money from the fund may be used to include the expenses attributable to management and remediation efforts on state school lands, thereby making an appropriation.

(20) Under existing law, the California Coastal Commission has developed a public coastal access program. Existing law requires the commission and the State Coastal Conservancy to report annually to the Governor and the Legislature on progress in implementing the public coastal access program.

This bill would require that report to include progress in facilitating the acceptance of outstanding offers to dedicate and to identify new offers to dedicate, as specified.

(21) Existing law requires a person who purchases a new tire, as defined, on or after January 1, 2005, to pay a California tire fee of \$1.75 per tire, and requires a person who purchases a new tire on or after January

1, 2007, to pay a California tire fee of \$1.50 per tire. Existing law reduces the California tire fee to \$0.75 per tire on and after January 1, 2015.

This bill would delete the reduction of the California tire fee to \$1.50 per tire on and after January 1, 2007, and, instead, maintain the California tire fee at \$1.75 per tire until January 1, 2015.

(22) Existing law imposes a California tire fee amount on every person who purchases a new tire for use for prescribed purposes related to disposal and use of used tires. Existing law requires, until December 31, 2006, that an amount equal to \$0.75 per tire on which the tire fee is imposed be deposited in the Air Pollution Control Fund for use by the State Air Resources Board and the air pollution control districts and air quality management districts to fund programs and projects that mitigate or remediate air pollution caused by tires in the state, as specified. Existing law decreases that amount, commencing January 1, 2007, to an amount equal to \$0.50 per tire, and repeals the requirement that those amounts be deposited in the Air Pollution Control Fund on January 1, 2015.

This bill would repeal the requirement that the amount deposited in the Air Pollution Control Fund after January 1, 2007, be decreased to \$0.50, therefore continuing the deposit of an amount equal to \$0.75 per tire in that fund, until January 1, 2015.

(23) Under existing law, the Department of Water Resources operates the State Water Project and undertakes various activities to manage the state's water resources.

This bill would require the department to proceed with the construction of the South Delta Improvements Program, but would prohibit the department from commencing the operational phase of the program until the Director of Water Resources certifies, in writing, to the Legislature that the department has completed specified studies and that a prescribed environmental review includes specified matters.

(24) The California Bay-Delta Authority Act establishes the California Bay-Delta Authority in the Resources Agency. The act requires the authority and the implementing agencies to carry out programs, projects, and activities necessary to implement the Bay-Delta Program, defined to mean those actions that address the goals and objectives of the CALFED Bay-Delta Programmatic Record of Decision, dated August 28, 2000, or as it may be amended. The act designates specific state and federal agencies as implementing agencies for program elements established in the act, including designating the authority as the implementing agency for the science program element. The act requires the authority, with the advice of the director of the authority, to appoint a lead scientist to carry out specified duties under the act. The act, until January 1, 2008, authorizes the lead scientist of the authority to enter into contracts with scientific experts to conduct studies of delta fisheries, terminating no later than January 1, 2008.

This bill would require the Secretary of the Resources Agency to administer the contracts, grants, leases, and agreements under the act, excluding the contracts, grants, leases, and agreements that relate to the

implementation of the ecosystem restoration program under the act, which the bill would require the Department of Fish and Game to administer. The bill would provide that the exercise of this authority by the secretary and the Department of Fish and Game is not subject to review or approval by the Department of General Services.

The bill would require the secretary to have the possession and control of all records, papers, equipment, supplies, contracts, leases, agreements, and other property connected with the administration of the act, or held for the benefit of the authority. The bill would require the secretary to provide staff support to the authority to assist the authority in exercising its duties under the act. The bill would require the Department of Forestry and Fire Protection to provide administrative support to assist the secretary in carrying out the duties assigned to the secretary under the bill's provisions.

The bill would require the Resources Agency to be the implementing agency for the science program element and, with the advice of the authority and the director of the authority, would require the secretary to appoint the lead scientist for the purposes of the act. The bill would authorize the secretary, instead of the lead scientist, to enter into a contract with scientific experts to conduct studies of delta fisheries and for carrying out the mission of the California Bay-Delta Program. The bill would extend that contracting authority until January 1, 2009.

(25) Existing law requires the California Bay-Delta Authority and certain implementing agencies to carry out programs, projects, and activities necessary to implement a prescribed Bay-Delta Program.

This bill would require the Secretary of the Resources Agency, in collaboration with the Secretary of Business, Transportation and Housing, to develop a strategic plan, with specified components, to achieve a sustainable Sacramento-San Joaquin Delta.

(26) 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.

(27) The bill would declare that it is to take effect immediately, as an urgency statute.

Appropriation: yes.

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

SECTION 1. Section 11472.1 of the Food and Agricultural Code is amended to read:

11472.1. On or before October 31 of each year, the department shall publish a financial report regarding the preceding fiscal year and shall make this report available to the public. The report shall describe in detail the amount and source of funding for the major programmatic functions of

the department and other relevant information that may aid in evaluating the scope and impact of the activities of the department.

SEC. 2. Section 7361 of the Fish and Game Code is amended to read:

7361. (a) Fees received by the department pursuant to Section 7360 shall be deposited in a separate account in the Fish and Game Preservation Fund.

(b) The department shall expend the funds in that account for the long-term, sustainable benefit of the primary Bay-Delta sport fisheries, including, but not limited to, striped bass, sturgeon, black bass, halibut, salmon, surf perch, steelhead trout, and American shad. Funds shall be expended to benefit sport fish populations, sport fishing opportunities, and anglers within the geographic parameters established in Section 7360, and consistent with the requirements of the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) and the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3, the ecosystem restoration component of the CALFED Programmatic Record of Decision dated August 28, 2000, and applicable commission policies.

(c) It is the intent of the Legislature that these funds be used to augment, not replace, funding that would otherwise be allocated to Bay-Delta sport fisheries from the sale of fishing licenses, the California Bay-Delta Authority, or other federal, state, or local funding sources.

SEC. 3. Section 12015 of the Fish and Game Code is amended to read:

12015. (a) It is the intent of the Legislature that expeditious cleanup is the primary interest of the people of the State of California in order to protect the people and the environment of the state.

(b) In addition to any other penalty, anyone responsible for polluting, contaminating, or obstructing waters of this state, or depositing or discharging materials threatening to pollute, contaminate, or obstruct waters of this state, to the detriment of fish, plant, bird, or animal life in those waters, shall be required to remove any substance placed in the waters, or to remove any material threatening to pollute, contaminate, or obstruct waters of this state, which can be removed, that caused the prohibited condition, or to pay the costs of the removal by the department.

(c) Prior to taking any action committing the use of state funds pursuant to this section or Section 5655, the department shall first make a reasonable effort to have the person responsible, when that person is known and readily available, remove, or agree to pay for the removal of, the substance causing the prohibited condition, if the responsible person acts expeditiously and does not cause the prohibited condition to be prolonged to the detriment of fish, plant, animal, or bird life in the affected waters. When the responsible party is unknown or is not providing adequate and timely cleanup, the emergency reserve account of the Toxic Substances Control Account in the General Fund shall be used to provide funding for the cleanup pursuant to Section 25354 of the Health and Safety Code. When those or other funds are not available, moneys in the Fish and Wildlife Pollution Account shall be available, in accordance with subdivision (b) of Section 12017, for funding the cleanup expenses.

SEC. 4. Section 13001.5 is added to the Fish and Game Code, to read:  
13001.5. (a) The department shall prepare annually, for inclusion in the Governor's Budget, a fund condition statement for the Fish and Game Preservation Fund that displays both of the following:

(1) Information relating to the total amounts of revenues and expenditures with regard to the moneys in the fund that are deposited in an account or subaccount in the fund.

(2) Information relating to revenues and expenditures with regard to all moneys in the fund that are not deposited in an account or subaccount in the fund.

(b) For the purposes of subdivision (a), the department shall prepare the fund condition statement in a manner that is similar to the fund condition statement relating to the Fish and Game Preservation Fund included in the 2003–04 Governor's Budget.

(c) The department shall prepare, for posting on its Internet Web site on or before January 10, of each year, a fund condition statement for each account or subaccount in the fund.

SEC. 5. Section 13007 of the Fish and Game Code is amended to read:

13007. (a) Notwithstanding Section 13001 and paragraph (1) of subdivision (a) of Section 13005, commencing July 1, 2006, 33 1/3 percent of all sport fishing license fees, except license fees collected pursuant to Section 7149.8 collected pursuant to Article 3 (commencing with Section 7145) of Chapter 1 of Part 2 of Division 6 shall be deposited into the Hatchery and Inland Fisheries Fund, which is hereby established in the State Treasury. Moneys in the fund may be expended, upon appropriation by the Legislature, to support programs of the Department of Fish and Game related to the management, maintenance, and capital improvement of California's fish hatcheries, the Heritage and Wild Trout Program, and enforcement activities related thereto, and to support other activities eligible to be funded from revenue generated by sport fishing license fees.

(b) The sport fishing license fees collected and subject to appropriation pursuant to subdivision (a) shall be used for the following purposes:

(1) For the department's attainment of the following production goals for state hatcheries, based on the sales of the following types of sport fishing licenses: resident; lifetime; nonresident year; nonresident, 10-day; 2-day; 1-day; and reduced fee.

(A) By July 1, 2007, a minimum of 2.25 pounds of released trout per sport fishing license sold in 2006, 1.75 pounds of which must be of catchable size or larger.

(B) By July 1, 2008, a minimum of 2.5 pounds of released trout per sport fishing license sold in 2007, 2.0 pounds of which must be of catchable size or larger.

(C) By July 1, 2009, and thereafter, a minimum of 2.75 pounds of released trout per sport fishing license sold in 2008, 2.25 pounds of which must be of catchable size or larger.

(D) The department shall attain these goals in compliance with Fish and Game Commission trout policies concerning catchable-sized trout stocking.

(2) To the Heritage and Wild Trout Program, two million dollars (\$2,000,000), which shall be used for permanent positions and seasonal aides in each region of the state as necessary, and other activities necessary to the program.

(A) The funds allocated pursuant to this paragraph shall be used to fund seven new positions for the Heritage and Wild Trout Program.

(B) In addition to the seven new positions specified in subparagraph (A), the department may hire seasonal aides in each region of the state to assist with the operations of the Heritage and Wild Trout Program.

(3) The department shall, by July 1, 2011, ensure that 25 percent of the fish produced by state fish hatcheries are used for the purpose of initiating and managing the restoration of naturally indigenous stocks of trout to their original California source watersheds. This paragraph shall not be construed to prohibit the department from using surplus fish in waters outside of their original California source watersheds. All trout restored pursuant to this paragraph shall be native California trout, as defined in Section 7261. The department shall attain the 25-percent restoration goal of this paragraph according to the following schedule:

(A) By July 1, 2009, 15 percent and at least four species, not including the coastal rainbow trout/steelhead.

(B) By July 1, 2010, 20 percent and at least four species, not including the coastal rainbow trout/steelhead.

(C) By July 1, 2011, and thereafter, 25 percent and at least five species, not including the coastal rainbow trout/steelhead.

(4) The department may hire additional staff for state fish hatcheries, in order to comply with the requirements of this subdivision.

(c) The department may allocate any funds under this section, not necessary to maintain the minimums specified in paragraphs (1) and (3) of subdivision (b), and after the expenditure in paragraph (2) of subdivision (b), to the Fish and Game Preservation Fund.

(d) The department may utilize federal funds to meet the funding formula specified in subdivision (a) if those funds are otherwise legally available for this purpose.

(e) A portion of the moneys subject to appropriation pursuant to subdivision (a) may be used for the purpose of obtaining scientifically valid genetic determinations of California native trout stocks, consistent with Theme 1 in the executive summary of the department's Strategic Plan for Trout Management, published November 2003.

(f) The department, by July 1, 2008, and biennially thereafter, shall report back to the fiscal and policy committees in the Legislature on the implementation of these provisions.

SEC. 6. Section 12805.6 is added to the Government Code, to read:

12805.6. The Resources Agency shall identify, for future conservation, key buffer properties adjacent to large ecologically valuable working

landscapes that provide significant economic benefits to the state, such as active military or National Guard properties, whose future viability could be threatened by encroachment of incompatible land use activities. An acquisition of a land or conservation easement on property identified pursuant to this section shall occur with a willing seller.

SEC. 7. Section 51283 of the Government Code is amended to read:

51283. (a) Prior to any action by the board or council giving tentative approval to the cancellation of any contract, the county assessor of the county in which the land is located shall determine the current fair market value of the land as though it were free of the contractual restriction. The assessor shall certify to the board or council the cancellation valuation of the land for the purpose of determining the cancellation fee. At the same time, the assessor shall send a notice to the landowner and the Department of Conservation indicating the current fair market value of the land as though it were free of the contractual restriction and advise the parties, that upon their request, the assessor shall provide all information relevant to the valuation, excluding third-party information. If any information is confidential or otherwise protected from release, the department and the landowner shall hold it as confidential and return or destroy any protected information upon termination of all actions relating to valuation or cancellation of the contract on the property. The notice shall also advise the landowner and the department of the opportunity to request formal review from the assessor.

(b) Prior to giving tentative approval to the cancellation of any contract, the board or council shall determine and certify to the county auditor the amount of the cancellation fee that the landowner shall pay the county treasurer upon cancellation. That fee shall be an amount equal to 12½ percent of the cancellation valuation of the property.

(c) If it finds that it is in the public interest to do so, the board or council may waive any payment or any portion of a payment by the landowner, or may extend the time for making the payment or a portion of the payment contingent upon the future use made of the land and its economic return to the landowner for a period of time not to exceed the unexpired period of the contract, had it not been canceled, if all of the following occur:

(1) The cancellation is caused by an involuntary transfer or change in the use which may be made of the land and the land is not immediately suitable, nor will be immediately used, for a purpose which produces a greater economic return to the owner.

(2) The board or council has determined that it is in the best interests of the program to conserve agricultural land use that the payment be either deferred or is not required.

(3) The waiver or extension of time is approved by the Secretary of the Resources Agency. The secretary shall approve a waiver or extension of time if the secretary finds that the granting of the waiver or extension of time by the board or council is consistent with the policies of this chapter and that the board or council complied with this article. In evaluating a

request for a waiver or extension of time, the secretary shall review the findings of the board or council, the evidence in the record of the board or council, and any other evidence the secretary may receive concerning the cancellation, waiver, or extension of time.

(d) The first two million five hundred thirty-six thousand dollars (\$2,536,000) of revenue paid to the Controller pursuant to subdivision (e) in the 2004–05 fiscal year, and any other amount as approved in the final Budget Act for each fiscal year thereafter, shall be deposited in the Soil Conservation Fund, which is continued in existence. The money in the fund is available, when appropriated by the Legislature, for the support of all of the following:

(1) The cost of the farmlands mapping and monitoring program of the Department of Conservation pursuant to Section 65570.

(2) The soil conservation program identified in Section 614 of the Public Resources Code.

(3) Program support costs of this chapter as administered by the Department of Conservation.

(4) Program support costs incurred by the Department of Conservation in administering the open-space subvention program (Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2).

