Senate Bill No. 855

CHAPTER 718

An act to amend Sections 25173.6, 25187, 25214.3, and 25215.7 of, and to add Sections 44272.3, 44272.4, and 44272.7 to, the Health and Safety Code, to amend Sections 4137, 4142, 14560, 14581, 25421, 25449.4, 25461, 25806, and 48004 of, to amend, repeal, and add Section 71305 of, to add Sections 4124, 5016.2, 14556, and 25464 to, and to add and repeal Section 3402.3 of, the Public Resources Code, to add Sections 13628.5 and 85214 to the Water Code, and to amend Section 1 of Chapter 384 of the Statutes of 2009, relating to resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 19, 2010. Filed with Secretary of State October 19, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 855, Committee on Budget and Fiscal Review. Resources.

(1) Existing law establishes the Toxic Substances Control Account in the General Fund and authorizes the moneys deposited in the account to be appropriated to the Department of Toxic Substances Control for specified purposes related to response actions to hazardous substance releases. Existing law generally authorizes the department to expend the funds in the Hazardous Waste Control Account for specified purposes related to the regulation of the handling of hazardous waste. Existing law requires the administrative and civil penalties collected pursuant to the provisions regulating lead-containing jewelry and lead wheel weights be deposited in the Hazardous Waste Control Account, for expenditure by the Department of Toxic Substances Control, upon appropriation by the Legislature, to implement and enforce those provisions. Existing law also imposes specified criminal penalties upon a manufacturer or supplier that violates certain toxic packaging requirements.

This bill would provide for the deposit of the penalties collected to enforce the requirements of the hazardous waste control laws regarding lead-containing jewelry, toxic packaging, and lead wheel weights in the Toxic Substances Control Account and would make conforming changes with regard to those provisions. The bill would authorize the Department of Toxic Substances Control to expend the money in the Toxic Substances Control Account to implement and enforce those provisions.

(2) The California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007 creates the Alternative and Renewable Fuel and Vehicle Technology Program, administered by the State Energy Resources Conservation and Development Commission (Energy Commission). The program provides, upon appropriation by the Legislature,

grants, loans, loan guarantees, revolving loans, or other appropriate measures, to public agencies, businesses and projects, public-private partnerships, vehicle and technology consortia, workforce training partnerships and collaborative, fleet owners, consumers, recreational boaters, and academic institutions to develop and deploy innovative technologies that transform California's fuel and vehicle types to help attain the state's climate change policies.

Under existing law, the Energy Commission is required to develop and adopt an investment plan to determine priorities and opportunities for the program. Existing law requires that the investment plan establish priorities for the investment of funds and technologies to achieve the goals of the act and to describe how funding will complement existing public and private investments, including existing state programs that further the goals of the act.

This bill would, until July 1, 2013, declare the Legislature's intent that, to the maximum extent feasible, loan moneys provided by the state to refiners of biofuels (biorefiners) be awarded so as to increase the efficiency and environmental sustainability of biofuel production. The bill would require that biorefiners receiving loans from the commission's California Ethanol Producer Incentive Program, authorized under the above provisions, meet specified goals established under the program according to revised timeframes. The bill would provide that these provisions do not limit the commission's ability to set more stringent guidelines for the program that would further maximize the efficiency and environmental sustainability of biofuel production. The bill would require a biorefiner receiving loan moneys from the state pursuant to an appropriation made in the 2010–11 or 2011–12 fiscal year to comply with these conditions and to demonstrate that compliance to the commission.

This bill would require the Energy Commission, on or before March 15, 2011, and each January thereafter concurrent with the submittal of the Governor's Budget, to submit a draft investment plan for the upcoming fiscal year to the Joint Legislative Budget Committee and all relevant policy and fiscal committees of the Legislature. Beginning with the investment plan for the 2012–13 fiscal year, the bill would require the commission to submit the final investment plan for the upcoming fiscal year to those committees each May concurrent with the submittal of the Governor's May Revision to the budget.

The bill would also require the Energy Commission to notify these committees when significant modifications, as defined, to the final investment plan are approved.

(3) Existing law generally regulates the drilling, operation, maintenance, and abandonment of oil and gas wells. Existing law imposes an annual charge upon each person operating or owning an interest in an oil or gas well in respect to the production of the well which charge is payable to the Treasurer for deposit into the Oil, Gas, and Geothermal Administrative Fund. Existing law requires that the proceeds of these charges be used exclusively for the support and maintenance of the Division of Oil, Gas,

and Geothermal Resources in the Department of Conservation for the supervision of oil and gas.

This bill would require that any increase in the charge on oil production by the Department of Conservation for deposit into the Oil, Gas, and Geothermal Administrative Fund for the purpose of completing workload requested in the 2010–11 Budget Act related to the acceleration of the remediation of orphaned oil facilities only be made for a period of 4 years.

(4) Existing law appropriates money that is required to be available for emergency fire suppression and detection costs and related emergency revegetation costs.

This bill would require the Department of Forestry and Fire Protection to report to the Joint Legislative Budget Committee quarterly, regarding emergency incidents funded entirely or in part from that funding, commonly referred to as the "emergency fund," and would specify the contents of the report.

(5) Existing law requires the department to provide an annual report to the Legislature regarding certain fire prevention activities and specifies the contents of the report.

This bill would revise and recast those report requirements.

(6) Existing law authorizes the department to enter into a cooperative agreement for the purpose of preventing and suppressing forest fires or other fires in any lands within a county, city, or district that makes an appropriation for that purpose.

This bill would require the department, within 30 days of final approval of a new or renewed cooperative agreement valued at $5,000,000 or more, to submit to the relevant fiscal and policy committees of each house of the Legislature a copy of the final agreement and a brief summary of the agreement for the purpose of highlighting information relevant to the Legislature's fiscal oversight of the agreement.

(7) Existing law provides for a state park system, of which the Anza-Borrego Desert State Park and the Ocotillo Wells State Vehicular Recreation Area are units, and authorizes the Department of Parks and Recreation, with the consent of the Department of Finance, to acquire title to, or any interest in, real property that the department deems necessary or proper for the extension, improvement, or development of the state park system.

This bill would, notwithstanding any other law, authorize the Department of Parks and Recreation to enter into any transaction for the acquisition of land known as the "Freeman Property" and would exempt the acquisition from the California Environmental Quality Act (CEQA), except as specified. The bill would require the department, among other things, to annex specified portions of the "Freeman Property" to the Anza-Borrego Desert State Park and the Ocotillo Wells State Vehicular Recreation Area upon completion of transfer of title to the department.

(8) Existing law, the California Beverage Container Recycling and Litter Reduction Act (act), requires a distributor to pay a redemption payment of $0.04 for every beverage container sold or offered for sale in the state to

the Department of Resources Recycling and Recovery, for deposit in the funds in the California Beverage Container Recycling Fund. The act also requires the department to calculate a processing fee for each beverage container with a specified scrap value, which is required to be paid by beverage manufacturers, and to reduce the amount of the processing fee under specified circumstances.

Existing law requires the department to review the fund and if it determines there are inadequate funds to make certain payments and the processing fee reductions, to immediately notify the Legislature. Existing law authorizes the department to eliminate expenditures, upon making this determination, on or before 180 days, but not less than 90 days after this notice is sent to the Legislature.

This bill would revise that procedure to instead require the department to provide to the Legislature, not less than once every 3 months, certain information for the current fiscal year and the budget year, and to post the most recent information on the department's Internet Web site, not less than once every 3 months.

The bill would require the department to review the information included in the fund condition statement, not less than once every 3 months, and if pursuant to that review the department determines that there are inadequate funds to pay the payments required by the act, the bill would authorize the department to reduce or eliminate expenditures on or before 180 days but not less than 80 days after notifying the Legislature. The bill would also make conforming changes.