(e) When cancellation fees required by this section are collected, they shall be transmitted by the county treasurer to the Controller and deposited in the General Fund, except as provided in subdivision (d) of this section and subdivision (b) of Section 51203. The funds collected by the county treasurer with respect to each cancellation of a contract shall be transmitted to the Controller within 30 days of the execution of a certificate of cancellation of contract by the board or council, as specified in subdivision (b) of Section 51283.4.

(f) It is the intent of the Legislature that fees paid to cancel a contract do not constitute taxes but are payments that, when made, provide a private benefit that tends to increase the value of the property.

SEC. 8. Section 67125 is added to the Government Code, to read:

67125. For purposes of the annual budget process, the agency shall be provided a baseline adjustment equivalent to fund California's two-thirds share for any increase in employee compensation or cost-of-living adjustment, in the same manner as applied to state agencies. In those instances where the methodology for determining this adjustment differs from standard state budget practices, the agency and the Department of Finance shall work together on an agreed application of this section.

SEC. 9. Section 25160 of the Health and Safety Code is amended to read:

25160. (a) For purposes of this chapter, the following definitions apply:

(1) "Manifest" means a shipping document originated and signed by a generator of hazardous waste that contains all of the information required by the department and that complies with all applicable federal and state regulations.

(2) “California Uniform Hazardous Waste Manifest” means either of the following:

(A) A manifest document printed and supplied by the state for a shipment initiated on or before September 4, 2006.

(B) The Uniform Hazardous Waste Manifest printed by a source registered with the United States Environmental Protection Agency for a shipment initiated on or after September 5, 2006.

(3) For purposes of this section and Section 25205.15, a shipment is initiated on the date when the manifest is signed by the first transporter and the hazardous waste leaves the site where it is generated.

(b) (1) Except as provided in Section 25160.2 or as otherwise authorized by a variance issued by the department, any person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, shall complete a manifest prior to the time the waste is transported or offered for transportation, and shall designate on that manifest the facility to which the waste is to be shipped for the handling, treatment, storage, disposal, or combination thereof. The manifest shall be completed as required by the department. The generator shall provide the manifest to the person who will transport the hazardous waste, who is the driver, if the hazardous waste will be transported by vehicle, or the person designated by the railroad corporation or vessel operator, if the hazardous waste will be transported by rail or vessel.

(A) The generator shall use the standard California Uniform Hazardous Waste Manifest supplied by the department for all shipments of hazardous waste initiated on and before September 4, 2006, for which a manifest is required, except as provided in paragraph (2).

(B) The generator shall use the Uniform Hazardous Waste Manifest printed by a source registered with the United States Environmental Protection Agency for all shipments of hazardous waste initiated on and after September 5, 2006, for which a manifest is required.

(C) A manifest shall only be used for the purposes specified in this chapter, including, but not limited to, identifying materials that the person completing the manifest reasonably believes are hazardous waste.

(D) Within 30 days from the date of transport, or submission for transport, of hazardous waste, each generator of that hazardous waste shall submit to the department a legible copy of each manifest used. The copy submitted to the department shall contain the signatures of the generator and the transporter.

(E) In lieu of submitting a copy of each manifest used, a generator may submit an electronic report to the department meeting the requirements of Section 25160.3.

(2) Except as provided in Section 25160.2 or as otherwise authorized by a variance issued by the department, any person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, outside of the state, shall complete, whether or not the waste is determined to be

hazardous by the importing country or state, a manifest in accordance with the following conditions:

(A) The generator shall use the standard California Uniform Hazardous Waste Manifest or the manifest required by the receiving state for all shipments of hazardous waste initiated on and before September 4, 2006, for which a manifest is required.

(B) The generator shall use the Uniform Hazardous Waste Manifest printed by a source registered with the United States Environmental Protection Agency for all shipments of hazardous waste initiated on and after September 5, 2006, for which a manifest is required.

(C) The generator shall submit a copy of the manifest specified in subparagraph (A) or (B), as applicable, to the department within 30 days from the date of the transport, or submission for transport, of the hazardous waste. In lieu of submitting a copy of each manifest used, a generator may submit an electronic report to the department meeting the requirements of Section 25160.3.

(3) Within 30 days from the date of transport, or submission for transport, of hazardous waste out of state, each generator of that hazardous waste shall submit to the department a legible copy of each manifest used. The copy submitted to the department shall contain the signatures of the generator, all transporters, excepting intermediate rail transporters, and the out-of-state facility operator. If within 35 days from the date of the initial shipment, or for exports by water to foreign countries 60 days after the initial shipment, the generator has not received a copy of the manifest signed by all transporters and the facility operator, the generator shall contact the owner or operator of the designated facility to determine the status of the hazardous waste and to request that the owner or operator immediately provide a signed copy of the manifest to the generator. Except as provided otherwise in paragraph (2) of subdivision (h) of Section 25123.3, if within 45 days from the date of the initial shipment or, for exports by water to foreign countries, 90 days from the date of the initial shipment, the generator has not received a copy of the signed manifest from the facility owner or operator, the generator shall submit an exception report to the department.

(4) For shipments of waste that do not require a manifest pursuant to Title 40 of the Code of Federal Regulations, the department, by regulation, may establish manifest requirements that differ from the requirements of this section. The requirements for an alternative form of manifest shall ensure that the hazardous waste is transported by a registered hazardous waste transporter, that the hazardous waste is tracked, and that human health and safety and the environment are protected.

(5) (A) Notwithstanding any other provision of this section, except as provided in subparagraph (B), the generator copy of the manifest is not required to be submitted to the department for any waste transported in compliance with the consolidated manifest procedures in Section 25160.2 or when the transporter is operating pursuant to a variance issued by the department pursuant to Section 25143 authorizing the use of a

consolidated manifest for waste not listed in Section 25160.2, if the generator, transporter, and facility are all identified as the same company on the hazardous waste manifest. If multiple identification numbers are used by a single company, all of the company's identification numbers shall be included in its annual transporter registration application, if those numbers will be used with the consolidated manifest procedure. Nothing in this paragraph affects the obligation of a facility operator to submit to the department a copy of a manifest pursuant to this section.

(B) If the waste subject to subparagraph (A) is transported out of state, the generator shall either ensure that the facility operator submits to the department a copy of the manifest or the generator shall submit a copy to the department that contains the signatures of the generator, all transporters, excepting intermediate rail transporters, and the out-of-state facility operator pursuant to paragraph (3).

(c) (1) The department shall determine the form and manner in which a manifest shall be completed and the information that the manifest shall contain. The information requested on the manifest shall serve as the data dictionary for purposes of the developing of an electronic reporting format pursuant to Section 71062 of the Public Resources Code. The form of each manifest and the information requested on each manifest shall be the same for all hazardous wastes, regardless of whether the hazardous wastes are also regulated pursuant to the federal act or by regulations adopted by the United States Department of Transportation. However, the form of the manifest and the information required shall be consistent with federal regulations.

(2) Pursuant to federal regulations, the department may require information on the manifest in addition to the information required by federal regulations.

(d) (1) Any person who transports hazardous waste in a vehicle shall have a manifest in his or her possession while transporting the hazardous waste. The manifest shall be shown upon demand to any representative of the department, any officer of the California Highway Patrol, any local health officer, any certified unified program agency, or any local public officer designated by the director. If the hazardous waste is transported by rail or vessel, the railroad corporation or vessel operator shall comply with Subchapter C (commencing with Section 171.1) of Chapter 1 of Subtitle B of Title 49 of the Code of Federal Regulations and shall also enter on the shipping papers any information concerning the hazardous waste that the department may require.

(2) Any person who transports any waste, as defined by Section 25124, and who is provided with a manifest for that waste shall, while transporting that waste, comply with all requirements of this chapter, and the regulations adopted pursuant thereto, concerning the transportation of hazardous waste.

(3) Any person who transports hazardous waste shall transfer a copy of the manifest to the facility operator at the time of delivery, or to the person who will subsequently transport the hazardous waste in a vehicle. Any

person who transports hazardous waste and then transfers custody of that hazardous waste to a person who will subsequently transport that waste by rail or vessel shall transfer a copy of the manifest to the person designated by the railroad corporation or vessel operator, as specified by Subchapter C (commencing with Section 171.1) of Chapter 1 of Subtitle B of Title 49 of the Code of Federal Regulations.

(4) Any person transporting hazardous waste by motor vehicle, rail, or water shall certify to the department, at the time of initial registration and at the time of renewal of that registration pursuant to this article, that the transporter is familiar with the requirements of this section, the department regulations, and federal laws and regulations governing the use of manifests.

(e) (1) Any facility operator in the state who receives hazardous waste for handling, treatment, storage, disposal, or any combination thereof, which was transported with a manifest pursuant to this section, shall submit a copy of the manifest to the department within 30 days from the date of receipt of the hazardous waste. The copy submitted to the department shall contain the signatures of the generator, all transporters, excepting intermediate rail transporters, and the facility operator. In instances in which the generator or transporter is not required by the generator's state or federal law to sign the manifest, the facility operator shall require the generator and all transporters, excepting intermediate rail transporters, to sign the manifest before receiving the waste at any facility in this state. In lieu of submitting a copy of each manifest used, a facility operator may submit an electronic report to the department meeting the requirements of Section 25160.3.

(2) Any treatment, storage, or disposal facility receiving hazardous waste generated outside this state may only accept the hazardous waste for treatment, storage, disposal, or any combination thereof, if the hazardous waste is accompanied by a completed standard California Uniform Hazardous Waste Manifest.

(3) A facility operator may accept hazardous waste generated offsite that is not accompanied by a properly completed and signed standard California Uniform Hazardous Waste Manifest if the facility operator meets both of the following conditions:

(A) The facility operator is authorized to accept the hazardous waste pursuant to a hazardous waste facilities permit or other grant of authorization from the department.

(B) The facility operator is in compliance with the regulations adopted by the department specifying the conditions and procedures applicable to the receipt of hazardous waste under these circumstances.

(4) This subdivision applies only to shipments of hazardous waste for which a manifest is required pursuant to this section and the regulations adopted pursuant to this section.

(f) A generator, transporter, or facility operator may comply with the requirements of Sections 66262.40, 66263.22, 66264.71, and 66265.71 of Title 22 of the California Code of Regulations by storing manifest

information electronically. A generator, transporter, or facility operator who stores manifest information electronically shall use the standardized electronic format and protocol for the exchange of electronic data established by the Secretary for Environmental Protection pursuant to Part 2 (commencing with Section 71050) of Division 34 of the Public Resources Code and the stored information shall include all the information required to be retained by the department, including all signatures required by this section.

(g) The department shall make available for review, by any interested party, the department's plans for revising and enhancing its system for tracking hazardous waste for the purposes of protecting human health and the environment, enforcing laws, collecting revenue, and generating necessary reports.

SEC. 10. Section 25173.6 of the Health and Safety Code is amended to read:

25173.6. (a) There is in the General Fund the Toxic Substances Control Account, which shall be administered by the director. In addition to any other money that may be appropriated by the Legislature to the Toxic Substances Control Account, all of the following shall be deposited in the account:

(1) The fees collected pursuant to Section 25205.6.

(2) The fees collected pursuant to Section 25187.2, to the extent that those fees are for oversight of a removal or remedial action taken under Chapter 6.8 (commencing with Section 25300) or Chapter 6.85 (commencing with Section 25396).

(3) Any fines or penalties collected pursuant to this chapter, Chapter 6.8 (commencing with Section 25300) or Chapter 6.85 (commencing with Section 25396), except as directed otherwise by Section 25192.

(4) Any interest earned upon money deposited in the Toxic Substances Control Account.

(5) All money recovered pursuant to Section 25360, except any amount recovered on or before June 30, 2006, that was paid from the Hazardous Substance Cleanup Fund.

(6) All money recovered pursuant to Section 25380.

(7) Any reimbursements for funds expended from the Toxic Substances Control Account for services provided by the department, including, but not limited to, reimbursements required pursuant to Sections 25201.9 and 25343.

(8) Any money received from the federal government pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

(9) Any money received from responsible parties for remedial action or removal at a specific site, except as otherwise provided by law.

(b) The funds deposited in the Toxic Substances Control Account may be appropriated to the department for the following purposes:

(1) The administration and implementation of the following:

(A) Chapter 6.8 (commencing with Section 25300), except that no funds may be expended from the Toxic Substances Control Account for purposes of Section 25354.5.

(B) Chapter 6.85 (commencing with Section 25396).

(C) Chapter 6.11 (commencing with Section 25404), on and before June 30, 1999.

(D) Article 10 (commencing with Section 7710) of Chapter 1 of Division 4 of the Public Utilities Code, to the extent the department has been delegated responsibilities by the secretary for implementing that article.

(2) The administration of the following units within the department:

(A) The Human and Ecological Risk Division.

(B) The Hazardous Materials Laboratory.

(C) The Office of Pollution Prevention and Technology Development.

(3) For allocation to the Office of Environmental Health Hazard Assessment, pursuant to an interagency agreement, to assist the department as needed in administering the programs described in subparagraphs (A) and (B) of paragraph (1).

(4) For allocation to the State Board of Equalization to pay refunds of fees collected pursuant to Section 43054 of the Revenue and Taxation Code.

(5) For the state share mandated pursuant to paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604(c)(3)).

(6) For the purchase by the state, or by any local agency with the prior approval of the director, of hazardous substance response equipment and other preparations for response to a release of hazardous substances. However, all equipment shall be purchased in a cost-effective manner after consideration of the adequacy of existing equipment owned by the state or the local agency, and the availability of equipment owned by private contractors.

(7) For payment of all costs of removal and remedial action incurred by the state, or by any local agency with the approval of the director, in response to a release or threatened release of a hazardous substance, to the extent the costs are not reimbursed by the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

(8) For payment of all costs of actions taken pursuant to subdivision (b) of Section 25358.3, to the extent that these costs are not paid by the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

(9) For all costs incurred by the department in cooperation with the Agency for Toxic Substances and Disease Registry established pursuant to subsection (i) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604(i)) and all costs of health effects studies undertaken

regarding specific sites or specific substances at specific sites. Funds appropriated for this purpose shall not exceed five hundred thousand dollars (\$500,000) in any single fiscal year. However, these actions shall not duplicate reasonably available federal actions and studies.

(10) For repayment of the principal of, and interest on, bonds sold pursuant to Article 7.5 (commencing with Section 25385).

(11) For the reasonable and necessary administrative costs and expenses of the Hazardous Substance Cleanup Arbitration Panel created pursuant to Section 25356.2.

(12) Direct site remediation costs.

(13) For the department's expenses for staff to perform oversight of investigations, characterizations, removals, remediations, or long-term operation and maintenance.

(14) For the administration and collection of the fees imposed pursuant to Section 25205.6.

(c) The funds deposited in the Toxic Substances Control Account may be appropriated by the Legislature to the office of the Attorney General for the support of the Toxic Substance Enforcement Program in the office of the Attorney General, in carrying out the purposes of Chapter 6.8 (commencing with Section 25300) and Chapter 6.85 (commencing with Section 25396). Expenditures for the purposes of this subdivision are not subject to an interagency or interdepartmental agreement.

(d) The director shall expend federal funds in the Toxic Substances Control Account consistent with the requirements specified in Section 114 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9614), upon appropriation by the Legislature, for the purposes for which they were provided to the state.

(e) Money in the Toxic Substances Control Account shall not be expended to conduct removal or remedial actions if any significant portion of the hazardous substances to be removed or remedied originated from a source outside the state.

(f) The Director of Finance, upon request of the director, may make a loan from the General Fund to the Toxic Substances Control Account to meet cash needs. The loan shall be subject to the repayment provisions of Section 16351 of the Government Code and the interest provisions of Section 16314 of the Government Code.

(g) The Toxic Substances Control Account established pursuant to subdivision (a) is the successor fund of all of the following:

(1) The Hazardous Substance Account established pursuant to Section 25330, as that section read on June 30, 2006.

(2) The Hazardous Substance Clearing Account established pursuant to Section 25334, as that section read on June 30, 2006.

(3) The Hazardous Substance Cleanup Fund established pursuant to Section 25385.3, as that section read on June 30, 2006.

(4) The Superfund Bond Trust Fund established pursuant to Section 25385.8, as that section read on June 30, 2006.

(h) On and after July 1, 2006, all assets, liabilities, and surplus of the accounts and funds listed in subdivision (g), shall be transferred to, and become a part of, the Toxic Substances Control Account, as provided by Section 16346 of the Government Code. All existing appropriations from these accounts, to the extent encumbered, shall continue to be available for the same purposes and periods from the Toxic Substances Control Account.

(i) Notwithstanding Section 7550.5 of the Government Code, the department, on or before February 1 of each year, shall report to the Governor and the Legislature on the prior fiscal year's expenditure of funds within the Toxic Substances Control Account for the purposes specified in subdivision (b).

SEC. 11. Section 25173.7 of the Health and Safety Code is amended to read:

25173.7. (a) It is the intent of the Legislature that funds deposited in the Toxic Substances Control Account shall be appropriated in the annual Budget Act each year in the following manner:

(1) Not less than six million seven hundred fifty thousand dollars (\$6,750,000) to the Site Remediation Account in the General Fund for direct site remediation costs, as defined in Section 25337. The amount specified in this paragraph shall be increased in any fiscal year by the amount of increased revenues specified by the Legislature in the Budget Act for that fiscal year pursuant to subdivision (f) of Section 25205.6.

(2) Not less than four hundred thousand dollars (\$400,000) to the Expedited Site Remediation Trust Fund in the State Treasury, created pursuant to subdivision (a) of Section 25399.1, for purposes of paying the orphan share of response costs pursuant to Chapter 6.85 (commencing with Section 25396).

(3) Not more than five hundred thousand dollars (\$500,000) for purposes of the administration and collection of the fees specified in paragraph (14) of subdivision (b) of Section 25173.6.

(4) Commencing with the 1999–2000 fiscal year and annually thereafter, not less than one million fifty thousand dollars (\$1,050,000) for purposes of establishing and implementing a program pursuant to Sections 25244.15.1, 25244.17.1, 25244.17.2, 25244.22, and 25244.24 to encourage hazardous waste generators to implement pollution prevention measures.

(5) Funds not appropriated as specified in paragraphs (1) to (4), inclusive, may be appropriated for any of the purposes specified in subdivision (b) of Section 25173.6, except the purposes specified in subparagraph (C) of paragraph (1) of, and paragraph (14) of, subdivision (b) of Section 25173.6.

(b) (1) The amounts specified in paragraphs (1) to (3), inclusive, of subdivision (a) are the amounts that the Legislature intends to appropriate for the 1998–99 fiscal year for the purposes specified in those paragraphs, and the amount specified in paragraph (4) of subdivision (a) is the amount the Legislature intends to appropriate for the 1999–2000 fiscal year for the purposes specified in that paragraph. Beginning with the 1999–2000 fiscal

year, and for each fiscal year thereafter, the amounts specified in paragraphs (1) to (3), inclusive, of subdivision (a), and beginning with the 2000–01 fiscal year, and for each fiscal year thereafter, the amount specified in paragraph (4) of subdivision (a) shall be adjusted annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or by a successor agency.

(2) Notwithstanding paragraph (1), the department may, upon the approval of the Legislature in a statute or the annual Budget Act, take either of the following actions:

(A) Reduce the amounts specified in paragraphs (1) to (4), inclusive, of subdivision (a), if there are insufficient funds in the Toxic Substances Control Account.

(B) Suspend the transfer specified in paragraph (2) of subdivision (a), if there are no orphan shares pending payment pursuant to Chapter 6.85 (commencing with Section 25396).

SEC. 12. Section 25192 of the Health and Safety Code is amended to read:

25192. (a) All civil and criminal penalties collected pursuant to this chapter shall be apportioned in the following manner:

(1) Fifty percent shall be deposited in the Toxic Substances Control Account in the General Fund.

(2) Twenty-five percent shall be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action.

(3) Twenty-five percent shall be paid to the department and used to fund the activity of the CUPA, the local health officer, or other local public officer or agency authorized to enforce the provisions of this chapter pursuant to Section 25180, whichever entity investigated the matter that led to the bringing of the action. If investigation by the local police department or sheriff’s office or California Highway Patrol led to the bringing of the action, the CUPA, the local health officer, or the authorized officer or agency, shall pay a total of 40 percent of its portion under this subdivision to that investigating agency or agencies to be used for the same purpose. If more than one agency is eligible for payment under this paragraph, division of payment among the eligible agencies shall be in the discretion of the CUPA, the local health officer, or the authorized officer or agency.

(b) If a reward is paid to a person pursuant to Section 25191.7, the amount of the reward shall be deducted from the amount of the civil penalty before the amount is apportioned pursuant to subdivision (a).

SEC. 13. Section 25205.6 of the Health and Safety Code is amended to read:

25205.6. (a) For purposes of this section, “organization” means a corporation, limited liability company, limited partnership, limited liability partnership, general partnership, and sole proprietorship.

(b) On or before November 1 of each year, the department shall provide the board with a schedule of codes, that consists of the types of organizations that use, generate, store, or conduct activities in this state related to hazardous materials, as defined in Section 25501, including, but not limited to, hazardous waste. The schedule shall consist of identification codes from one of the following classification systems, as deemed suitable by the department:

(1) The Standard Industrial Classification (SIC) system established by the United States Department of Commerce.

(2) The North American Industry Classification System (NAICS) adopted by the United States Census Bureau.

(c) Each organization of a type identified in the schedule adopted pursuant to subdivision (a) shall pay an annual fee, which shall be set in the following amounts:

(1) Two hundred dollars (\$200) for those organizations with 50 or more employees, but less than 75 employees.

(2) Three hundred fifty dollars (\$350) for those organizations with 75 or more employees, but less than 100 employees.

(3) Seven hundred dollars (\$700) for those organizations with 100 or more employees, but less than 250 employees.

(4) One thousand five hundred dollars (\$1,500) for those organizations with 250 or more employees, but less than 500 employees.

(5) Two thousand eight hundred dollars (\$2,800) for those organizations with 500 or more employees, but less than 1,000 employees.

(6) Nine thousand five hundred dollars (\$9,500) for those organizations with 1,000 or more employees.

(d) The fee imposed pursuant to this section shall be paid by each organization that is identified in the schedule adopted pursuant to subdivision (a) in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code and shall be deposited in the Toxic Substances Control Account. The revenues shall be available, upon appropriation by the Legislature, for the purposes specified in subdivision (b) of Section 25173.6.

(e) For purposes of this section, the number of employees employed by an organization is the number of persons employed in this state for more than 500 hours during the calendar year preceding the calendar year in which the fee is due.

(f) The fee rates specified in subdivision (c) are the rates for the 1998 calendar year. Beginning with the 1999 calendar year, and for each calendar year thereafter, the State Board of Equalization shall adjust the rates annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or by a successor agency.

(g) (1) Pursuant to paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604(c)(3)), the state is obligated to pay specified costs of removal and remedial actions carried

out pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

(2) The fee rates specified in subdivision (c) are intended to provide sufficient revenues to fund the purposes of subdivision (b) of Section 25173.6, including appropriations in any given fiscal year of three million three hundred thousand dollars (\$3,300,000) to fund the state's obligation pursuant to paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604(c)(3)).

(3) If the department determines that the state's obligation under paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604(c)(3)) will exceed three million three hundred thousand dollars (\$3,300,000) in any fiscal year, the department shall report that determination to the Legislature in the Governor's Budget. If, as part of the Budget Act deliberations, the Legislature concurs with the department's determination, the Legislature shall specify in the annual Budget Act those pro rata changes to the fee rates specified in subdivision (c) that will increase revenues in the next calendar year as necessary to fund the state's increased obligations. However, the Legislature shall not specify fee rates in the annual Budget Act that increase revenues in an amount greater than eight million two hundred thousand dollars (\$8,200,000) above the revenues provided by the fee rates specified in subdivision (c).

(4) Any changes in the fee rates approved by the Legislature in the annual Budget Act pursuant to this subdivision shall have effect only on the fee payment that is due and payable by the end of February in the fiscal year for which that annual Budget Act is enacted.

(h) This section does not apply to a nonprofit corporation primarily engaged in the provision of residential social and personal care for children, the aged, and special categories of persons with some limits on their ability for self-care, as described in SIC Code 8361 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(i) The changes made to this section by the act of the 2005–06 Regular Session of the Legislature amending this section shall not increase fee revenues in the 2006–07 fiscal year.

SEC. 14. Section 25205.15 of the Health and Safety Code is amended to read:

25205.15. (a) Except for the first four manifests used in a calendar year by a business with less than 100 employees, and except as provided in paragraph (2), in addition to any fees to cover printing and distribution costs, the department shall impose a manifest fee of seven dollars and fifty cents (\$7.50) for each California Hazardous Waste Manifest form or electronic equivalent used after June 30, 1998, by any person, in the following manner:

(1) The department shall bill generators for each California Uniform Hazardous Waste Manifest form, manifest number, or electronic equivalent used after June 30, 1998. The billing frequency specified by the department may range from monthly to annually, with the payment by the generator required within 30 days from the date of receipt of the billing, and shall be determined based on consultation with the regulated community. In preparing the bills, the department shall distinguish between manifests used solely for recycled hazardous wastes and those used for nonrecycled hazardous wastes. In determining the billing frequency, the department may take into account each person's volume of manifest usage.

(2) (A) The manifest fee shall not be collected on the use of California Hazardous Waste Recycling Manifests that are used solely for hazardous wastes that are recycled.

(B) The manifest fee for each California Uniform Hazardous Waste Manifest form used solely for hazardous waste derived from air compliance solvents, shall be three dollars and fifty cents (\$3.50) This is in addition to any fees charged to cover printing and distribution costs.

(3) The department shall implement a system for the use of manifests that distinguishes among recycling manifests used solely for hazardous wastes that are to be recycled, manifests used solely to transport hazardous waste derived from air compliance solvents, and general manifests that may be used for transporting waste for any purpose.

(4) (A) If a person erroneously reports on a California Uniform Hazardous Waste Manifest that the manifest is being used for the transport of hazardous wastes that are being shipped for recycling or for the transport of hazardous wastes derived from air compliance solvents rather than the transport of other types of hazardous waste, the person shall pay the seven dollars and fifty cents (\$7.50) manifest fee and an additional error correction fee of twenty dollars (\$20) per manifest, as required pursuant to Section 25160.5.

(B) Notwithstanding subparagraph (A) the department shall provide the manifest user with a reasonable opportunity to notify the department of any incorrect use of the recycling manifest, as described in subparagraph (A), and to provide the department with the appropriate manifest fee payment without additional fines, penalties, or payment of the error correction fee.

(5) The department may adopt regulations to implement and administer the manifest fee system imposed pursuant to this subdivision.

(b) For purposes of subdivision (a), a California Uniform Hazardous Waste Manifest means either of the following:

(1) A manifest document printed and supplied by the state for a shipment initiated on and before September 4, 2006.

(2) The Uniform Hazardous Waste Manifest printed by a source registered with the United States Environmental Protection Agency for a shipment initiated on and after September 5, 2006, if the manifest originates from a generator located in California, is received by the

designated facility located in California where the manifest is signed and terminated, or is imported or exported through a point of entry or exit in California.

(c) On and after July 1, 1999, commencing with 1999–2000 fiscal year and annually thereafter, the department shall expend, upon appropriation by the Legislature in the annual Budget Act, not less than one million fifty thousand dollars (\$1,050,000) from the manifest fees, deposited in the Hazardous Waste Control Account, to establish a program to encourage hazardous waste generators to implement pollution prevention measures. The program shall be administered pursuant to administrative and expenditure criteria to be established by the Legislature.

(d) The manifest fees shall be deposited in the Hazardous Waste Control Account and be available for expenditure, upon appropriation by the Legislature.

(e) For purposes of this section, “air compliance solvent” means a solvent, including aqueous solutions, that are required or approved for use by regulations adopted by the State Air Resources Board, an air pollution control district, or an air quality management district, to meet air emission standards adopted by that board or district and, pursuant to those regulations, is required to be used instead of another solvent that was used and recycled prior to the adoption of those regulations.

SEC. 15. Section 25297.1 of the Health and Safety Code is amended to read:

25297.1. (a) In addition to the authority granted to the board pursuant to Division 7 (commencing with Section 13000) of the Water Code and to the department pursuant to Chapter 6.8 (commencing with Section 25300), the board, in cooperation with the department, shall develop and implement a local oversight program for the abatement of, and oversight of the abatement of, unauthorized releases of hazardous substances from underground storage tanks by local agencies. In implementing the local oversight program, the agreement specified in subdivision (b) shall be between the board and the local agency. The board shall select local agencies for participation in the program from among those local agencies that apply to the board, giving first priority to those local agencies that have demonstrated prior experience in cleanup, abatement, or other actions necessary to remedy the effects of unauthorized releases of hazardous substances from underground storage tanks. The board shall select only those local agencies that have implemented this chapter and that, except as provided in Section 25404.5, have begun to collect and transmit to the board the surcharge or fees pursuant to subdivision (b) of Section 25287.

(b) In implementing the local oversight program described in subdivision (a), the board may enter into an agreement with any local agency to perform, or cause to be performed, any cleanup, abatement, or other action necessary to remedy the effects of a release of hazardous substances from an underground storage tank with respect to which the local agency has enforcement authority pursuant to this section. The board may not enter into an agreement with a local agency for soil contamination

cleanup or for groundwater contamination cleanup unless the board determines that the local agency has a demonstrated capability to oversee or perform the cleanup. The implementation of the cleanup, abatement, or other action shall be consistent with procedures adopted by the board pursuant to subdivision (d) and shall be based upon cleanup standards specified by the board or regional board.

(c) The board shall provide funding to a local agency that enters into an agreement pursuant to subdivision (b) for the reasonable costs incurred by the local agency in overseeing any cleanup, abatement, or other action taken by a responsible party to remedy the effects of unauthorized releases from underground storage tanks.

(d) The board shall adopt administrative and technical procedures, as part of the state policy for water quality control adopted pursuant to Section 13140 of the Water Code, for cleanup and abatement actions taken pursuant to this section. The procedures shall include, but not be limited to, all of the following:

(1) Guidelines as to which sites may be assigned to the local agency.

(2) The content of the agreements which may be entered into by the board and the local agency.

(3) Procedures by which a responsible party may petition the board or a regional board for review, pursuant to Article 2 (commencing with Section 13320) of Chapter 5 of Division 7 of the Water Code, or pursuant to Chapter 9.2 (commencing with Section 2250) of Division 3 of Title 23 of the California Code of Regulations, or any successor regulation, as applicable, of actions or decisions of the local agency in implementing the cleanup, abatement, or other action.