(9) Existing law requires the State Energy Resources Conservation and Development Commission to administer the State Energy Conservation Assistance Account, a continuously appropriated account, in the General Fund until January 1, 2011, to provide grants and loans to local governments and public institutions to maximize energy use savings. All loans outstanding as of that date are required to continue to be repaid as specified until paid in full, and all unexpended funds in the account on and after that date, except as specified, are required to revert to the General Fund.

This bill would extend the operation of those provisions to January 1, 2013, and would thereby make an appropriation by extending the time during which the funds in a continuously appropriated account are made available.

(10) Existing law, until January 1, 2011, requires the commission to enter into agreements with the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the State Department of Education to expend specified funds for certain purposes relating to energy conservation. Existing law creates the Local Jurisdiction Energy Assistance Account in the General Fund for the purposes of these provisions and requires the funds in the account to be disbursed by the Controller as authorized by the commission. All loans outstanding as of January 1, 2011, are required to continue to be repaid as specified until paid in full, and all unexpended funds in the account on and after that date, except as specified, are required to be deposited in

the Federal Trust Fund and expended for the purposes for which federal oil overcharge funds are available.

This bill would extend the operation of those provisions to January 1, 2016, and would thereby make an appropriation by extending the time during which the specified funds are available for disbursement.

(11) Existing law authorizes the State Energy Resources Conservation and Development Commission to administer funds appropriated by the federal American Recovery and Reinvestment Act of 2009 to award contracts, grants, and loans for energy-related projects.

This bill would additionally authorize the commission to use the federal funds for loan guarantees, loan loss reserves, and credit enhancement for those projects.

This bill would authorize the commission to use those federal funds available to the commission to implement the Clean and Renewable Energy Business Financing Revolving Loan Program to provide low interest loans to California clean and renewable energy manufacturing businesses. The bill would establish the Clean and Renewable Energy Business Financing Revolving Loan Fund. Moneys in the fund would be continuously appropriated to the commission to implement the program.

The bill would require the transfer of federal funds available to the commission to the fund when loans are awarded under the program. The bill would allow the commission to expend up to 5% of the moneys in the fund for administrative costs.

(12) Existing law requires a person to obtain certification from the State Energy Resources Conservation and Development Commission before commencing construction of a thermal powerplant or electric transmission line and requires the person who submits an application for certification for a proposed generating facility to pay a fee of $100,000 plus $250 per megawatt of gross generating capacity of the proposed facility, the total fee not to exceed $350,000. A person who receives certification of a proposed generating facility is also required to pay an annual fee of $15,000. Existing law exempts from those fees a generating facility that uses a renewable resource as its primary fuel or power source. The fees are required to be deposited in the Energy Facility License and Compliance Fund in the State Treasury, for expenditure by the commission, upon appropriation by the Legislature, for processing applications for certification and for compliance monitoring.

This bill would increase the amount of the fee for an application for certification to $250,000 plus $500 per megawatt, would increase the limit of the total fee to $750,000, and would increase the annual fee to $25,000. The bill would repeal the exemption from the fee for a generating facility that uses a renewable resource and would require the commission to submit a report, by July 1, 2012, to the Legislature on the impact of these changes.

(13) The California Integrated Waste Management Act of 1989 (the act) requires each operator of a solid waste disposal facility to pay a fee to the State Board of Equalization that is based on the amount of all solid waste disposed of at each disposal site. The act generally requires the fee revenue

to be deposited in the Integrated Waste Management Account, and requires money in the account, upon appropriation, to be used by the Department of Resources Recycling and Recovery for the administration and implementation of the act and by the State Water Resources Control Board and California regional water quality control boards for the administration and implementation of the Porter-Cologne Water Quality Control Act (the water act). The act provides that it is the Legislature's intent that an amount that is sufficient to fund state water board and regional water board regulatory activities for solid waste landfills be appropriated from the account by the Legislature.

This bill would amend the act's fee provision to require the same conditions as in the water act for the application of a waste discharge fee waiver.

(14) Existing law establishes the Environmental Education Account in the State Treasury, and authorizes the California Environmental Protection Agency to expend moneys in the account, upon appropriation by the Legislature, for purposes related to providing environmental education for elementary and secondary pupils in the state. Existing law authorizes the agency to accept and receive federal, state, and local funds and contributions of funds from a public or private organization or individual, and to receive proceeds from a judgment in state or federal court, when the funds are contributed or the judgment specifies that the proceeds are to be used for environmental education purposes.

This bill would, until January 1, 2013, also authorize the agency to enter into a contract with an external fiscal agent, as defined, for the receipt of contributions to be used for purposes related to environmental education, as prescribed, among other things.

(15) Under existing law, the State Water Resources Control Board operates a wastewater treatment plant classification and operator certification program. In connection with the program, the board is required to classify types of wastewater treatment plants to determine the level of competence necessary to operate the plants. Under the program, supervisors and operators are required to possess certificates of the appropriate grade. For certification purposes, operators at certain private wastewater treatment plants are required to pass a written examination that may be administered by the board. Existing law authorizes the board to impose fees to cover the costs of the program.

This bill would require the fees, beginning July 1, 2010, to be deposited in the Wastewater Operator Certification Fund, which the bill would create in the State Treasury. The board would be authorized to expend the funds, upon appropriation by the Legislature, for purposes of administering the program.

(16) The Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act) establishes the Delta Stewardship Council, which is required to develop, adopt, and commence implementation of a comprehensive management plan for the Delta (Delta Plan) by January 1, 2012. The act provides that the council is the successor to the California Bay-Delta

Authority, which previously was required to carry out programs, projects, and activities to implement the CALFED Bay-Delta Program with other implementing agencies.

This bill would require the Governor, on or before April 1, 2011, to submit to the Legislature a report on the budget for the 2011–12 fiscal year for all state agency programs that implement water and ecosystem restoration activities in the Sacramento-San Joaquin Delta using a zero-based budget methodology, as defined. The bill would require that budget to complement the budget for the CALFED Bay-Delta Program, and would require all state expenditures reported in the budget for the CALFED Bay-Delta Program for the 2011–12 fiscal year to be reported using a zero-based budget methodology.

(17) The Delta Reform Act requires the council to administer contracts, grants, easements, and agreements made or entered into by the California Bay-Delta Authority, and prescribes the powers of the council, which include, among others, the power to enter into contracts, to hire employees, and to adopt regulations or guidelines. The Delta Reform Act requires the council to consider the Bay Delta Conservation Plan (BDCP) for inclusion in the Delta Plan, and prohibits the incorporation of the BDCP into the Delta Plan unless the BDCP complies with specified requirements.

This bill would declare legislative intent relating to contracts entered into by the council for purposes of developing the Delta Plan and the independence of contractors with respect to work related to the Delta Plan and the BDCP.

(18) The bill would require, no later than March 1, 2011, the State Water Resources Control Board to, among other things, submit to the budget committees in each house of the Legislature an analysis and report on the costs of regulating water quality at active landfills.

(19) Under existing law, the State Water Resources Control Board administers a water rights program pursuant to which the state board grants permits and licenses to appropriate water. Existing law requires each person or entity that files an application for a permit to appropriate water, or various other petitions or requests relating to the right to use water, to pay a fee according to a fee schedule established by the board.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if the lead agency finds that the project will not have that effect. CEQA requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA authorizes a lead agency to charge a reasonable fee to cover the costs of preparing an EIR or negative declaration.