(4) Protocols for assessing and recovering money from responsible parties for any reasonable and necessary costs incurred by the local agency in implementing this section, as specified in subdivision (i), unless the cleanup or abatement action is subject to subdivision (d) of Section 25296.10.

(5) Quantifiable measures to evaluate the outcome of a pilot program established pursuant to this section.

(e) Any agreement between the regional board and a local agency to carry out a local oversight program pursuant to this section shall require both of the following:

(1) The local agency shall establish and maintain accurate accounting records of all costs it incurs pursuant to this section and shall periodically make these records available to the board. The Controller may annually audit these records to verify the hourly oversight costs charged by a local agency. The board shall reimburse the Controller for the cost of the audits of a local agency's records conducted pursuant to this section.

(2) The board and the department shall make reasonable efforts to recover costs incurred pursuant to this section from responsible parties, and may pursue any available legal remedy for this purpose.

(f) The board shall develop a system for maintaining a database for tracking expenditures of funds pursuant to this section, and shall make this data available to the Legislature upon request.

(g) (1) Sections 25355.5 and 25356 do not apply to expenditures from the Toxic Substances Control Account for oversight of abatement of releases from underground storage tanks as part of the local oversight program established pursuant to this section.

(2) A local agency that enters into an agreement pursuant to subdivision (b) shall notify the responsible party, for any site subject to a cleanup, abatement, or other action taken pursuant to the local oversight program established pursuant to this section, that the responsible party is liable for not more than 150 percent of the total amount of site-specific oversight costs actually incurred by the local agency.

(h) Any aggrieved person may petition the board or regional board for review of the action or failure to act of a local agency that enters into an agreement pursuant to subdivision (b), at a site subject to cleanup, abatement, or other action conducted as part of the local oversight program established pursuant to this section, in accordance with the procedures adopted by the board or regional board pursuant to subdivision (d).

(i) (1) For purposes of this section, site-specific oversight costs include only the costs of the following activities, when carried out by the staff of a local agency or the local agency's authorized representative, that are either technical program staff or their immediate supervisors:

- (A) Responsible party identification and notification.
- (B) Site visits.
- (C) Sampling activities.
- (D) Meetings with responsible parties or responsible party consultants.
- (E) Meetings with the regional board or with other affected agencies regarding a specific site.
- (F) Review of reports, workplans, preliminary assessments, remedial action plans, or postremedial monitoring.
- (G) Development of enforcement actions against a responsible party.
- (H) Issuance of a closure document.

(2) The responsible party is liable for the site-specific oversight costs, calculated pursuant to paragraphs (3) and (4), incurred by a local agency, in overseeing any cleanup, abatement, or other action taken pursuant to this section to remedy an unauthorized release from an underground storage tank.

(3) Notwithstanding the requirements of any other provision of law, the amount of liability of a responsible party for the oversight costs incurred by the local agency and by the board and regional boards in overseeing any action pursuant to this section shall be calculated as an amount not more than 150 percent of the total amount of the site-specific oversight costs actually incurred by the local agency and shall not include the direct or indirect costs incurred by the board or regional boards.

(4) (A) The total amount of oversight costs for which a local agency may be reimbursed shall not exceed one hundred fifteen dollars (\$115) per

hour, multiplied by the total number of site-specific hours performed by the local agency.

(B) The total amount of the costs per site for administration and technical assistance to local agencies by the board and the regional board entering into agreements pursuant to subdivision (b) shall not exceed a combined total of thirty-five dollars (\$35) for each hour of site-specific oversight. The board shall base its costs on the total hours of site-specific oversight work performed by all participating local agencies. The regional board shall base its costs on the total number of hours of site-specific oversight costs attributable to the local agency that received regional board assistance.

(C) The amounts specified in subparagraphs (A) and (B) are base rates for the 1990–91 fiscal year. Commencing July 1, 1991, and for each fiscal year thereafter, the board shall adjust the base rates annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the implicit price deflator for state and local government purchases of goods and services, as published by the United States Department of Commerce or by a successor agency of the federal government.

(5) In recovering costs from responsible parties for costs incurred under this section, the local agency shall prorate any costs identifiable as startup costs over the expected number of cases that the local agency will oversee during a 10-year period. A responsible party who has been assessed startup costs for the cleanup of any unauthorized release that, as of January 1, 1991, is the subject of oversight by a local agency, shall receive an adjustment by the local agency in the form of a credit, for the purposes of cost recovery. Startup costs include all of the following expenses:

(A) Small tools, safety clothing, cameras, sampling equipment, and other similar articles necessary to investigate or document pollution.

(B) Office furniture.

(C) Staff assistance needed to develop computer tracking of financial and site-specific records.

(D) Training and setup costs for the first six months of the local agency program.

(6) This subdivision does not apply to costs that are required to be recovered pursuant to Article 7.5 (commencing with Section 25385) of Chapter 6.8.

(j) (1) Notwithstanding subdivisions (a) and (b), the board may enter into an agreement with a local agency and the Santa Clara Valley Water District to implement the local oversight program in Santa Clara County.

(2) Paragraph (1) shall remain operative only until June 30, 2005.

(3) The inoperation of paragraph (1) does not affect the validity of any action taken by the Santa Clara Valley Water District before June 30, 2005, and does not provide a defense for an owner, operator, or other responsible party who fails to comply with that action.

(k) If the board enters into an agreement with a local agency and the Santa Clara Valley Water District to implement the local oversight

program in Santa Clara County, pursuant to subdivision (j), the board may provide funding to the Santa Clara Valley Water District pursuant to subdivision (d) of Section 25299.51 for oversight costs incurred by the district on and after July 1, 2002, to June 30, 2005.

SEC. 16. Section 25324 of the Health and Safety Code is amended to read:

25324. (a) "State account" means the Toxic Substances Control Account established pursuant to Section 25173.6.

(b) Notwithstanding any other provision of this section, any costs incurred and payable from the Hazardous Substance Account, the Hazardous Waste Control Account, or the Site Remediation Account prior to July 1, 2006, to implement this chapter, shall be recoverable from the liable person or persons pursuant to Section 25360 as if the costs were incurred and payable from the state account.

SEC. 17. Section 25330 of the Health and Safety Code is amended to read:

25330. (a) There is in the General Fund the Hazardous Substance Account which shall be administered by the director. In addition to any other money appropriated by the Legislature to the account, the following amounts shall be deposited in the account:

(1) Any interest earned on money deposited in the account.

(2) Any money transferred from the state account pursuant to Section 25173.6 or 25336.

(b) This section shall become inoperative on July 1, 2006, and as of January 1, 2007, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 18. Section 25330.2 of the Health and Safety Code is amended to read:

25330.2. Funds in the Site Remediation Account appropriated for removal or remedial action pursuant to this chapter are available for encumbrance for three fiscal years subsequent to the fiscal year in which the funds are appropriated and are available for disbursement in liquidation of encumbrances pursuant to Section 16304.1 of the Government Code.

SEC. 19. Section 25334 of the Health and Safety Code is amended to read:

25334. (a) There is within the state account, the Hazardous Substance Clearing Account, which shall be used to pay the principal of, and interest on, bonds sold pursuant to Article 7.5 (commencing with Section 25385). All of the following moneys shall be deposited in the account for the payment of the principal of, and interest on, bonds:

(1) Transfers from the Superfund Bond Trust Fund made pursuant to Section 25385.8.

(2) Amounts received pursuant to Sections 25356.4 and 25360, as specified in those sections, if the expenditures for removal or remedial

actions were paid from the proceeds of the bonds sold pursuant to Article 7.5 (commencing with Section 25385).

(3) Federal moneys received pursuant to the federal act which are designated to be used for removal or remedial actions paid for by proceeds from the bonds issued pursuant to Article 7.5 (commencing with Section 25385).

(4) Any moneys appropriated by the Legislature for the payment of the principal of, and interest on, these bonds.

(5) Any moneys derived from the premiums and accrued interest on these bonds.

(b) This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends the date on which it becomes inoperative and is repealed.

SEC. 20. Section 25336 of the Health and Safety Code is repealed.

SEC. 21. Section 25351.1 of the Health and Safety Code is repealed.

SEC. 22. Section 25351.2 of the Health and Safety Code is amended to read:

25351.2. (a) A city or county may initiate a removal or remedial action for a site listed pursuant to Section 25356 in accordance with this section. Except as provided in subdivision (d), the city or county shall, before commencing the removal or remedial action, take all of the following actions:

(1) The city or county shall notify the department of the planned removal or remedial action. Upon receiving this notification, the department shall make a reasonable effort to notify any person identified by the department as a potentially responsible party for the site. If a potentially responsible party is taking the removal or remedial action properly and in a timely fashion, or if a potentially responsible party will commence such an action within 60 days of this notification, the city or county may not initiate a removal or remedial action pursuant to this section.

(2) If a potentially responsible party for the site has not taken the action specified in paragraph (1), the city or county shall submit the estimated cost of the removal or remedial action to the department, which shall, within 30 days after receiving the estimate, approve or disapprove the reasonableness of the cost estimate. If the department disagrees with the cost estimate, the city or county and the department shall, within 30 days, attempt to enter into an agreement concerning the cost estimate.

(3) The city or county shall demonstrate to the department that it has sufficient funds to carry out the approved removal or remedial action without taking into account any costs of the action that may be, or have been, paid by a potentially responsible party.

(b) If the director approves the request of the city or county to initiate a removal or remedial action and a final remedial action plan has been issued pursuant to Section 25356.1 for the hazardous substance release site, the city or county shall be deemed to be acting in place of the

department for purposes of implementing the remedial action plan pursuant to this chapter.

(c) Upon reimbursing a city or county for the costs of a removal or remedial action, the department shall recover these costs pursuant to Section 25360.

(d) In order for a city or county to be reimbursed for the costs of a removal or remedial action incurred by the city or county from the state account, the city or county shall obtain the approval of the director before commencing the removal or remedial action. The director shall grant an approval only when all actions required by law prior to implementation of a remedial action plan have been taken.

SEC. 23. Section 25351.6 of the Health and Safety Code is repealed.

SEC. 24. Section 25353 of the Health and Safety Code is amended to read:

25353. (a) Except as provided in (b), the department may not expend funds from the state account for a removal or remedial action with respect to a hazardous substance release site owned or operated by the federal government or a state or local agency at the time of disposal to the extent that the federal government or the state or local agency would otherwise be liable for the costs of that action, except that the department may expend those funds, upon appropriation by the Legislature, to oversee the carrying out of a removal or remedial action at the site by another party.

(b) Except as provided in subdivision (f), the department may expend funds from the state account, upon appropriation by the Legislature, to take a removal or remedial action at a hazardous substance release site which was owned or operated by a local agency at the time of release, if all of the following requirements are met:

(1) The department has substantial evidence that a local agency is not the only responsible party for the site.

(2) The department has issued a cleanup order to, or entered into an enforceable agreement with, the local agency pursuant to Section 25355.5 and has made a final determination that the local agency is not in compliance with the order or enforceable agreement.

(c) The department shall recover any funds expended pursuant to subdivision (a) or (b) to the maximum possible extent pursuant to Section 25360.

(d) If a local agency is identified as a potentially responsible party in a remedial action plan prepared pursuant to Section 25356.1, and the department expends funds pursuant to this chapter to pay for the local agency's share of the removal and remedial action, the expenditure of these funds shall be deemed to be a loan from the state to the local agency. If the department determines that the local agency is not making adequate progress toward repaying the loan made pursuant to this section, the State Board of Equalization shall, upon notice by the department, withhold the unpaid amount of the loan, in increments from the sales and use tax transmittals made pursuant to Section 7204 of the Revenue and Taxation Code, to the city or county in which the local agency is located. The State

Board of Equalization shall structure the amounts to be withheld so that complete repayment of the loan, together with interest and administrative charges, occurs within five years after a local agency has been notified by the department of the amount which it owes. The State Board of Equalization shall deposit any funds withheld pursuant to this section into the state account.

(e) The department may not expend funds from the state account for the purposes specified in Section 25352 where the injury, degradation, destruction, or loss to natural resources, or the release of a hazardous substance from which the damages to natural resources resulted, has occurred prior to September 25, 1981.

(f) The department may not expend funds from the state account for a removal or remedial action at any waste management unit owned or operated by a local agency if it meets both of the following conditions:

(1) It is classified as a class III waste management unit pursuant to Subchapter 15 (commencing with Section 2510) of Chapter 3 of Title 23 of the California Administrative Code.

(2) It was in operation on or after January 1, 1988.

SEC. 25. Section 25355.5 of the Health and Safety Code is amended to read:

25355.5. (a) Except as provided in subdivisions (b), (c), and (d), no money shall be expended from the state account for removal or remedial actions on any site selected for inclusion on the list established pursuant to Section 25356, unless the department first takes both of the following actions:

(1) The department issues one of the following orders or enters into the following agreement:

(A) The department issues an order specifying a schedule for compliance or correction pursuant to Section 25187.

(B) The department issues an order establishing a schedule for removing or remedying the release of a hazardous substance at the site, or for correcting the conditions that threaten the release of a hazardous substance. The order shall include, but is not limited to, requiring specific dates by which necessary corrective actions shall be taken to remove the threat of a release, or dates by which the nature and extent of a release shall be determined and the site adequately characterized, a remedial action plan shall be prepared, the remedial action plan shall be submitted to the department for approval, and a removal or remedial action shall be completed.

(C) The department enters into an enforceable agreement with a potentially responsible party for the site that requires the party to take necessary corrective action to remove the threat of the release, or to determine the nature and extent of the release and adequately characterize the site, prepare a remedial action plan, and complete the necessary removal or remedial actions, as required in the approved remedial action plan.

Any enforceable agreement entered into pursuant to this section may provide for the execution and recording of a written instrument that imposes an easement, covenant, restriction, or servitude, or combination thereof, as appropriate, upon the present and future uses of the site. The instrument shall provide that the easement, covenant, restriction, or servitude, or combination thereof, as appropriate, is subject to the variance or removal procedures specified in Sections 25233 and 25234. Notwithstanding any other provision of law, an easement, covenant, restriction, or servitude, or any combination thereof, as appropriate, executed pursuant to this section and recorded so as to provide constructive notice runs with the land from the date of recordation, is binding upon all of the owners of the land, their heirs, successors, and assignees, and the agents, employees, or lessees of the owners, heirs, successors, and assignees, and is enforceable by the department pursuant to Article 8 (commencing with Section 25180) of Chapter 6.5.

(2) The department determines, in writing, that the potentially responsible party or parties for the hazardous substance release site have not complied with all of the terms of an order issued pursuant to subparagraph (A) or (B) of paragraph (1) or an agreement entered into pursuant to subparagraph (C) of paragraph (1). Before the department determines that a potentially responsible party is not in compliance with the order or agreement, the department shall give the potentially responsible party written notice of the proposed determination and an opportunity to correct the noncompliance or show why the order should be modified. After the department has made the final determination that a potentially responsible party is not in compliance with the order or agreement, the department may expend money from the state account for a removal or remedial action.

(b) Subdivision (a) does not apply, and money from the state account shall be available, upon appropriation by the Legislature, for removal or remedial actions, if any of the following conditions apply:

(1) The department, after a reasonable effort, is unable to identify a potential responsible party for the hazardous substance release site.

(2) The department determines that immediate corrective action is necessary, as provided in Section 25354.

(3) The director determines that removal or remedial action at a site is necessary because there may be an imminent and substantial endangerment to the public health or welfare or to the environment.

(c) Notwithstanding subdivision (a), the department may expend funds, upon appropriation by the Legislature, from the state account to conduct activities necessary to verify that an uncontrolled release of hazardous substances has occurred at a suspected hazardous substance release site, to issue an order or enter into an enforceable agreement pursuant to paragraph (1) of subdivision (a), and to review, comment upon, and approve or disapprove remedial action plans submitted by potentially responsible parties subject to the orders or the enforceable agreement.

(d) Notwithstanding subdivision (a), the department may expend funds, upon appropriation by the Legislature, from the state account, to provide for oversight of removal and remedial actions, or, if the site is also listed on the federal act (42 U.S.C. Sec. 9604(c)(3)), to provide the state's share of a removal or remedial action.

(e) A responsible party who fails, as determined by the department in writing, to comply with an order issued pursuant to subparagraph (A) or (B) of paragraph (1) of subdivision (a), or to comply with all of the terms of an enforceable agreement entered into pursuant to subparagraph (C) of paragraph (1) of subdivision (a), shall be deemed, for purposes of subdivision (b) of Section 25355, to have failed to take action properly and in a timely fashion with respect to a hazardous substance release or a threatened release.

SEC. 26. Section 25355.6 of the Health and Safety Code is amended to read:

25355.6. (a) The State Water Resources Control Board or a California regional water quality control board that has jurisdiction over a hazardous substance release site pursuant to Division 7 (commencing with Section 13000) of the Water Code may refer the site to the department as a candidate for listing pursuant to Section 25356. After determining that the site meets the criteria adopted pursuant to subdivision (a) of Section 25356, the department may place the site on the list of sites subject to this chapter and establish its priority ranking pursuant to Section 25356.

(b) If a hazardous substance release site is referred to the department and is listed pursuant to subdivision (a), the department may expend money from the state account for removal or remedial action at the site, upon appropriation by the Legislature, without first issuing an order or entering into an agreement pursuant to paragraph (1) of subdivision (a) of Section 25355.5, if all of the following apply:

(1) The State Water Resources Control Board or a California regional water quality control board has issued either a cease and desist order pursuant to Section 13301 of the Water Code or a cleanup and abatement order pursuant to Section 13304 of the Water Code to the potentially responsible party for the site.

(2) The State Water Resources Control Board or the California regional water quality control board has made a final finding that the potentially responsible party has not complied with the order issued pursuant to paragraph (1).

(3) The State Water Resources Control Board or the California regional water quality control board has notified the potentially responsible party of the determination made pursuant to paragraph (2) and that the hazardous substance release site has been referred to the department pursuant to subdivision (a).

(c) If a hazardous substance release site is referred to the department pursuant to subdivision (a), and the department makes either of the following determinations, the department shall notify the appropriate

California regional water quality control board and the State Water Resources Control Board:

(1) The department determines that the site does not meet the criteria established pursuant to subdivision (a) and the site cannot be placed, pursuant to Section 25356, on the list of sites subject to this chapter.

(2) The department determines that a removal or remedial action at the site will not commence for a period of one year from the date of listing due to a lack of funds or the low priority of the site.

(d) If a California regional water resources control board or the State Water Resources Control Board receives a notice pursuant to subdivision (c), the regional board or state board may take any further action concerning the hazardous substance release site which the regional board or state board determines to be necessary or feasible, and which is authorized by this chapter or Division 7 (commencing with Section 13000) of the Water Code.

SEC. 27. Section 25356.1 of the Health and Safety Code is amended to read:

25356.1. (a) For purposes of this section, “regional board” means a California regional water quality control board and “state board” means the State Water Resources Control Board.

(b) Except as provided in subdivision (h), the department, or, if appropriate, the regional board shall prepare or approve remedial action plans for all sites listed pursuant to Section 25356.

(c) A potentially responsible party may request the department or the regional board, when appropriate, to prepare or approve a remedial action plan for any site not listed pursuant to Section 25356, if the department or the regional board determines that a removal or remedial action is required to respond to a release of a hazardous substance. The department or the regional board shall respond to a request to prepare or approve a remedial action plan within 90 days of receipt. This subdivision does not affect the authority of any regional board to issue and enforce a cleanup and abatement order pursuant to Section 13304 of the Water Code or a cease and desist order pursuant to Section 13301 of the Water Code.

(d) All remedial action plans prepared or approved pursuant to this section shall be based upon Section 25350, Subpart E of the National Oil and Hazardous Substances Pollution Contingency Plan (40 C.F.R. 300.400 et seq.), and any amendments thereto, and upon all of the following factors, to the extent that these factors are consistent with these federal regulations and do not require a less stringent level of cleanup than these federal regulations:

(1) Health and safety risks posed by the conditions at the site. When considering these risks, the department or the regional board shall consider scientific data and reports which may have a relationship to the site.

(2) The effect of contamination or pollution levels upon present, future, and probable beneficial uses of contaminated, polluted, or threatened resources.

(3) The effect of alternative remedial action measures on the reasonable availability of groundwater resources for present, future, and probable beneficial uses. The department or the regional board shall consider the extent to which remedial action measures are available that use, as a principal element, treatment that significantly reduces the volume, toxicity, or mobility of the hazardous substances, as opposed to remedial actions that do not use this treatment. The department or the regional board shall not select remedial action measures which use offsite transport and disposal of untreated hazardous substances or contaminated materials if practical and cost-effective treatment technologies are available.

(4) Site-specific characteristics, including the potential for offsite migration of hazardous substances, the surface or subsurface soil, and the hydrogeologic conditions, as well as preexisting background contamination levels.

(5) Cost-effectiveness of alternative remedial action measures. In evaluating the cost-effectiveness of proposed alternative remedial action measures, the department or the regional board shall consider, to the extent possible, the total short-term and long-term costs of these actions and shall use, as a major factor, whether the deferral of a remedial action will result, or is likely to result, in a rapid increase in cost or in the hazard to public health or the environment posed by the site. Land disposal shall not be deemed the most cost-effective measure merely on the basis of lower short-term cost.

(6) The potential environmental impacts of alternative remedial action measures, including, but not limited to, land disposal of the untreated hazardous substances as opposed to treatment of the hazardous substances to remove or reduce its volume, toxicity, or mobility prior to disposal.

(e) A remedial action plan prepared pursuant to this section shall include the basis for the remedial action selected and shall include an evaluation of each alternative considered and rejected by the department or the regional board for a particular site. The plan shall include an explanation for rejection of alternative remedial actions considered but rejected. The plan shall also include an evaluation of the consistency of the selected remedial action with the requirements of the federal regulations and the factors specified in subdivision (d), if those factors are not otherwise adequately addressed through compliance with the federal regulations. The remedial action plan shall also include a nonbinding preliminary allocation of responsibility among all identifiable potentially responsible parties at a particular site, including those parties which may have been released, or may otherwise be immune, from liability pursuant to this chapter or any other provision of law. Before adopting a final remedial action plan, the department or the regional board shall prepare or approve a draft remedial action plan and shall do all of the following:

- (1) Circulate the draft plan for at least 30 days for public comment.
- (2) Notify affected local and state agencies of the removal and remedial actions proposed in the remedial action plan and publish a notice in a newspaper of general circulation in the area affected by the draft remedial

action plan. The department or the regional board shall also post notices in the location where the proposed removal or remedial action would be located and shall notify, by direct mailing, the owners of property contiguous to the site addressed by the plan, as shown in the latest equalized assessment roll.

(3) Hold one or more meetings with the lead and responsible agencies for the removal and remedial actions, the potentially responsible parties for the removal and remedial actions, and the interested public, to provide the public with the information which is necessary to address the issues which concern the public. The information to be provided shall include an assessment of the degree of contamination, the characteristics of the hazardous substances, an estimate of the time required to carry out the removal and remedial actions, and a description of the proposed removal and remedial actions.

(4) Comply with Section 25358.7.

(f) After complying with subdivision (e), the department or the regional board shall review and consider any public comments, and shall revise the draft plan, if appropriate. The department or the regional board shall then issue the final remedial action plan.

(g) (1) A potentially responsible party named in the final remedial action plan issued by the department or the regional board may seek judicial review of the final remedial action plan by filing a petition for writ of mandate pursuant to Section 1085 of the Code of Civil Procedure within 30 days after the final remedial action plan is issued by the department or the regional board. Any other person who has the right to seek judicial review of the final remedial action plan by filing a petition for writ of mandate pursuant to Section 1085 of the Code of Civil Procedure shall do so within one year after the final remedial action plan is issued. No action may be brought by a potentially responsible party to review the final remedial action plan if the petition for writ of mandate is not filed within 30 days of the date that the final remedial action plan was issued. No action may be brought by any other person to review the final remedial action plan if the petition for writ of mandate is not filed within one year of the date that the final remedial action plan was issued. The filing of a petition for writ of mandate to review the final remedial action plan shall not stay any removal or remedial action specified in the final plan.

(2) For purposes of judicial review, the court shall uphold the final remedial action plan if the plan is based upon substantial evidence available to the department or the regional board, as the case may be.

(3) This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction, including, but not limited to, enjoining the expenditure of funds pursuant to paragraph (2) of subdivision (b) of Section 25385.6.

(h) (1) This section does not require the department or a regional board to prepare a remedial action plan if conditions present at a site present an imminent or substantial endangerment to the public health and safety or to the environment or, if the department, a regional board, or a responsible

party takes a removal action at a site and the estimated cost of the removal action is less than one million dollars (\$1,000,000). The department or a regional board shall prepare or approve a removal action workplan for all sites where a nonemergency removal action is proposed and where a remedial action plan is not required. For sites where removal actions are planned and are projected to cost less than one million dollars (\$1,000,000), the department or a regional board shall make the local community aware of the hazardous substance release site and shall prepare, or direct the parties responsible for the removal action to prepare, a community profile report to determine the level of public interest in the removal action. Based on the level of expressed interest, the department or regional board shall take appropriate action to keep the community informed of project activity and to provide opportunities for public comment which may include conducting a public meeting on proposed removal actions.

(2) A remedial action plan is not required pursuant to subdivision (b) if the site is listed on the National Priority List by the Environmental Protection Agency pursuant to the federal act, if the department or the regional board concurs with the remedy selected by the Environmental Protection Agency's record of decision. The department or the regional board may sign the record of decision issued by the Environmental Protection Agency if the department or the regional board concurs with the remedy selected.

(3) The department may waive the requirement that a remedial action plan meet the requirements specified in subdivision (d) if all of the following apply:

(A) The responsible party adequately characterizes the hazardous substance conditions at a site listed pursuant to Section 25356.

(B) The responsible party submits to the department, in a form acceptable to the department, all of the following:

(i) A description of the techniques and methods to be employed in excavating, storing, handling, transporting, treating, and disposing of materials from the site.

(ii) A listing of the alternative remedial measures which were considered by the responsible party in selecting the proposed removal action.

(iii) A description of methods that will be employed during the removal action to ensure the health and safety of workers and the public during the removal action.

(iv) A description of prior removal actions with similar hazardous substances and with similar public safety and environmental considerations.

(C) The department determines that the remedial action plan provides protection of human health and safety and for the environment at least equivalent to that which would be provided by a remedial action plan prepared in accordance with subdivision (c).

(D) The total cost of the removal action is less than two million dollars (\$2,000,000).

(4) For purposes of this section, the cost of a removal action includes the cleanup of removal of released hazardous substances from the environment or the taking of other actions that are necessary to prevent, minimize, or mitigate damage that may otherwise result from a release or threatened release, as further defined by Section 9601 (23) of Title 42 of the United States Code.

(5) Paragraph (2) of this subdivision does not apply to a removal action paid from the state account.

(i) Article 2 (commencing with Section 13320), Article 3 (commencing with Section 13330), Article 5 (commencing with Section 13350), and Article 6 (commencing with Section 13360) of Chapter 5 of Division 7 of the Water Code apply to any action or failure to act by a regional board pursuant to this section.

SEC. 28. Section 25356.4 of the Health and Safety Code is amended to read:

25356.4. (a) After making an apportionment of liability among the potentially responsible parties pursuant to Section 25356.3, the panel shall prepare a draft arbitration decision which contains a statement of reasons supporting the apportionment and shall circulate the draft arbitration decision for at least 30 days for public comment. After review and consideration of any public comment, the panel shall issue the final arbitration decision within 30 days after the comment period.

(b) Each potentially responsible party whose liability has been apportioned by the panel is liable to the department or the regional water quality control board for its apportioned share of the costs of all removal and remedial actions at the site which is the subject of the final remedial action plan issued pursuant to Section 25356.1. The department or the regional water quality control board and one or more potentially responsible parties may enter into a cleanup agreement which is consistent with the remedial action plan and which provides for the satisfaction of the liability of a potentially responsible party by the party's performance of specified removal or remedial actions at the site.

(c) The moneys in the state account may be expended, upon appropriation by the Legislature, to pay any share of those potentially responsible parties who did not submit to binding arbitration pursuant to Section 25356.3 or did not otherwise agree to pay the costs of the removal and remedial actions specified in the remedial action plan.

(d) The department or the regional water quality control board shall identify, and the Attorney General shall pursue recovery from, those potentially responsible parties who have not submitted to binding arbitration pursuant to Section 25356.3 or who have not discharged their obligations required by the final arbitration decision or the cleanup agreement.

(e) Advances from the state account, upon appropriation by the Legislature, shall be made available, where appropriate, to those

responsible parties who are required by a cleanup agreement to perform specified removal or remedial actions pursuant to the remedial action plan or, if the money advanced derives from the proceeds of bonds sold pursuant to Article 7.5 (commencing with Section 25385), for the purposes specified in Section 25385.6.

SEC. 29. Section 25359.3 of the Health and Safety Code is amended to read:

25359.3. (a) The department may issue a complaint to any person subject to a penalty pursuant to Sections 25359.2 and 25359.4. The complaint shall allege the acts or failures to act that constitute a basis for liability and the amount of the proposed penalty. The complaint shall be served by personal service or certified mail and shall inform the party so served of the right to a hearing. Any person served with a complaint pursuant to this subdivision may, within 45 days after service of the complaint, request a hearing by filing a notice of defense with the department. A notice of defense is deemed to be filed within a 45-day period if it is postmarked within the 45-day period. If no notice of defense is filed within 45 days after service of the complaint, the department shall issue an order setting liability in the amount proposed in the complaint, unless the department and the party have entered into a settlement agreement, in which case the department shall issue an order setting liability in the amount specified in the settlement agreement. Where the party has not filed a notice of defense or where the department and the party have entered into a settlement agreement, the order shall not be subject to review by any court or agency.

(b) Any hearing required under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all powers granted by those provisions. In making a determination, the administrative law judge shall consider the nature, circumstances, extent, and gravity of the violation, the violator's past and present efforts to prevent, abate, or clean up conditions posing a threat to the public health and safety or the environment, the violator's ability to pay the proposed penalty, and the prophylactic effect that imposition of the proposed penalty will have on both the violator and on the regulated community as a whole.