This bill would require the state board, by July 1, 2013, to prepare, publish on its Internet Web site, and submit to the Joint Legislative Budget Committee, a report on the effectiveness of directly contracting with environmental consultants to prepare documents required pursuant to CEQA and the effectiveness of recovering the costs of preparing those documents from water rights applicants and petitioners. The bill would repeal this reporting requirement on January 1, 2015.

(20) Under existing law, various bond acts have been approved by the voters to provide funds for water projects, facilities, and programs. The Disaster Preparedness and Flood Prevention Bond Act of 2006, a bond act approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance of bonds in the amount of $4,090,000,000 for the purposes of financing disaster preparedness and flood prevention projects. The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative bond act approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance of bonds in the amount of $5,388,000,000 for the purposes of financing a safe drinking water, water quality and supply, flood control, and resource protection program. Existing law appropriates $522,000,000 from these bond acts for integrated regional water management and flood control and management.

This bill would revert that $522,000,000 appropriation to the originating funds and would reappropriate that money for those purposes as the bill would revise them.

(21) Existing law appropriates, from the proceeds of the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, among other things, $181,791,000 to the Department of Water Resources for integrated regional water management activities, including $39,000,000 for planning grants, local groundwater assistance grants, and scientific research grants to a specified consortium of state and federal agencies with management and regulatory responsibilities in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (CALFED).

This bill would require the department, in providing grants of those funds, to give preference, as a statewide priority, to proposals that include actions designed to integrate certain stormwater resource plan requirements into an integrated regional water management plan.

(22) The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020, and to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions.

This bill would require the Governor, on or before April 1, 2011, to submit a report to the Legislature on the budget for the 2011–12 fiscal year for all state agency programs that implement, or directly further the goals of, the

California Global Warming Solutions Act of 2006 using a zero-based budget methodology, as defined.

(23) Existing law requires the State Air Resources Board to make available to the public each technical, theoretical, and empirical study, report, or similar document, if any, on which the agency relies, related to, but not limited to, air emissions, public health impacts, and economic impacts, before the comment period for any regulation proposed for adoption by the state board. Existing law provides that it is the intent of the Legislature in enacting those provisions to ensure that the public is provided sufficient information so that interested parties may easily and without undue effort reproduce and verify all aspects of state board staff analysis, related to, but not limited to, air emissions, public health impacts, and economic impacts, performed during the development of a regulation.

This bill would instead provide that it is the intent of the Legislature to ensure that the public is provided all of the information relied on by the state board staff in proposing the adoption, amendment, or repeal of a regulation, including all information related to, but not limited to, air emissions, public health impacts, and economic impacts.

(24) Existing law establishes the Office of the State Fire Marshal in the Department of Forestry and Fire Protection. Existing law requires the State Fire Marshal to prepare and adopt building standards relating to fire protection in a state-owned building or in a state-occupied building.

This bill would require the Department of Forestry and Fire Protection, on or before January 1, 2012, to report to the Joint Legislative Budget Committee on the steps taken by the Office of the State Fire Marshal to improve fire and panic safety with respect to green building standards. The bill would require the report also to describe all steps taken by the office to better coordinate work on green building standards code development with the California Building Standards Commission and the Department of Housing and Community Development.

(25) Existing state and federal law requires the Department of Conservation, Division of Oil, Gas, and Geothermal Resources, to regulate specified injection wells under the division's Underground Injection Control Program (UIC program) which is monitored and audited by the United States Environmental Protection Agency. The UIC program includes permitting, inspection, enforcement, mechanical integrity testing, plugging and abandonment oversight, data management, and public outreach.

The bill would require the department to make a specified report to the Legislature on the UIC program and to deliver that report to the fiscal and relevant policy committees of each house by January 30, 2011, and annually thereafter, and to report on its UIC program's action plan developed to address the program's assessment findings and the department's existing efforts to implement the plan, by January 30, 2012, and annually thereafter, as specified. These provisions would become inoperative on March 1, 2015, and would be repealed as of January 1, 2016.

(26) The bill would require the Governor, as part of the submission to the Legislature of the budget for the 2011–12 fiscal year, to include a

zero-based 2011–12 fiscal year budget for all activities that were supported from the department's emergency fund in the 2009–10 fiscal year that were subsequently shifted to support from the department's main budget item in the 2010–11 fiscal year.

(27) This 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 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) 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) 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) All penalties recovered pursuant to Section 25214.3, except as provided by Section 25192.

(8) All penalties recovered pursuant to Section 25214.22.1, except as provided by Section 25192.

(9) All penalties recovered pursuant to Section 25215.7, except as provided by Section 25192.

(10) 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.

(11) 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.).

(12) 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 funds shall not be expended from the Toxic Substances Control Account for purposes of Section 25354.5.

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

(C) 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.

(D) Activities of the department related to pollution prevention and technology development, authorized pursuant to this chapter.

(2) The administration of the following units, and successor organizations of those units, within the department, and the implementation of programs administered by those units or successor organizations:

(A) The Human and Ecological Risk Division.

(B) The Environmental Chemistry 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 a 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 a 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 a 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) of Chapter 6.8.

(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.

(15) For allocation to the office of the Attorney General, pursuant to an interagency agreement or similar mechanism, 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).

(16) For funding the California Environmental Contaminant Biomonitoring Program established pursuant to Chapter 8 (commencing with Section 105440) of Part 5 of Division 103.

(17) As provided in Sections 25214.3 and 25215.7 and, with regard to penalties recovered pursuant to Section 25214.22.1, to implement and enforce Article 10.4 (commencing with Section 25214.11).

(c) The funds deposited in the Toxic Substances Control Account may be appropriated by the Legislature to the Office of Environmental Health Hazard Assessment and the State Department of Public Health for the purposes of carrying out their duties pursuant to the California Environmental Contaminant Biomonitoring Program (Chapter 8 (commencing with Section 105440) of Part 5 of Division 103).

(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 a 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 10231.5 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. 2. Section 25187 of the Health and Safety Code is amended to read:

25187. (a) (1) The department or a unified program agency, in accordance with subdivision (*l*), may issue an order requiring that the violation be corrected and imposing an administrative penalty, for any violation of this chapter or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, whenever the department or Unified Program Agency determines that a person has violated, is in violation of, or threatens, as defined in subdivision (e) of Section 13304 of the Water Code, to violate, this chapter or Chapter 6.8 (commencing with Section 25300), or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter or Chapter 6.8 (commencing with Section 25300).

(2) In an order proposing a penalty pursuant to this section, the department or Unified Program Agency shall take into consideration 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 or safety or the environment, the violator's ability to pay the proposed penalty, and the prophylactic effect that the imposition of the proposed penalty would have on both the violator and the regulated community as a whole.

(b) The department or a unified program agency, in accordance with subdivision (*l*), may issue an order requiring corrective action whenever the

department or Unified Program Agency determines that there is or has been a release, as defined in Chapter 6.8 (commencing with Section 25300), of hazardous waste or constituents into the environment from a hazardous waste facility.

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

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

(B) If the person who is responsible for the release is unable to pay for the cost of corrective action to address the release. For purposes of this subparagraph, the inability of a person to pay for the cost of corrective action shall be determined in accordance with the policies of the Environmental Protection Agency for the implementation of Section 9605 of Title 42 of the United States Code.

(C) If the person responsible for the release is unwilling to perform corrective action to address the release. For purposes of this subparagraph, the unwillingness of a person to take corrective action shall be determined in accordance with the policies of the Environmental Protection Agency for the implementation of Section 9605 of Title 42 of the United States Code.

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

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

(F) If the hazardous waste facility is owned or operated by the federal government.

(2) The order shall include a requirement that the person take corrective action with respect to the release of hazardous waste or constituents, abate the effects thereof, and take any other necessary remedial action.