(c) All penalties collected under this section and Section 25359.2 shall be deposited in the state account and shall be available for expenditure by the department upon appropriation by the Legislature.

SEC. 30. Section 25359.4.5 of the Health and Safety Code is amended to read:

25359.4.5. (a) A responsible party who has entered into an agreement with the department and is in compliance with the terms of that agreement, or who is in compliance with an order issued by the department, may seek, in addition to contribution, treble damages from any contribution defendant who has failed or refused to comply with any order or agreement, was named in the order or agreement, and is subject to contribution. A contribution defendant from whom treble damages are

sought in a contribution action shall not be assessed treble damages by any court where the contribution defendant, for sufficient cause, as determined by the court, failed to comply with an agreement or with an order issued by the department, or where the contribution defendant is an owner of real property who did not generate, treat, transport, store, or dispose of the hazardous substance on, in, or at the facility located on that real property, as specified in Sections 101 (35) and 107 (b) of the federal act (42 U.S.C. Secs. 9601 (35) and 9607 (b)), or where the principles of fundamental fairness would be violated, as determined by the court. A party seeking treble damages pursuant to this section shall show that the party, the department, or another entity provided notice, by means of personal service or certified mail, of the order or agreement to the contribution defendant from whom the party seeks treble damages.

(b) One-half of any treble damages awarded pursuant to this section shall be paid to the department, for deposit in the state account. Nothing in this subdivision affects the rights of any party to seek contribution pursuant to any other statute or under common law.

(c) A contribution defendant from whom treble damages are sought pursuant to this section shall be deemed to have acted willfully with respect to the conduct that gave rise to this liability for purposes of Section 533 of the Insurance Code.

SEC. 31. Section 25360 of the Health and Safety Code is amended to read:

25360. (a) Any costs incurred by the department or regional board in carrying out this chapter shall be recoverable pursuant to state or federal law by the Attorney General, upon the request of the department or regional board, from the liable person or persons. The amount of any response action costs that may be recovered pursuant to this section shall include interest on any amount paid. The interest on amounts paid from the state account or the Site Remediation Account shall be calculated at the rate of return earned on investment in the Surplus Money Investment Fund pursuant to Section 16475 of the Government Code.

(b) A person who is liable for costs incurred at a site shall have the liability reduced by any reimbursements that were paid by that person for that site pursuant to Section 25343.

(c) The amount of cost determined pursuant to this section shall be recoverable at the discretion of the department, either in a separate action or by way of intervention as of right in an action for contribution or indemnity. Nothing in this section deprives a party of any defense that the party may have.

(d) Money recovered by the Attorney General pursuant to this section shall be deposited in the state account.

SEC. 32. Section 25360.2 of the Health and Safety Code is amended to read:

25360.2. (a) For purposes of this section, the following definitions apply:

(1) “Owner” means either (A) the owner of property who occupies a single-family residence or one-half of a duplex constructed on the property, or (B) the owner of common areas within a residential common interest development who owns those common areas for the benefit of the residential homeowners. This paragraph does not include the developer of the common interest development.

(2) “Property” means either (A) real property of five acres or less which is zoned for, and on which has been constructed, a single-family residence, or (B) common areas within a residential common interest development.

(b) (1) Notwithstanding any other provision of this chapter, an owner of property that is the site of a hazardous substance release is presumed to have no liability pursuant to this chapter for either of the following:

(A) A hazardous substance release that has occurred on the property.

(B) A release of a hazardous substance to groundwater underlying the property if the release occurred at a site other than the property.

(2) The presumption may be rebutted as provided in subdivision (d).

(c) An action for recovery of costs or expenditures incurred from the state account pursuant to this chapter in response to a hazardous substance release may not be brought against an owner of property unless the department first certifies that, in the opinion of the department, one of the following applies:

(1) The hazardous substance release that occurred on the property occurred after the owner acquired the property.

(2) The hazardous substance release that occurred on the property occurred before the owner acquired the property and at the time of acquisition the owner knew or had reason to know of the hazardous substance release.

(3) The owner of property where there has been a release of a hazardous substance to groundwater underlying the property took, or is taking, one or more of the following actions:

(A) Caused or contributed to a release of a hazardous substance to the groundwater.

(B) Fails to provide the department, or its authorized representative, with access to the property.

(C) Interferes with response action activities.

(d) In an action brought against an owner of property to recover costs or expenditures incurred from the state account pursuant to this chapter in response to a hazardous substance release, the presumption established in subdivision (b) may be rebutted if it is established by a preponderance of the evidence that the facts upon which the department made the certification pursuant to paragraph (1), (2), or (3) of subdivision (c) are true.

(e) Notwithstanding any other provision of this chapter, this section governs liability pursuant to this chapter for an owner of property, as defined in subdivision (a).

SEC. 33. Section 25360.3 of the Health and Safety Code is amended to read:

25360.3. (a) For the purposes of this section, the following terms have the following meaning:

(1) “Easement” means a conservation easement, as defined in Section 815.1 of the Civil Code.

(2) “Environmental assessment” means an investigation of real property, conducted by an independent qualified environmental consultant, to discover the presence or likely presence of a release or a threat of a release of a hazardous substance at, on, to, or from the real property. An environmental assessment shall include, but is not limited to, an investigation of the historical use of the real property, any prior releases, records, consultant reports and regulatory agency correspondence, a visual survey of the real property, and, if warranted, sampling and analytical testing.

(3) “Owner” means either of the following:

(A) An independent special district, as defined in Section 56044 of the Government Code.

(B) An entity or organization that holds an easement.

(4) “Property” means either of the following:

(A) Real property acquired by a special district by means of a gift or donation for which an environmental assessment was completed prior to the transfer or conveyance of the real property to the special district.

(B) An easement for which an environmental assessment was completed prior to the transfer or conveyance of the easement to an entity or organization authorized to accept the easement pursuant to Section 815.3 of the Civil Code.

(b) (1) Notwithstanding any other provision of this chapter, if an environmental assessment of property discovers no evidence of the presence or likely presence of a release or a threat of a release of a hazardous substance, and a hazardous substance release is subsequently discovered on, to, or from that property, the owner of that property is entitled to a rebuttable presumption, affecting the burden of producing evidence, that the owner is not a liable person or responsible party for purposes of this chapter. An owner is entitled to this presumption whether the action is brought by the state or by a private party seeking contribution or indemnification.

(2) In an action brought against an owner of property to recover costs or expenditures incurred from the state account pursuant to this chapter in response to a hazardous substance release, the presumption may be rebutted if it is established by a preponderance of the evidence that the facts upon which the department made the certification pursuant to paragraph (1), (2), (3), or (4) of subdivision (c) are true.

(c) An action for recovery of costs or expenditures incurred from the state account pursuant to this chapter in response to a hazardous substance release shall not be brought against an owner of property unless the department first certifies that, as found by the department, one of the following situations applies:

(1) The hazardous substance release occurred on or after the date that the owner acquired the property.

(2) The hazardous substance release occurred before the date that the owner acquired the property and, at the time of the acquisition, the owner knew, or had reason to know, of the hazardous substance release.

(3) The environmental assessment applicable to the property was not properly carried out, was fraudulently completed, or involves the negligent or intentional nondisclosure of information.

(4) The hazardous substance release was discovered on or after the date of acquisition and the owner failed to exercise due care with respect to the release, taking into consideration the characteristics of the hazardous substance in light of all relevant facts and circumstances.

(d) Notwithstanding any other provision of this chapter, this section governs liability pursuant to this chapter for an owner of property, as defined in subdivision (a).

(e) This section is applicable only to property that is acquired by the owner on or after January 1, 1995.

SEC. 34. Section 25360.4 of the Health and Safety Code is amended to read:

25360.4. (a) An action under Section 25360 for the recovery of the costs of removal or remedial action incurred by the department from the state account, or any other source authorized by law, or for the recovery of administrative costs incurred by the department in connection with any removal or remedial action performed by the department or by any responsible party, shall be commenced within three years after completion of the removal or remedial action has been certified by the department.

(b) An action under subdivision (c) of Section 25352 for costs incurred by the department for the purposes specified in subdivision (a) or (b) of Section 25352 shall be commenced within three years after certification by the department of the completion of the activities authorized under subdivisions (a) and (b) of Section 25352.

(c) In any action described in subdivision (a) or (b) for recovery of the costs of a removal action, a remedial action, administrative costs, or damages, where the court has entered a judgment for these past costs or damages, the court shall also enter an order reserving jurisdiction over the case and the court shall have continuing jurisdiction to determine any future liability and the amount. The department may immediately enforce the judgment for past costs and damages. The department may apply for a court judgment as to future costs and damages that have been incurred at any time during the removal and remedial actions or during the performance of the activities authorized by Section 25352, but the application shall be made not later than three years after the certification of completion of the actions or activities.

(d) An action may be commenced under Section 25360 or subdivision (c) of Section 25352 at any time prior to expiration of the three-year limitation period provided for by this section.

SEC. 35. Section 25361 of the Health and Safety Code is amended to read:

25361. (a) The state account shall be a party in any action for recovery of costs or expenditures under this chapter incurred from the state account.

(b) In the event a district attorney or a city attorney has brought an action for civil or criminal penalties pursuant to Chapter 6.5 (commencing with Section 25100) against any person for the violation of any provision of that chapter, or any rule, regulation, permit, covenant, standard, requirement, or order issued, adopted, or executed thereunder, and the department has expended moneys from the state account pursuant to Section 25354 for immediate corrective action in response to a release, or threatened release, of a hazardous substance which has resulted, in whole or in part, from the person's acts or omissions, the state account may be made a party to that action for the purpose of recovering the costs against that person. If the state account is made a party to the action, the Attorney General shall represent the state account for the purpose of recovering the moneys expended from the account. Notwithstanding any other provision of law, and under terms that the Attorney General and the department deem appropriate, the Attorney General may delegate the authority to recover the costs to the district attorney or city attorney who has brought the action pursuant to Chapter 6.5 (commencing with Section 25100). The failure to seek the recovery of moneys expended from the state account as part of the action brought pursuant to Chapter 6.5 (commencing with Section 25100) does not foreclose the Attorney General from recovering the moneys in a separate action.

SEC. 36. Section 25365.6 of the Health and Safety Code is amended to read:

25365.6. (a) Any costs or damages incurred by the department or regional board pursuant to this chapter constitutes a claim and lien upon the real property owned by the responsible party that is subject to, or affected by, the removal and remedial action. This lien shall attach regardless of whether the responsible party is insolvent. A lien established by this section shall be subject to the notice and hearing procedures required by due process of the law and shall arise at the time costs are first incurred by the department or regional board with respect to a response action at the site.

(b) The department shall not be considered a responsible party for a hazardous substance release site because a claim and lien is imposed pursuant to this section.

(c) The lien provided by this section shall continue until the liability for these costs or damages, or a judgment against the responsible party, is satisfied. However, if it is determined by the court that the judgment against the responsible party will not be satisfied, the department may exercise its rights under the lien.

(d) The lien imposed by this section shall have the force and effect of, and the priority of, a judgment lien upon its recordation in the county in which the property subject to the lien is located. The lien shall contain the

legal description of the real property, the assessor's parcel number, and the name of the owner of record, as shown on the latest equalized assessment roll. The lien shall also contain a legal description of the property which is the site of the hazardous substance release, the assessor's parcel number for that property, and the name of the owner of record, as shown on the latest equalized assessment roll, of that property.

(e) All funds recovered pursuant to this section shall be deposited in the state account.

SEC. 37. Section 25368.2 of the Health and Safety Code is amended to read:

25368.2. The department shall select technology demonstration projects to be evaluated pursuant to this article using criteria that include, at a minimum, all of the following requirements:

(a) The project proposal includes complete and adequate documentation of technical feasibility.

(b) The project proposal includes evidence that a technology has been sufficiently developed for full-scale demonstration and can likely operate on a cost-effective basis.

(c) The department has determined that a site is available and suitable for demonstrating the technology or technologies, taking into account the physical, biological, chemical, and geological characteristics of the site, the extent and type of contamination found at the site, and the capability to conduct demonstration projects in a manner to ensure the protection of human health and the environment.

(d) The technology to be demonstrated preferably has widespread applicability in removal and remedial actions at other sites in the state.

(e) The project will be developed to the extent that a successful demonstration on a hazardous substance release site may lead to commercial utilization by responsible parties at other sites in the state.

(f) The department has determined that adequate funding is available from one or more of the following sources:

(1) Responsible parties.

(2) The Environmental Protection Agency.

(3) The state account.

SEC. 38. Section 25385.1 of the Health and Safety Code is amended to read:

25385.1. For purposes of this article, and for purposes of Section 16722 of the Government Code as applied to this article, the following definitions apply:

(a) "Board" means the Department of Toxic Substances Control.

(b) "Committee" means the Hazardous Substance Cleanup Committee created pursuant to Section 25385.4.

(c) "Director" means the Director of Toxic Substances Control.

(d) "Fund" means the state account.

(e) "Orphan site" means a site with a release or threatened release of a hazardous substance with no reasonably identifiable responsible parties.

(f) “Orphan share” means those costs of removal or remedial action at sites with a release or threatened release of hazardous substances, which costs are in excess of amounts included in a cleanup agreement.

(g) “Responsible party” means a person who is, or may be, responsible or liable for carrying out, or paying for the costs of, a removal or remedial action.

SEC. 39. Section 25385.3 of the Health and Safety Code is amended to read:

25385.3. (a) The Hazardous Substance Cleanup Fund is hereby created in the State Treasury. The proceeds of bonds issued and sold pursuant to this article shall be deposited in the fund, and the money in the fund may be expended only for the purposes specified in this article and, pursuant to appropriation by the Legislature, in the manner specified in this section.

(b) Except when the Legislature appropriates money from the fund for specified removal or remedial actions in a bill other than the Budget Act, it is the intention of the Legislature that all proposed appropriations for activities conducted pursuant to this article be included in a section of the Budget Act for each fiscal year for consideration by the Legislature and that this section be captioned “Hazardous Substance Cleanup Bond Act Program.” Any appropriation of money from the fund is subject to all the limitations contained in the bill making the appropriation and to all fiscal procedures specified by statute concerning the expenditure of state funds.

(c) In issuing bonds pursuant to this article, the committee shall, to the extent possible, pay the principal of, and interest on, the bonds from the sources specified in subdivisions (a) to (f), inclusive, of Section 25385.9. The General Fund shall be reimbursed from these sources for any transfers made to the Hazardous Substance Clearing Account from the General Fund to make the principal and interest payments. In determining the amount the General Fund is to be reimbursed for any transfer, the committee shall also include interest on the transfer at a rate equal to the bond rate on the transfer from the date of transfer to the date of reimbursement.

(d) This section shall become inoperative on July 1, 2006, and as of January 1, 2007, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 40. Section 25385.6 of the Health and Safety Code is amended to read:

25385.6. (a) The moneys in the state account that are the proceeds of bonds issued and sold pursuant to this article may be used, upon appropriation by the Legislature, for the purposes specified in this section.

(b) The board may expend moneys in the fund, that are the proceeds of bonds issued and sold pursuant to this article upon the authorization of the committee, for all of the following purposes:

(1) To provide the state share of a removal or remedial action pursuant to Section 104(c)(3) of the federal act (42 U.S.C. Sec. 9604(c)(3)) if the

site is the subject of a final remedial action plan issued pursuant to Section 25356.1.

(2) To pay all costs of a removal or remedial action incurred by the state, or by any local agency with the approval of the director, in response to a release or threatened release of a hazardous substance at a site which is listed in the priority ranking of sites pursuant to Section 25356 and is the subject of a final remedial action plan issued pursuant to Section 25356.1, to the extent that the costs are not paid by responsible parties or are reimbursed by the federal act.

(3) To pay for site characterization of a release of hazardous substances, even if a remedial action plan has not been prepared, approved, adopted, or made final for that site.

SEC. 41. Section 25385.8 of the Health and Safety Code is amended to read:

25385.8. (a) The Superfund Bond Trust Fund is hereby created in the State Treasury. All interest earned on funds in the state account, and other funds transferred to the trust fund by the Legislature or the department, shall be deposited in the trust fund, which is a sinking fund to ensure the payment of principal of, and interest on, the debt incurred pursuant to Section 25385.5. All interest earned on money in the fund shall be deposited in the trust fund. The funds in the trust fund shall be invested by the Treasurer. The committee shall administer the trust fund so that there are sufficient funds in the trust fund to make the necessary principal and interest payments on bonds issued and shall transfer funds from the trust fund for this purpose to the Hazardous Substance Clearing Account.

(b) There shall be transferred annually the sum of five million dollars (\$5,000,000) from the state account to the trust fund.

(c) The unobligated balance in the state account shall be transferred by the department to the trust fund on December 31 of each year. For purposes of this section, “unobligated balance” means that amount, which shall not be less than zero, determined by the department, in the yearend financial statement submitted to the Controller, to be the total of all unencumbered funds on June 30 of that calendar year, less the total of all of the following:

(1) Any fund in the reserve account for emergencies established by Section 25354.

(2) Any remaining principal of the loan authorized by Section 25332.

(3) Any interest due on any remaining principal of the loan authorized by Section 25332.

(4) Any funds paid as taxes for the following fiscal year.

(5) Any funds received from the federal government pursuant to the federal act.

(6) Any interest accruing from funds deposited in the subaccount for site operation and maintenance established by Section 25330.5.

(7) Any funds received from responsible parties for remedial and removal action, except to the extent those funds are necessary to reimburse the state account for funds previously expended therefrom.

(8) Any funds deposited into a sinking fund to ensure the repayment of principal on, and interest of, bonds pursuant to Section 25385.9.

(d) The amendment of this section by Chapter 531 of the Statutes of 1990 does not constitute a change in, but is declaratory of, the existing law.

(e) This section shall become inoperative on July 1, 2006, and as of January 1, 2007, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 42. Section 25385.9 of the Health and Safety Code is repealed.

SEC. 43. Section 39607.4 is added to the Health and Safety Code, to read:

39607.4. On and after January 1, 2007, as part of its responsibilities under Section 39607, and in order to streamline, consolidate, and unify the inventory of air emissions under one agency in state government, the state board shall prepare, adopt, and update the inventory formerly required to be adopted and updated by the State Energy Resources Conservation and Development Commission pursuant to Chapter 8.5 (commencing with Section 25730) of Division 15 of the Public Resources Code.

SEC. 44. Section 42871 is added to the Health and Safety Code, to read:

42871. (a) This chapter shall remain in effect until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

(b) It is the intent of the Legislature that emissions registered and verified in accordance with this chapter prior to January 1, 2008, receive appropriate consideration under any future international, federal, or state regulatory scheme relating to greenhouse gas emissions.

(c) It is further the intent of the Legislature that if a mandatory reporting statute is enacted on or before January 1, 2007, the functions of the Climate Action Registry be transitioned in full consultation with the registry consistent with the policies established in Executive Order S-3-05 and with any laws enacted by the Legislature subsequent to the enactment of this section.

(d) This section does not affect the status of the Climate Action Registry as a nonprofit public benefit corporation incorporated pursuant to Division 2 (commencing with Section 5000) of the Corporations Code.

SEC. 45. Section 4137 is added to the Public Resources Code, to read:

4137. (a) It is the intent of the Legislature that the year-round staffing and the extension of the workweek that has been provided to the department pursuant to memorandums of understanding with the state will result in significant increases in the department's current level of fire prevention activities. It is the intent of the Legislature that the budgetary augmentations for year-round staffing not reduce the revenue that the department receives from contracts with local governments for the department to provide local fire protection and emergency services, commonly referred to as "schedule A agreements."

(b) On or before January 10 of each year, commencing in 2007, the department shall provide a report to the Legislature, including the budget and fiscal committees of the Assembly and the Senate, regarding the department's increased fire prevention activities described in subdivision (a). The report shall display the information from previous reports for purposes of comparison. The report shall include all of the following:

(1) The percentage of the fire prevention activities that occurred on lands designated as state responsibility areas.

(2) The percentage of the fire prevention activities that occurred in counties where, pursuant to a contract with the department, the county has agreed to provide fire protection services in state responsibility areas within county boundaries on behalf of the department.

(3) The percentage of the fire prevention activities that were undertaken pursuant to a contract with a local government for the department to provide local fire protection and emergency services.

(4) Identification, with specific reference to the department's authority, of the percentage of the fire prevention activities that occurred on other lands.

(5) A listing of fire prevention performance measures that the department tracks annually, including, but not limited to, all of the following:

(A) The number of structural fire safety and vegetation clearance inspections, citations, and other enforcement activities.

(B) The number of acres treated by mechanical fuel reduction.

(C) Prescribed burns.

(D) The fire prevention performance measures described in subparagraphs (A) to (C), inclusive, shall measure and report all specific fire prevention activities undertaken by the department in each region on an annual basis and shall also measure and report the specific level of fire prevention activity that occurs in each region from December 15 through April 15, inclusive.

(6) Projected outcomes for each of the fire prevention performance measures described in paragraph (5) for each year by region that may occur after the annual report is submitted to the Legislature.

(7) Information on each of the contracts described in paragraph (3), including revenues for each fiscal year and an annual update on the number of those contracts and revenues received from the contracts that are in effect.

SEC. 46. Section 4799.13 of the Public Resources Code is amended to read:

4799.13. (a) There is hereby created in the State Treasury, the Forest Resources Improvement Fund. The money in the Forest Resources Improvement Fund may only be expended, upon appropriation by the Legislature, for the cost of operations associated with management of lands held in trust by the state and operated as demonstration state forests by the department pursuant to Section 4646, including restoration activities.

(b) The Forest Resources Improvement Fund shall be the depository for all revenue derived from the repayment of loans made or interest received pursuant to Chapter 1 (commencing with Section 4790), and the receipts from the sale of forest products, as defined in Section 4638, from the state forests to support the operations described in subdivision (a). Money in the fund in excess of the amount needed to support those operations shall be deposited in the General Fund.

(c) The director may accept grants and donations of equipment, seedlings, labor, materials, or funds from any source for the purpose of supporting or facilitating activities undertaken pursuant to this part. Any funds received shall be deposited by the director in the Forest Resources Improvement Fund.

(d) Each proposed expenditure by the department of money from the Forest Resources Improvement Fund shall be included as a separate item and scheduled individually in the Budget Bill for each fiscal year for consideration by the Legislature. These appropriations shall be subject to all of the limitations contained in the Budget Bill and to all other fiscal procedures prescribed by law with respect to the expenditure of state funds.

SEC. 47. Section 5003.11 is added to the Public Resources Code, to read:

5003.11. (a) Notwithstanding the provisions of Division 3 (commencing with Section 11000) of Title 2 of the Government Code that relate to the disposition of state-owned real property, the director may grant to the City of Malibu, subject to the conditions set forth in this section, all of the rights, title, and interest of the state in an approximately 10.81-acre portion of the Malibu Bluffs unit of Malibu Lagoon State Beach, known as Malibu Bluffs Community Park, in the County of Los Angeles.

(b) The grant is subject to all of the following conditions:

(1) The real property conveyed shall be operated, maintained, and improved by the City of Malibu for park purposes in perpetuity, consistent with any covenants, conditions, and restrictions in the deed transferring the property.

(2) The City of Malibu shall pay the department fair market value for the real property conveyed and as restricted by paragraph (1). The fair market value shall be determined by an appraisal that is reviewed and approved by the Department of General Services.

(3) The net proceeds from the transfer shall be deposited pursuant to Section 5003.15, with Attorney General review and approval.

(c) The Legislature finds and declares that the transfer to the City of Malibu of the real property described in subdivision (a) and subject to the conditions specified in subdivision (b) is excepted from the provisions of Section 5096.516 in accordance with paragraph (3) of subdivision (c) of Section 5096.516.

SEC. 48. Section 5090.15 of the Public Resources Code is amended to read:

5090.15. (a) There is in the department the Off-Highway Motor Vehicle Recreation Commission, consisting of seven members, three of whom shall be appointed by the Governor, two of whom shall be appointed by the Senate Committee on Rules, and two of whom shall be appointed by the Speaker of the Assembly.

(b) In order to be appointed to the commission, a nominee shall represent one or more of the following groups:

- (1) Off-highway vehicle recreation interests.
- (2) Biological or soil scientists.
- (3) Groups or associations of predominantly rural landowners.
- (4) Law enforcement.
- (5) Environmental protection organizations.
- (6) Nonmotorized recreationist interests.

It is the intent of the Legislature that appointees to the commission represent all of the groups delineated in paragraphs (1) to (6), inclusive, to the extent possible.

(c) Whenever a reference is made to the State Park and Recreation Commission pertaining to a duty, power, purpose, responsibility, or jurisdiction of the State Park and Recreation Commission with respect to the state vehicular recreation areas, as established by this chapter, it is a reference to, and means, the Off-Highway Motor Vehicle Recreation Commission.

(d) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2008, deletes or extends that date.

SEC. 49. Section 5090.70 of the Public Resources Code is amended to read:

5090.70. This chapter shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 50. Section 5818.1 is added to the Public Resources Code, to read:

5818.1. The Coastal Wetlands Fund is hereby established in the State Treasury and shall be an interest-bearing fund administered by the Department of Fish and Game. The principal of the Coastal Wetlands Fund shall not be expended, and shall be maintained so that the interest earned by the fund will provide a continuous source of funding for wetlands maintenance. The interest in the Coastal Wetlands Fund is available only upon appropriation in the annual Budget Act, and the interest appropriated shall be allocated as follows:

(a) Sixty percent to the Department of Fish and Game for expenditure pursuant to Section 5818.2 for maintenance of coastal wetlands owned by the Department of Fish and Game.

(b) Forty percent to the State Coastal Conservancy for expenditure pursuant to Section 5818.2 for maintenance of coastal wetlands.

SEC. 51. Section 5818.2 is added to the Public Resources Code, to read:

5818.2. (a) (1) Interest appropriated from the Coastal Wetlands Fund pursuant to subdivision (b) of Section 5818.1 shall be expended by the State Coastal Conservancy in the form of grants for maintenance of coastal wetlands property owned by the state, a conservancy of the state, a local government agency, or a nonprofit organization.

(2) An applicant may apply to the State Coastal Conservancy for a grant pursuant to the grant application procedures in Division 21 (commencing with Section 31000), to perform maintenance of coastal wetlands property owned by the state, a conservancy of the state, a local government agency, or a nonprofit organization.

(b) Interest appropriated from the Coastal Wetlands Fund pursuant to subdivision (a) of Section 5818.1 shall be expended by the Department of Fish and Game for maintenance of coastal wetlands owned by the Department of Fish and Game.

(c) The Department of Fish and Game and the State Coastal Conservancy may accept contributions to the Coastal Wetlands Fund. The sources of contributions that may be accepted include, but are not limited to, private individuals and organizations, nonprofit organizations, and federal, state, and local agencies including special districts. The contributions accepted may include money identified pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)) or the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) as acceptable mitigation for development projects. The Department of Fish and Game and the State Coastal Conservancy shall deposit a contribution accepted pursuant to this subdivision in the Coastal Wetlands Fund, subject to the requirements of Section 5818.1.

SEC. 52. Section 8709.5 is added to the Public Resources Code, to read:

8709.5. Expenses attributable to management and remediation efforts on state school lands are payable from the fund.

SEC. 53. Section 25731 is added to the Public Resources Code, to read:

25731. (a) This chapter shall remain in effect until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

(b) It is the intent of the Legislature to transfer the functions performed by the commission pursuant to this chapter to the State Air Resources Board in order to consolidate, streamline, and unify the inventory of air emissions under a single agency in state government.

SEC. 54. Section 30533 of the Public Resources Code is amended to read:

30533. (a) On or before January 1 of each year, the commission and the State Coastal Conservancy shall report to the Governor and the Legislature the progress made in implementing the public coastal access program established by this article. The report shall include progress in facilitating the acceptance of outstanding offers to dedicate and shall

identify new offers to dedicate recorded in the previous fiscal year. For each offer to dedicate accepted or recorded in the previous calendar year, the report shall include all of the following information:

- (1) Type of offer to dedicate.
  - (2) Location of property.
  - (3) Expiration date of offer.
  - (4) Name of entity that accepted the offer to dedicate.
- (b) It is the intent of the Legislature that the commission, the State Coastal Conservancy, and all other appropriate public agencies proceed with all deliberate speed to implement the provisions of this article prior to the deadlines established in this article.

SEC. 55. Section 42885 of the Public Resources Code, as amended by Section 13 of Chapter 707 of the Statutes of 2004, is amended to read:

42885. (a) For purposes of this section, "California tire fee" means the fee imposed pursuant to this section.

(b) (1) A person who purchases a new tire, as defined in subdivision (g), shall pay a California tire fee of one dollar and seventy-five cents (\$1.75) per tire.

(2) The retail seller shall charge the retail purchaser the amount of the California tire fee as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the retail purchaser.

(3) The retail seller shall collect the California tire fee from the retail purchaser at the time of sale and may retain 1 ½ percent of the fee as reimbursement for any costs associated with the collection of the fee. The retail seller shall remit the remainder to the state on a quarterly schedule for deposit in the California Tire Recycling Management Fund, which is hereby created in the State Treasury.

(c) The board, or its agent authorized pursuant to Section 42882, shall be reimbursed for its costs of collection, auditing, and making refunds associated with the California Tire Recycling Management Fund, but not to exceed 3 percent of the total annual revenue deposited in the fund.

(d) The California tire fee imposed pursuant to subdivision (b) shall be separately stated by the retail seller on the invoice given to the customer at the time of sale. Any other disposal or transaction fee charged by the retail seller related to the tire purchase shall be identified separately from the California tire fee.

(e) A person or business who knowingly, or with reckless disregard, makes a false statement or representation in a document used to comply with this section is liable for a civil penalty for each violation or, for continuing violations, for each day that the violation continues. Liability under this section may be imposed in a civil action and shall not exceed twenty-five thousand dollars (\$25,000) for each violation.

(f) In addition to the civil penalty that may be imposed pursuant to subdivision (e), the board may impose an administrative penalty in an amount not to exceed five thousand dollars (\$5,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues, on a person who intentionally or negligently violates a

permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter. The board shall adopt regulations that specify the amount of the administrative penalty and the procedure for imposing an administrative penalty pursuant to this subdivision.