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

(4) The order shall incorporate, as a condition of the order, any applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board, and shall be

consistent with all applicable water quality control plans adopted pursuant to Section 13170 of the Water Code and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of the Water Code and state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code existing at the time of the issuance of the order, to the extent that the department or Unified Program Agency determines that those plans and policies are not less stringent than this chapter and regulations adopted pursuant to this chapter. The order may include any more stringent requirement that the department or Unified Program Agency determines is necessary or appropriate to protect water quality.

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

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

(c) Any order issued pursuant to this section shall be served by personal service or certified mail and shall inform the person so served of the right to a hearing. If the Unified Program Agency issues the order pursuant to this section, the order shall state whether the hearing procedure specified in paragraph (2) of subdivision (f) may be requested by the person receiving the order.

(d) Any person served with an order pursuant to this section who has been unable to resolve any violation or deficiency on an informal basis with the department or Unified Program Agency may, within 15 days after service of the order, request a hearing pursuant to subdivision (e) or (f) by filing with the department or Unified Program Agency a notice of defense. The notice shall be filed with the office that issued the order. A notice of defense shall be deemed filed within the 15-day period provided by this subdivision if it is postmarked within that 15-day period. If no notice of defense is filed within the time limits provided by this subdivision, the order shall become final.

(e) Any hearing requested on an order issued by the department shall be conducted within 90 days after receipt of the notice of defense by an administrative law judge of the Office of Administrative Hearings of the Department of General Services in accordance with Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the authority granted to an agency by those provisions.

(f) Except as provided in subparagraph (B) of paragraph (2), a person requesting a hearing on an order issued by a unified program agency may select the hearing process specified in either paragraph (1) or (2) in the notice of defense filed with the Unified Program Agency pursuant to

subdivision (d). Within 90 days of receipt of the notice of defense by the Unified Program Agency, the hearing shall be conducted using one of the following procedures:

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

(2) (A) A hearing officer designated by the Unified Program Agency shall conduct the hearing in accordance with Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code, and the Unified Program Agency shall have all the authority granted to an agency by those provisions. When a hearing is conducted by a unified program agency pursuant to this paragraph, the Unified Program Agency shall, within 60 days of the hearing, issue a decision.

(B) A person requesting a hearing on an order issued by a unified program agency may select the hearing process specified in this paragraph in a notice of defense filed pursuant to subdivision (d) only if the Unified Program Agency has, as of the date the order is issued pursuant to subdivision (c), selected a designated hearing officer and established a program for conducting a hearing in accordance with this paragraph.

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

(h) Any provision of an order issued under this section, except the imposition of an administrative penalty, shall take effect upon issuance by the department or Unified Program Agency if the department or Unified Program Agency finds that the violation or violations of law associated with that provision may pose an imminent and substantial endangerment to the public health or safety or the environment, and a request for a hearing shall not stay the effect of that provision of the order pending a hearing decision. However, if the department or Unified Program Agency determines that any or all provisions of the order are so related that the public health or safety or the environment can be protected only by immediate compliance with the order as a whole, then the order as a whole, except the imposition of an administrative penalty, shall take effect upon issuance by the department or Unified Program Agency. A request for a hearing shall not stay the effect of the order as a whole pending a hearing decision.

(i) A decision issued pursuant to this section may be reviewed by the court pursuant to Section 11523 of the Government Code. In all proceedings pursuant to this section, the court shall uphold the decision of the department or Unified Program Agency if the decision is based upon substantial evidence in the whole record. The filing of a petition for writ of mandate shall not stay any action required pursuant to this chapter or the accrual of any penalties assessed pursuant to this chapter. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction.

(j) (1) All administrative penalties collected from actions brought by the department pursuant to this section shall be placed in a separate subaccount in the Toxic Substances Control Account and shall be available only for transfer to the Site Remediation Account or the Expedited Site Remediation Trust Fund and for expenditure by the department upon appropriation by the Legislature.

(2) The administrative penalties collected from an action brought by the department pursuant to Sections 25214.3, 25214.22.1, 25215.7, in accordance with this section, shall be deposited in the Toxic Substances Control Account, for expenditure by the department for implementation and enforcement activities, upon appropriation by the Legislature, pursuant to Section 25173.6.

(k) All administrative penalties collected from an action brought by a unified program agency pursuant to this section shall be paid to the Unified Program Agency that imposed the penalty, and shall be deposited into a special account that shall be expended to fund the activities of the Unified Program Agency in enforcing this chapter pursuant to Section 25180.

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

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

(2) The issuance of orders to require corrective action when there has been a release of hazardous waste or constituents only when the Unified Program Agency is authorized to do so pursuant to Section 25404.1.

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

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

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

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

(1) Provisions to ensure coordinated and consistent application of this section and Section 25187.1 when both the department and the Unified Program Agency have or will be issuing orders under one or both of these sections at the same facility.

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

(3) Minimum training requirements for staff of the Unified Program Agency relative to this section and Section 25187.1.

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

(q) Except for an enforcement action taken pursuant to this chapter or Chapter 6.8 (commencing with Section 25300), this section does not otherwise affect the authority of a local agency to take any action under any other provision of law.

SEC. 3. Section 25214.3 of the Health and Safety Code is amended to read:

25214.3. (a) Except as provided in Sections 25214.3.3 and 25214.3.4, a person who violates this article shall not be subject to criminal penalties imposed pursuant to this chapter and shall only be subject to the administrative or civil penalty specified in subdivision (b).

(b) (1) A person who violates this article shall be liable for an administrative or a civil penalty not to exceed two thousand five hundred dollars ($2,500) per day for each violation. That administrative or civil penalty may be assessed and recovered in an administrative action filed with the Office of Administrative Hearings or in a civil action brought in any court of competent jurisdiction.

(2) In assessing the amount of an administrative or a civil penalty for a violation of this article, the presiding officer or the court, as applicable, shall consider all of the following:

(A) The nature and extent of the violation.

(B) The number of, and severity of, the violations.

(C) The economic effect of the penalty on the violator.

(D) Whether the violator took good faith measures to comply with this article and the time these measures were taken.

(E) The willfulness of the violator's misconduct.

(F) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community as a whole.

(G) Any other factor that justice may require.

(c) Administrative and civil penalties collected pursuant to this article shall be deposited in the Toxic Substances Control Account, for expenditure by the department, upon appropriation by the Legislature, to implement and enforce this article, except as provided in Section 25192.

(d) (1) Notwithstanding subdivision (b), a party that is a signatory to the amended consent judgment, or a party that is a signatory to a consent judgment entered in the consolidated action entitled People vs. Burlington Coat Factory Warehouse Corporation, et al. (Alameda Superior Court Lead Case No. RG 04-162075) that contains identical or substantially identical

terms as provided in Sections 2, 3, and 4 of the amended consent judgment, shall not be subject to enforcement pursuant to this article, and an action brought to enforce this article against the party shall be subject to Section 4 of the amended consent judgment.

(2) The Legislature finds and declares that the amendment of this subdivision by Chapter 575 of the Statutes of 2008 is declaratory of existing law.

(e) (1) For the purpose of administering and enforcing this article, an authorized representative of the department, upon obtaining consent or after obtaining an inspection warrant pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, may, upon presenting appropriate credentials and at a reasonable time, do any of the following:

(A) Enter a factory, warehouse, or establishment where jewelry is manufactured, packed, held, or sold; enter a vehicle that is being used to transport, hold, or sell jewelry; or enter a place where jewelry is being held or sold.

(B) Inspect a factory, warehouse, establishment, vehicle, or place described in subparagraph (A), and all pertinent equipment, raw material, finished and unfinished materials, containers, and labeling in the factory, warehouse, establishment, vehicle, or place. In the case of a factory, warehouse, or establishment where jewelry is manufactured, packed, held, or sold, this inspection shall include any record, file, paper, process, control, and facility that has a bearing on whether the jewelry is being manufactured, packed, held, transported, sold, or offered for sale or for promotional purposes in violation of this article.

(2) (A) An authorized representative of the department may secure a sample of jewelry when taking an action authorized pursuant to this subdivision. If the representative obtains a sample prior to leaving the premises, he or she shall leave a receipt describing the sample obtained.

(B) The department shall return, upon request, a sample that is not destroyed during testing when the department no longer has any purpose for retaining the sample.

(C) A sample that is secured in compliance with this section and found to be in compliance with this article that is destroyed during testing shall be subject to a claim for reimbursement.

(3) An authorized representative of the department shall have access to all records of a carrier in commerce relating to the movement in commerce of jewelry, or the holding of that jewelry during or after the movement, and the quantity, shipper, and consignee of the jewelry. A carrier shall not be subject to the other provisions of this article by reason of its receipt, carriage, holding, or delivery of jewelry in the usual course of business as a carrier.

(4) An authorized representative of the department shall be deemed to have received implied consent to enter a retail establishment, for purposes of this section, if the authorized representative enters the location of that retail establishment where the public is generally granted access.

SEC. 4. Section 25215.7 of the Health and Safety Code is amended to read:

25215.7. (a) Any person who violates or threatens to violate the provisions of this article may be enjoined in any court of competent jurisdiction.

(b) Notwithstanding any other law, a person who violates this article shall not be subject to criminal penalties and shall only be subject to the administrative or civil penalties specified in subdivision (c).

(c) (1) A person who violates this article shall be liable for an administrative or a civil penalty not to exceed two thousand five hundred dollars ($2,500) per day for each violation. That administrative or civil penalty may be assessed and recovered in an administrative action filed with the Office of Administrative Hearings or in a civil action brought in any court of competent jurisdiction.

(2) In assessing the amount of an administrative or a civil penalty for a violation of this article, the presiding officer or the court shall consider all of the following:

(A) The nature and extent of the violation.

(B) The number and severity of the violations.

(C) The economic effect of the penalty on the violator.

(D) Whether the violator took good faith measures to comply with this article and the time these measures were taken.

(E) The willfulness of the violator's misconduct.

(F) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community as a whole.

(G) Any other factor that justice may require.

(d) Administrative and civil penalties collected pursuant to this article shall be deposited in the Toxic Substances Control Account, for expenditure by the Department of Toxic Substances Control, upon appropriation by the Legislature, to implement and enforce this article, except as provided in Section 25192.

SEC. 5. Section 44272.3 is added to the Health and Safety Code, to read:

44272.3. (a) It is the Legislature's intent that, to the maximum extent feasible, loan moneys provided by the state to refiners of biofuels, also known as biorefiners, be awarded so as to increase the efficiency and environmental sustainability of biofuel production.

(b) In order to reduce the carbon intensity equivalent value of the fuel that biorefiners produce, biorefiners receiving loans from the commission's California Ethanol Producer Incentive Program, established under the authority of this chapter, shall meet all of the following requirements:

(1) Within six months of acceptance to the program, biorefiners shall submit a draft plan to the commission that details one or more projects that can be undertaken at the biorefinery that are designed to achieve compliance with either of two biorefinery operational enhancement goals established by the commission.

(2) Within 12 months of acceptance to the program, biorefiners shall submit a detailed cost estimate for their target projects that can be undertaken

at the biorefinery and that are designed to achieve compliance with the commission's enhancement goals.

(3) Within 24 months of acceptance to the program, biorefiners shall complete and obtain all of the necessary permits or negative declarations sufficient to allow the project to move forward with financing, major equipment purchases, and hiring if project approval is executed by the company's officers.

(4) Within 36 months of acceptance to the program, biorefiners shall obtain all of the necessary financing and initiate construction for their project associated with their elected enhancement goal pathway.

(5) Within 48 months of acceptance to the program, biorefiners shall complete all modifications to the facility and begin modified operations that achieve compliance with either of the enhancement goal pathways selected by the project applicant.

(c) This section does not limit the commission's ability to set more stringent guidelines for the California Ethanol Producer Incentive Program that further maximize the efficiency and environmental sustainability of biofuel production.

(d) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5.5. Section 44272.4 is added to the Health and Safety Code, to read:

44272.4. Notwithstanding subdivision (d) of Section 44272.3, a biorefiner receiving loan moneys from the state pursuant to an appropriation made in the 2010–11 or 2011–12 fiscal year shall comply with all conditions established pursuant to Section 44272.3 and shall demonstrate that compliance to the commission.

SEC. 6. Section 44272.7 is added to the Health and Safety Code, to read:

44272.7. (a) On or before March 15, 2011, and each January thereafter concurrent with the submittal of the Governor's Budget, the commission shall submit a draft investment plan, as developed in accordance with Section 44272.5, for the upcoming fiscal year to the Joint Legislative Budget Committee and all relevant policy and fiscal committees of the Legislature.

(b) Beginning with the investment plan for the 2012–13 fiscal year, the commission shall submit the final investment plan for the ensuing fiscal year, as developed in accordance with Section 44272.5, to the Joint Legislative Budget Committee and all relevant policy and fiscal committees of the Legislature each May concurrent with the submittal of the Governor's May Revision to the budget.

(c) Subsequent to the approval of the investment plan pursuant to subdivision (c) of Section 44272.5, the commission shall, within 30 days, notify the Joint Legislative Budget Committee and all relevant policy and fiscal committees of the Legislature if a significant modification to the final investment plan is approved. For purposes of this subdivision, "significant modification" means an augmentation or reduction the value of which

individually exceeds 50 percent of the commission-approved allocation to an investment plan subcategory or is at least two million dollars ($2,000,000). For other modifications that do not meet this definition, the commission shall notify the Joint Legislative Budget Committee and all relevant policy and fiscal committees of the Legislature within 90 days, or at such earlier time as the aggregate total of unreported modifications equals five million dollars ($5,000,000) or more.

(d) (1) It is the intent of the Legislature that the investment plan, including periodic revisions to the plan, communicate the commission's strategic vision and priorities with respect to the development of alternative and renewable fuel and vehicle technologies, and will provide an analytical rationale for all proposed expenditures that aligns with the commission's broader strategic goals for the program.

(2) It is also the intent of the Legislature that the investment plan highlight and explain the rationale for any year-over-year changes to the commission's program strategy and priorities, particularly with respect to specific technologies or policy initiatives.

(3) Additionally, it is the intent of the Legislature that submission of the draft investment plan concurrent with the Governor's Budget, along with timely notification of significant modifications to the investment plan thereafter, will improve legislative oversight of the program and provide the Legislature with all of the necessary information to fully understand how and why funds are to be allocated and prioritized within the program.

SEC. 7. Section 3402.3 is added to the Public Resources Code, to read:

3402.3. (a) Any increase by the department in the charge imposed pursuant to Section 3402 for deposit into the Oil, Gas, and Geothermal Administrative Fund for the purpose of completing workload requested in the 2010 Budget Act related to the acceleration of the remediation of orphaned oil facilities shall only be made for a period of four years.