(g) For purposes of this section, “new tire” means a pneumatic or solid tire intended for use with on-road or off-road motor vehicles, motorized equipment, construction equipment, or farm equipment that is sold separately from the motorized equipment, or a new tire sold with a new or used motor vehicle, as defined in Section 42803.5, including the spare tire, construction equipment, or farm equipment. “New tire” does not include retreaded, reused, or recycled tires.

(h) The California tire fee shall not be imposed on a tire sold with, or sold separately for use on, any of the following:

- (1) A self-propelled wheelchair.
- (2) A motorized tricycle or motorized quadricycle, as defined in Section 407 of the Vehicle Code.
- (3) A vehicle that is similar to a motorized tricycle or motorized quadricycle and is designed to be operated by a person who, by reason of the person’s physical disability, is otherwise unable to move about as a pedestrian.

(i) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 56. Section 42889 of the Public Resources Code, as amended by Section 14 of Chapter 707 of the Statutes of 2004, is amended to read:

42889. (a) Commencing January 1, 2005, of the moneys collected pursuant to Section 42885, an amount equal to seventy-five cents (\$0.75) per tire on which the fee is imposed shall be transferred by the State Board of Equalization to the Air Pollution Control Fund. The state board shall expend those moneys, or allocate those moneys to the districts for expenditure, to fund programs and projects that mitigate or remediate air pollution caused by tires in the state, to the extent that the state board or the applicable district determines that the program or project remediates air pollution harms created by tires upon which the fee described in Section 42885 is imposed.

(b) The remaining moneys collected pursuant to Section 42885 shall be used to fund the waste tire program, and shall be appropriated to the board in the annual Budget Act in a manner consistent with the five-year plan adopted and updated by the board. These moneys shall be expended for the payment of refunds under this chapter and for the following purposes:

- (1) To pay the administrative overhead cost of this chapter, not to exceed 6 percent of the total revenue deposited in the fund annually, or an amount otherwise specified in the annual Budget Act.
- (2) To pay the costs of administration associated with collection, making refunds, and auditing revenues in the fund, not to exceed 3 percent of the total revenue deposited in the fund, as provided in subdivision (c) of Section 42885.

(3) To pay the costs associated with operating the tire recycling program specified in Article 3 (commencing with Section 42870).

(4) To pay the costs associated with the development and enforcement of regulations relating to the storage of waste tires and used tires. The board shall consider designating a city, county, or city and county as the enforcement authority of regulations relating to the storage of waste tires and used tires, as provided in subdivision (c) of Section 42850. If the board designates a local entity for that purpose, the board shall provide sufficient, stable, and noncompetitive funding to that entity for that purpose, based on available resources, as provided in the five-year plan adopted and updated as provided in subdivision (a) of Section 42885.5. The board may consider and create, as appropriate, financial incentives for citizens who report the illegal hauling or disposal of waste tires as a means of enhancing local and statewide waste tire and used tire enforcement programs.

(5) To pay the costs of cleanup, abatement, removal, or other remedial action related to waste tire stockpiles throughout the state, including all approved costs incurred by other public agencies involved in these activities by contract with the board. Not less than six million five hundred thousand dollars (\$6,500,000) shall be expended by the board during each of the following fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

(6) To make studies and conduct research directed at promoting and developing alternatives to the landfill disposal of waste tires.

(7) To assist in developing markets and new technologies for used tires and waste tires. The board's expenditure of funds for purposes of this subdivision shall reflect the priorities for waste management practices specified in subdivision (a) of Section 40051.

(8) To pay the costs associated with implementing and operating a waste tire and used tire hauler program and manifest system pursuant to Chapter 19 (commencing with Section 42950).

(9) To pay the costs to create and maintain an emergency reserve, which shall not exceed one million dollars (\$1,000,000).

(10) To pay the costs of cleanup, abatement, or other remedial action related to the disposal of waste tires in implementing and operating the Farm and Ranch Solid Waste Cleanup and Abatement Grant Program established pursuant to Chapter 2.5 (commencing with Section 48100) of Part 7.

(c) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 57. Section 38225 of the Vehicle Code, as amended by Section 40 of Chapter 563 of the Statutes of 2002, is amended to read:

38225. (a) A service fee of seven dollars (\$7) shall be paid to the department for the issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division.

(b) In addition to the service fee specified in subdivision (a), a special fee of eight dollars (\$8) shall be paid at the time of payment of the service fee for the issuance or renewal of an identification plate or device.

(c) All money transferred pursuant to Sections 8352.6 and 8352.7 of the Revenue and Taxation Code, all fees received by the department pursuant to subdivision (b), and all day use, overnight use, or annual or biennial use fees for state vehicular recreation areas received by the Department of Parks and Recreation, shall be deposited in the Off-Highway Vehicle Trust Fund, which is hereby created. There shall be a separate reporting of special fee revenues by vehicle type, including four-wheeled vehicles, three-wheelers, motorcycles, and snowmobiles. All money shall be deposited in the fund, which is a trust fund, and, upon appropriation by the Legislature, shall be allocated by the Off-Highway Motor Vehicle Recreation Commission, as provided in this section. Money in the fund shall be administered by the commission, as trustee of the fund, and, subject to Section 5090.61 of the Public Resources Code, shall be allocated for those purposes set forth in Section 5090.50 of the Public Resources Code.

(d) Any money temporarily transferred by the Legislature from the Off-Highway Vehicle Trust Fund to the General Fund shall be reimbursed, without interest, by the Legislature within two fiscal years of the transfer.

(e) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date. Any unencumbered funds remaining in the Off-Highway Vehicle Trust Fund on January 1, 2008, shall be transferred to the General Fund.

SEC. 58. Section 38225 of the Vehicle Code, as amended by Section 3 of Chapter 227 of the Statutes of 2001, is amended to read:

38225. (a) A service fee of seven dollars (\$7) shall be paid to the department for the issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division.

(b) This section shall become operative on January 1, 2008.

SEC. 59. Section 141.5 is added to the Water Code, to read:

141.5. The department shall proceed with the construction of the South Delta Improvements Program, but shall not commence the operational phase of the program until the director certifies, in writing, to the Legislature that the department has completed the operational studies of the project and that the environmental review required by the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) includes a comparison between the implementation of the program and the maintenance of current operations.

SEC. 60. Section 79441 of the Water Code is amended to read:

79441. (a) The department, the Department of Fish and Game, and the United States Army Corps of Engineers are the implementing agencies for the levee program element.

(b) The state board, the United States Environmental Protection Agency, and the State Department of Health Services are the implementing agencies for the water quality program element.

(c) The Department of Fish and Game, the United States Fish and Wildlife Service, and the United States National Marine Fisheries Service are the implementing agencies for the ecosystem restoration program element. If interests in land, water, or other real property are acquired, those interests shall be acquired from willing sellers by means of entering into voluntary agreements.

(d) The department and the United States Bureau of Reclamation are the implementing agencies for the water supply reliability, storage, and conveyance elements of the program.

(e) The department, the state board, and the United States Bureau of Reclamation are the implementing agencies for the water use efficiency and water transfer program elements.

(f) The Resources Agency, the state board, the department, the Department of Fish and Game, the United States Natural Resources Conservation Service, the United States Environmental Protection Agency, and the United States Fish and Wildlife Service are the implementing agencies for the watershed program element.

(g) The Resources Agency is the implementing agency for the science program element.

(h) The department, the Department of Fish and Game, the United States Bureau of Reclamation, the United States Fish and Wildlife Service, and the United States National Marine Fisheries Service are the implementing agencies for the environmental water account program element.

SEC. 61. Section 79442 is added to the Water Code, to read:

79442. (a) It is the intent of the Legislature, in enacting this section, that all public processes that are currently part of the Bay-Delta Program as of the date of enactment of the act adding this section will continue, consistent with the act that added this section, unless legislation is enacted to change these processes.

(b) The Secretary of the Resources Agency shall provide staff support to the authority to assist the authority in exercising its duties under this division.

(c) The Department of Forestry and Fire Protection shall provide administrative support to assist the Secretary of the Resources Agency in carrying out the duties assigned to the secretary by this section. That administrative support includes, but is not limited to, all of the following:

- (1) Contracting and purchasing.
- (2) Budgeting and accounting.
- (3) Information technology.
- (4) Business services.
- (5) Human resources.

(d) (1) Except as provided in paragraph (2), the Secretary of the Resources Agency shall administer all contracts, grants, leases, and agreements under this division.

(2) The Department of Fish and Game shall administer all contracts, grants, leases, or agreements that relate to the implementation of the ecosystem restoration program under this division.

(3) The exercise of the authority described in paragraphs (1) and (2) shall not be subject to review or approval by the Department of General Services.

(4) No contract, lease, license, or any other agreement to which the authority is a party shall become void or voidable as a result of the implementation of this subdivision, but shall continue in full force and effect.

(e) The Secretary of the Resources Agency shall assume from the authority all of the administrative rights, abilities, obligations, and duties of the authority, except those rights, abilities, obligations, and duties assigned to the Department of Fish and Game by this section.

(f) The Secretary of the Resources Agency shall have possession and control of all records, papers, equipment, supplies, and contracts, leases, agreements, and other property, real or personal, connected with the administration of this division, or held for the benefit or use of the authority.

(g) All positions transferred from the authority in the Budget Act of 2006 shall be used to support the Bay-Delta Program or the Secretary of the Resources Agency. The status, position, and rights of any officer or employee shall not be affected by this transfer and all officers and employees shall be retained pursuant to the applicable provisions of the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to any position that is exempt from civil service.

SEC. 62. Section 79452 of the Water Code is amended to read:

79452. (a) The Secretary of the Resources Agency, with the advice of the authority and the director, shall appoint a lead scientist. The lead scientist shall report to the authority. The lead scientist, in cooperation with the implementing agencies, shall be responsible for the development of the science program element.

(b) The lead scientist shall meet the following requirements:

(1) Has undertaken substantial scientific research work in any field related to one or more of the program elements.

(2) Has experience managing environmental issues or advising high-level managers in methods for promoting science-based decisionmaking in the areas of water management and ecosystem restoration.

(3) Has a record of publication in peer-reviewed scientific literature.

(c) For all program elements, the lead scientist shall ensure scientific application of adaptive management, monitoring, and investigations to

reduce uncertainties, and full investigation of the effects of each program element on other program elements.

(d) The lead scientist shall ensure that peer review is employed extensively and prudently to ensure the quality of program planning, implementation, and evaluation.

(e) The purpose of the science program element shall be to carry out all of the following functions:

(1) Provide implementing agencies and the authority with authoritative and unbiased reviews of the state of scientific knowledge relevant to management and decisionmaking for the California Bay-Delta Program.

(2) Implement programs and projects to articulate, test, refine, and improve the scientific understanding of all aspects of the bay-delta and its watershed areas.

(3) Provide a comprehensive framework to integrate, monitor, and evaluate the use of adaptive management and the best available scientific understandings and practices for implementing the California Bay-Delta Program.

(4) Independently review the technical and scientific performance of the California Bay-Delta Program, including, but not limited to, all of the following:

(A) Conclusions.

(B) Studies, monitoring, performance measures.

(C) Data analyses.

(D) Scientific practices that form the scientific bases for program decisionmaking.

SEC. 63. Section 79452.3 of the Water Code is amended to read:

79452.3. (a) Notwithstanding any other provision of law, the Secretary of the Resources Agency, may, in collaboration with the Director of Fish and Game, directly or indirectly enter into contracts with scientific experts for the purpose of conducting studies of delta fisheries and for carrying out the mission of the California Bay-Delta Program. A contract entered into pursuant to this section shall terminate no later than January 1, 2009, and shall be exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, Section 19130 of the Government Code, and any rules or regulations adopted pursuant to any of those provisions.

(b) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute that is enacted on or before January 1, 2009, deletes or extends that date.

SEC. 64. Chapter 2.5 (commencing with Section 79473) is added to Division 26.4 of the Water Code, to read:

#### CHAPTER 2.5. SACRAMENTO-SAN JOAQUIN DELTA STRATEGIC PLAN

79473. The Secretary of Resources, in collaboration with the Secretary of Business, Transportation and Housing, shall develop a strategic plan to

achieve a sustainable Sacramento-San Joaquin Delta. The plan shall include all of the following:

(a) A description, characterization, or definition of a sustainably managed delta, including the delta's multiple resources and uses for each of the following:

(1) Ecosystem functions, including aquatic and terrestrial flora and fauna.

(2) Land use and land use patterns.

(3) Transportation uses, including streets, roads and highways, and waterborne transportation.

(4) Utility uses, including aqueducts, pipelines, and power transmission corridors.

(5) Water supply uses.

(6) Recreation uses, including current and future recreational and tourism uses.

(7) Other aspects of sustainability determined to be desirable by the Secretary of the Resources Agency or the Secretary of Business, Transportation and Housing.

(b) Measurable goals and objectives for achieving a sustainably managed delta.

(c) A list of necessary actions to achieve a sustainably managed delta.

(d) Recommendations for institutional changes, including creating new institutions, necessary for achieving a sustainably managed delta. The recommendations may include a discussion of any of the following:

(1) Oversight authorities.

(2) Implementation authorities.

(3) Land use authorities.

(e) A strategic financing plan, including provisions for delta beneficiaries to pay their share for the benefits that they receive.

(f) Contingency plans addressing all of the following:

(1) Response plans for local impacts, such as a levee failure on a single island.

(2) Response plans for widespread catastrophic losses, such as losses that may occur as a result of a significant seismic event.

(3) Adaptive management.

(4) The likely impacts of global warming, climate change, and sea-level rise.

SEC. 65. The Legislature finds and declares all of the following:

(a) The Lake Tahoe Basin is an area of not just statewide significance, but of national and international significance.

(b) A congressionally approved compact between California and Nevada established the Tahoe Regional Planning Agency. The agency coordinates planning and regulations that preserve and enhance the environment and resources of the Lake Tahoe Basin.

(c) Funding for the agency is shared between Nevada (one-third) and California (two-thirds). Funding is effective subject to approval by both states.

(d) In the event that California state employees, in general, receive a salary increase through a collective bargaining agreement or other employee compensation procedure, as a cost-of-living adjustment, the agency's budget should be augmented accordingly to fund California's two-thirds share of the amount, according to the compact, necessary to maintain comparable salaries with California and Nevada state employees, for the agency's employees.

(e) California's contribution for this funding would be subject to Nevada providing its one-third share match.

(f) For purposes of providing matching salary comparability or cost-of-living adjustment funding only, the agency's employees would be treated the same as other California state employees in the annual state budget process.

(g) One way of possibly differentiating the agency in this proposal from other local assistance agencies would be to adopt this budget process for interstate compact agencies only. The rationale for doing this would be to avoid the currently cumbersome and complicated budget process resulting from having two separate state budget processes for the agency.

(h) Funding for any salary increase or cost-of-living adjustment should be allocated in the same manner and under the same methodology used by the Department of Finance for state agencies and from the same sources of funding set aside in the annual budget for any salary increase or cost-of-living adjustment.

SEC. 66. The Legislature finds and declares that the changes made by this act to Section 25192 of the Health and Safety Code further the purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986.

SEC. 67. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 68. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary statutory changes to implement the Budget Act of 2006 at the earliest possible time, it is necessary that this act take effect immediately.