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

SEC. 8. Section 4124 is added to the Public Resources Code, to read:

4124. Not later than 120 days after the last date of each fiscal quarter, the department shall report to the Joint Legislative Budget Committee, in accordance with Section 9795 of the Government Code, regarding emergency incidents funded entirely or in part from Item 3540-006-0001 of Section 2.00 of the annual Budget Act, commonly referred to as the "emergency fund," or from a similar provision of any future Budget Act that provides funds for emergency fire suppression and detection costs and related emergency revegetation costs, and for which the department administratively classifies these funds as being expended from the emergency fund. The report shall include all of the following:

(a) For each incident that is estimated to cost more than five million dollars ($5,000,000), as adjusted annually by the department to account for inflation using the California Consumer Price Index published by the Department of Industrial Relations, the report shall include all of the

following information, to the extent the information is known by the department:

(1) The administrative district or districts and the county or counties in which the incident occurred, and whether the incident occurred in a state responsibility area, local responsibility area, federal responsibility area, or some combination of those areas.

(2) A general description of the incident and the department's response to the incident.

(3) The total estimated cost of the incident, listed by appropriate category, including, but not limited to, overtime, additional staffing, inmate costs, travel, accommodations, air support, and nonstate vendor costs.

(4) The estimated costs charged to the emergency fund, listed by appropriate category, including, but not limited to, overtime, additional staffing, inmate costs, travel, accommodations, air support, and nonstate vendor costs.

(5) The number of personnel and equipment assigned to the incident, including state resources, federal resources, and local resources.

(6) Whether the state's costs to respond to the incident are eligible for reimbursement from the federal government or a local government.

(7) Whether the department had performed any fuel reduction, vegetation management, controlled burns, or other fuel treatment in the area of the incident that impacted either the course of the incident or the department's response to the incident.

(b) For each incident that is estimated to cost less than five million dollars ($5,000,000), as adjusted annually by the department to account for inflation using the California Consumer Price Index published by the Department of Industrial Relations, the report shall include a list of those incidents, specifying each incident's total estimated cost and total estimated costs charged to the emergency fund.

(c) Information on any other costs paid in whole or in part from the emergency fund.

SEC. 9. Section 4137 of the Public Resources Code is amended to read:

4137. (a) For purposes of this section, "fire prevention activities" include, but are not limited to, all of the following:

(1) Fire prevention education.

(2) Hazardous fuel reduction and vegetation management.

(3) Fire investigation.

(4) Civil cost recovery.

(5) Forest and fire law enforcement.

(6) Fire prevention engineering.

(7) Prefire planning.

(8) Risk analysis.

(9) Volunteer programs and partnerships.

(b) 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 also the intent of the Legislature that the budgetary augmentations for year-round staffing not reduce the reimbursements that the department receives from contracts with local governments for the department to provide local fire protection and emergency services pursuant to Section 4144, commonly referred to as "Amador agreements." It is also the intent of the Legislature that the department provide an annual Fire Prevention Activities Report to keep the Legislature informed of the efforts undertaken by the department to help mitigate both of the following:

(1) Overall fire risks and associated threats to life and safety.

(2) State fire protection costs where feasible.

(c) On or before January 10 of each year, the department shall provide a report to the Legislature, including the budget and fiscal committees of the Assembly and the Senate, in accordance with Section 9795 of the Government Code, detailing the department's fire prevention activities, including the increased activities described in subdivision (b). The report shall display the fire prevention activities of the previous fiscal year, as well as the information from previous reports for purposes of a comparison of data. The report shall include all of the following:

(1) Fire prevention activities performed by the department on lands designated as state responsibility areas, and by counties, where, pursuant to a contract with the department, a county has agreed to provide fire protection services in state responsibility areas within county boundaries on behalf of the department. The fire prevention activities included in the report pursuant to this paragraph shall include, but not be limited to, all of the following:

(A) The number of hours of fire prevention education performed.

(B) The number of defensible space inspections conducted, including statewide totals and totals for each region.

(C) The number of citations issued for noncompliance with Section 4291.

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

(E) The number of acres treated by prescribed burns.

(F) Any other data or qualitative information deemed necessary by the department in order to provide the Legislature with a clear and accurate accounting of fire prevention activities, particularly with regard to variations from one year to the next.

(2) The fire prevention performance measures described in subparagraphs (A) to (F), inclusive, of paragraph (1) shall be reported for each region annually, including activities performed from December 15 to April 15, inclusive.

(3) Projected fire prevention activities for the following fiscal year.

(4) Information on each of the "Amador contracts" described in subdivision (b), including an annual update on the number of those contracts and reimbursements received from the contracts that are in effect.

SEC. 10. Section 4142 of the Public Resources Code is amended to read:

4142. (a) The department, with the approval of the Department of General Services, may enter into a cooperative agreement upon the terms and under the conditions as it deems wise, for the purpose of preventing

and suppressing forest fires or other fires in any lands within a county, city, or district that makes an appropriation for that purpose.

(b) Within 30 days of the final approval of a new or renewed cooperative agreement, as described in this section, valued at five million dollars ($5,000,000) or more, the department shall submit to the relevant fiscal and policy committees of each house of the Legislature, in accordance with Section 9795 of the Government Code, a copy of the final agreement and a brief summary of the agreement for purposes of highlighting information relevant to the Legislature's fiscal oversight of the agreement. The summary shall include, but is not limited to, all of the following:

(1) The value of the agreement.

(2) The number of positions associated with the agreement.

(3) Whether the agreement is new or a renewal.

(4) Whether the agreement expands upon an existing agreement.

(5) A brief discussion of the manner in which the agreement scored on the department's evaluation criteria, and the degree to which the agreement aligns with the department's base mission, as described in Sections 713 and 714.

(6) A brief discussion of any subjective factors that influenced the director's decision.

(c) When the state assumes personnel from a county, city, or district, an actuarially determined benefit factor shall be included as a cost in the cooperative agreement, including renewals of the agreement, for a county, city, or district that elects to allow the completed years an employee worked at that county, city, or district, or a lesser number of completed years specified by the local agency, to be credited towards the vesting period for state postretirement health benefits. The department shall certify the completed years of county, city, or district service to be credited to an employee to the Board of Administration Public Employees' Retirement System at the time of separation for retirement. The actuarially determined benefit factor shall be accepted as sufficient by the Department of Forestry and Fire Protection, upon review by the Department of Finance, to fully compensate the state for the postretirement health benefit costs of those employees. The postretirement health benefit costs charged under this subdivision may be paid in periodic installments at the discretion of the department. If the costs are paid in installments, the payment of the postretirement health benefit costs for years credited for nonstate service shall be a continuing obligation of a county, city, or district that made that election, regardless of whether or not the cooperative agreement continues or is renewed, and regardless of whether or not the employees continue in state service.

SEC. 11. Section 5016.2 is added to the Public Resources Code, to read:

5016.2. (a) Notwithstanding any other law, the Department of Parks and Recreation may enter into an agreement for the acquisition of the "Freeman Property," as identified in subdivision (d). The acquisition of the "Freeman Property" pursuant to this authorization and identified in this map

is exempt from the California Environmental Quality Act (CEQA) (Division 13 (commencing with Section 21000)).

(b) The exemption under subdivision (a) does not apply to any general plan that is required for the management of the "Freeman Property," or any portion thereof, pursuant to Section 5002.2, or to any subsequent project approved for the "Freeman Property," or any portion thereof.

(c) The acquisition of the "Freeman Property" by the department is subject to all of the following conditions:

(1) The boundary between the Anza-Borrego Desert State Park and the Ocotillo Wells State Vehicular Recreation Area shall be in substantial conformance to the dividing line among Sections 8, 9, 10, 11, 19, and 20, of Township 10 South, Range 09 East, S.B.B.M., as identified on the map.

(2) Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 17, 18, 19, and 20, of Township 10 South, Range 09 East, S.B.B.M., as identified on the map above the dividing line, shall be annexed to the Anza-Borrego Desert State Park upon completion of transfer of title to the department.

(3) Sections 9, 10, 11, 14, 15, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35, of Township 10 South, Range 09 East, S.B.B.M., as identified on the map below the dividing line, shall be annexed to the Ocotillo Wells State Vehicular Recreation Area upon completion of transfer of title to the department.

(d) The following map describes the "Freeman Property."

PRINTER PLEASE NOTE: TIP-IN MATERIAL TO BE INSERTED

SEC. 12. Section 14556 is added to the Public Resources Code, to read:

14556. (a) Not less than once every three months, the department shall provide to the Legislature pursuant to subdivision (b), at a minimum, all of the following information for the current fiscal year and the budget year:

(1) An updated fund condition statement that includes the revenues, transfers, and expenditures in to and out of the fund.

(2) The recycling rate, by beverage container material type, that is inferred using the revenues.

(3) An explanation of significant changes to the fund condition statement from the prior report and significant changes to the methodology used for forecasting the fund condition statement.

(4) Projected sales, which include all actual data available since the last reporting period, by beverage container material type and size, and actual or projected returns, which include all actual data available since the last reporting period, by beverage container material type, including an explanation in any case where the actual returns are more than 100 percent of actual sales.

(5) Projected handling fee payments, which include all actual data available since the last reporting period, the per beverage container handling fee amount, and the number of beverage containers projected to be eligible for a handling fee payment.

(6) Projected processing payments, which include all actual data available since the last reporting period, by beverage container material type, showing the total processing fee offsets, processing fees, and processing payments for each type of beverage container material.

(7) Total grants awarded during the current fiscal year.

(b) Notwithstanding Section 9795 of the Government Code, not less than once every three months, the department shall provide a written copy of the information required in subdivision (a) to the Joint Legislative Budget Committee and to the appropriate policy and fiscal committees of both houses of the Legislature and shall also post the most recent information required in subdivision (a) on the department's Internet Web site.

(c) The department shall review the information included in the fund condition statement frequently, but not less than once every three months, to determine if adequate funds exist to pay the disbursements required pursuant to this division and to make the determinations required pursuant to subdivision (c) of Section 14581.

SEC. 13. Section 14560 of the Public Resources Code is amended to read:

14560. (a) (1) Except as provided in paragraph (3), a beverage distributor shall pay the department, for deposit into the fund, a redemption payment of four cents ($0.04) for a beverage container sold or offered for sale in this state by the distributor.

(2) A beverage container with a capacity of 24 fluid ounces or more shall be considered as two beverage containers for purposes of redemption payments paid pursuant to paragraph (1).

(3) The amount of the redemption payment and refund value for a beverage container with a capacity of less than 24 fluid ounces sold or offered for sale in this state by a dealer shall equal five cents ($0.05), and the amount of redemption payment and refund value for a beverage container with a capacity of 24 fluid ounces or more shall be ten cents ($0.10), if the aggregate recycling rate reported pursuant to Section 14551 for all beverage containers subject to this division is less than 75 percent for the 12-month reporting period from January 1, 2006, to December 31, 2006, or for any calendar year thereafter.

(b) Except as provided in paragraph (3) of subdivision (a), a beverage container sold or offered for sale in this state has a refund value of four cents ($0.04) if the beverage container has a capacity of less than 24 fluid ounces and eight cents ($0.08) if the beverage container has a capacity of 24 fluid ounces or more.

(c) This section does not apply to a refillable beverage container.

SEC. 14. Section 14581 of the Public Resources Code is amended to read:

14581. (a) Subject to the availability of funds, and pursuant to subdivision (c), the department shall expend the moneys set aside in the fund, pursuant to subdivision (c) of Section 14580, for the purposes of this section in the following manner:

(1) For each fiscal year commencing July 1, 2008, the department may expend the amount necessary to make the required handling fee payment pursuant to Section 14585.

(2) Fifteen million dollars ($15,000,000) shall be expended annually for payments for curbside programs and neighborhood dropoff programs pursuant to Section 14549.6.

(3) (A) Fifteen million dollars ($15,000,000), plus the proportional share of the cost-of-living adjustment, as provided in subdivision (b), shall be expended annually in the form of grants for beverage container litter reduction programs and recycling programs issued to either of the following:

(i) Certified community conservation corps that were in existence on September 30, 1999, or that are formed subsequent to that date, that are designated by a city or a city and county to perform litter abatement, recycling, and related activities, if the city or the city and county has a population, as determined by the most recent census, of more than 250,000 persons.

(ii) Community conservation corps that are designated by a county to perform litter abatement, recycling, and related activities, and are certified by the California Conservation Corps as having operated for a minimum of two years and as meeting all other criteria of Section 14507.5.

(B) Any grants provided pursuant to this paragraph shall not comprise more than 75 percent of the annual budget of a community conservation corps.

(C) For the 2009–10 fiscal year only, the eight million two hundred fifty thousand dollars ($8,250,000) appropriated to the California Conservation Corps for certified local conservation corps by Item 3340-101-0133 of Sec.

2.00 of the 2009–10 Budget Act, as added by Section 166 of Chapter 1 of the Fourth Extraordinary Session of the Statutes of 2009, shall be in addition to the amounts expended pursuant to paragraph (3).

(4) (A) Ten million five hundred thousand dollars ($10,500,000) may be expended annually for payments of five thousand dollars ($5,000) to cities and ten thousand dollars ($10,000) for payments to counties for beverage container recycling and litter cleanup activities, or the department may calculate the payments to counties and cities on a per capita basis, and may pay whichever amount is greater, for those activities.

(B) Eligible activities for the use of these funds may include, but are not necessarily limited to, support for new or existing curbside recycling programs, neighborhood dropoff recycling programs, public education promoting beverage container recycling, litter prevention, and cleanup, cooperative regional efforts among two or more cities or counties, or both, or other beverage container recycling programs.

(C) These funds shall not be used for activities unrelated to beverage container recycling or litter reduction.

(D) To receive these funds, a city, county, or city and county shall fill out and return a funding request form to the department. The form shall specify the beverage container recycling or litter reduction activities for which the funds will be used.

(E) The department shall annually prepare and distribute a funding request form to each city, county, or city and county. The form shall specify the amount of beverage container recycling and litter cleanup funds for which the jurisdiction is eligible. The form shall not exceed one double-sided page in length, and may be submitted electronically. If a city, county, or city and county does not return the funding request form within 90 days of receipt of the form from the department, the city, county, or city and county is not eligible to receive the funds for that funding cycle.

(F) For the purposes of this paragraph, per capita population shall be based on the population of the incorporated area of a city or city and county and the unincorporated area of a county. The department may withhold payment to any city, county, or city and county that has prohibited the siting of a supermarket site, caused a supermarket site to close its business, or adopted a land use policy that restricts or prohibits the siting of a supermarket site within its jurisdiction.

(5) (A) One million five hundred thousand dollars ($1,500,000) may be expended annually in the form of grants for beverage container recycling and litter reduction programs.

(B) Notwithstanding subdivision (f), the department shall not expend funds pursuant to this paragraph for the 2010 and 2011 calendar years.

(6) (A) The department shall expend the amount necessary to pay the processing payment established pursuant to Section 14575. The department shall establish separate processing fee accounts in the fund for each beverage container material type for which a processing payment and processing fee are calculated pursuant to Section 14575, or for which a processing payment is calculated pursuant to Section 14575 and a voluntary artificial scrap value

is calculated pursuant to Section 14575.1, into which account shall be deposited both of the following:

(i) All amounts paid as processing fees for each beverage container material type pursuant to Section 14575.

(ii) Funds equal to the difference between the amount in clause (i) and the amount of the processing payments established in subdivision (b) of Section 14575, and adjusted pursuant to paragraph (2) of subdivision (c) of, and subdivision (f) of, Section 14575, to reduce the processing fee to the level provided in subdivision (e) of Section 14575, or to reflect the agreement by a willing purchaser to pay a voluntary artificial scrap value pursuant to Section 14575.1.

(B) Notwithstanding Section 13340 of the Government Code, the moneys in each processing fee account are hereby continuously appropriated to the department for expenditure without regard to fiscal years, for purposes of making processing payments pursuant to Section 14575.

(C) Notwithstanding the other provisions of this section and Section 14575, for the 2010 and 2011 calendar years, the total amount that the department may expend to reduce the amount of processing fees for each container type shall not exceed the total amount expended to reduce processing fees in the 2008 calendar year.

(7) (A) Up to five million dollars ($5,000,000) may be annually expended by the department for the purposes of undertaking a statewide public education and information campaign aimed at promoting increased recycling of beverage containers.

(B) Notwithstanding subdivision (f), the department shall not expend funds pursuant to this paragraph for the 2010 and 2011 calendar years.

(8) Up to ten million dollars ($10,000,000) may be expended annually by the department for quality incentive payments for empty glass beverage containers pursuant to Section 14549.1.

(9) Up to twenty million dollars ($20,000,000) may be expended annually by the department, until January 1, 2012, to issue grants for recycling market development and expansion-related activities aimed at increasing the recycling of beverage containers. Notwithstanding subdivision (f), the department shall not expend any funds pursuant to this paragraph for the 2010 and 2011 calendar years. The activities that may be funded include, but are not limited to, the following:

(A) Research and development of collecting, sorting, processing, cleaning, or otherwise upgrading the market value of recycled beverage containers.

(B) Identification, development, and expansion of markets for recycled beverage containers.

(C) Research and development for products manufactured using recycled beverage containers.

(D) Research and development to provide high-quality materials that are substantially free of contamination.

(E) Payments to California manufacturers who recycle beverage containers that are marked by resin type identification code “3,” “4,” “5,” “6,” or “7,” pursuant to Section 18015.

(10) Up to ten million dollars ($10,000,000) may be expended annually by the department for market development payments for empty plastic beverage containers pursuant to Section 14549.2, until January 1, 2012.

(11) (A) Up to twenty million dollars ($20,000,000) may be expended from July 1, 2009, to January 1, 2012, inclusive, for either of the following:

(i) Grants for beverage container recycling and litter reduction programs that emphasize the greatest and most effective collection of beverage containers per dollar spent to ensure the program's performance and accountability.

(ii) Focused, regional community beverage container recycling and litter reduction programs that enable the department to more effectively organize the amount and type of resources needed for regional and statewide efforts to increase recycling.

(B) The department shall require, as a condition of receiving grant funds pursuant to subparagraph (A), each grant recipient to submit a final report including, but not limited to, the grant recipient's reported volumes of beverage containers recycled, where applicable.

(C) On or before July 1, 2014, the department shall publish an evaluation of all grants made pursuant to subparagraph (A). At a minimum, the evaluation shall summarize each final report submitted by each grantee pursuant to subparagraph (B) and assess whether the grantee adequately met the scope and objectives outlined in the grant agreement.

(D) Notwithstanding subdivision (f), the department shall not expend funds pursuant to this paragraph for the 2010 and 2011 calendar years.

(b) The fifteen million dollars ($15,000,000) that is set aside pursuant to paragraph (3) of subdivision (a) is a base amount that the department shall adjust annually to reflect any increases or decreases in the cost of living, as measured by the Department of Labor, or a successor agency, of the federal government.

(c) (1) If the department determines, pursuant to a review made pursuant to Section 14556, that there may be inadequate funds to pay the payments required by this division, the department shall immediately notify the appropriate policy and fiscal committees of the Legislature regarding the inadequacy.

(2) On or before 180 days, but not less than 80 days, after the notice is sent pursuant to paragraph (1), the department may reduce or eliminate expenditures, or both, from the funds as necessary, according to the procedure set forth in subdivision (d).

(d) If the department determines that there are insufficient funds to make the payments specified pursuant to this section and Section 14575, the department shall reduce all payments proportionally.

(e) Prior to making an expenditure pursuant to paragraph (7) of subdivision (a), the department shall convene an advisory committee consisting of representatives of the beverage industry, beverage container manufacturers, environmental organizations, the recycling industry, nonprofit organizations, and retailers to advise the department on the most

cost-effective and efficient method of the expenditure of the funds for that education and information campaign.

(f) Subject to the availability of funds, the department shall retroactively pay in full any payments provided in this section that have been proportionally reduced during the period of January 1, 2010, through June 30, 2010.

SEC. 15. Section 25421 of the Public Resources Code is amended to read:

25421. (a) Except as provided in subdivision (b), this chapter shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2013, deletes or extends that date.

(b) All loans outstanding as of January 1, 2013, shall continue to be repaid on a semiannual basis, as specified in Section 25415, until paid in full. All unexpended funds in the State Energy Conservation Assistance Account on January 1, 2013, and thereafter, except to the extent those funds are encumbered pursuant to Section 25417.5, shall revert to the General Fund.

SEC. 16. Section 25449.4 of the Public Resources Code is amended to read:

25449.4. (a) Except as provided in subdivision (b), this chapter shall remain in effect until January 1, 2016, and as of that date is repealed, unless a later enacted statute which is enacted before January 1, 2016, deletes or extends that date.

(b) All loans outstanding as of January 1, 2016, shall continue to be repaid in accordance with a schedule established by the commission pursuant to Section 25442.7, until paid in full. All unexpended funds in the Local Jurisdiction Energy Assistance Account on January 1, 2016, and thereafter, except to the extent that those funds are encumbered pursuant to Section 25443.5, shall be deposited in the Federal Trust Fund and be available for the purposes for which federal oil overcharge funds are available pursuant to court judgment or federal agency order.

SEC. 17. Section 25461 of the Public Resources Code is amended to read:

25461. (a) Except as provided in Chapter 5.5 (commencing with Section 25450), the commission shall administer federal funds allocated to, and received by, the state for energy-related projects pursuant to the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) or federal acts related to the American Recovery and Reinvestment Act of 2009.

(b) Unless otherwise prohibited by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) or subsequent federal acts related to the American Recovery and Reinvestment Act of 2009, the commission may use the federal funds to award contracts, grants, and loans, including loan guarantees, loan loss reserves, and credit enhancements, for energy efficiency, energy conservation, renewable energy, and other energy-related projects and activities authorized by the American Recovery

and Reinvestment Act of 2009 or subsequent federal acts related to the American Recovery and Reinvestment Act of 2009.

SEC. 18. Section 25464 is added to the Public Resources Code, to read:

25464. (a) For purposes of this section, the following definitions apply:

(1) "Fund" means the Clean and Renewable Energy Business Financing Revolving Loan Fund.

(2) "Program" means the Clean and Renewable Energy Business Financing Revolving Loan Program.

(b) (1) The commission may use federal funds available pursuant to this chapter to implement the Clean and Renewable Energy Business Financing Revolving Loan Program to provide low interest loans to California clean and renewable energy manufacturing businesses.

(2) The commission may use other funding sources to leverage loans awarded under the program.

(c) The commission may work directly with the Business, Transportation and Housing Agency, the Treasurer, or any other state agency, board, commission, or authority to implement and administer the program, and may contract for private services as needed to implement the program.

(d) The commission may collect an application fee from applicants applying for funding under the program to help offset the costs of administering the program.

(e) (1) The Clean and Renewable Energy Business Financing Revolving Loan Fund is hereby established in the State Treasury to implement the program. The commission is authorized to administer the fund for this purpose. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated to the commission, without regard to fiscal years, to implement the program.

(2) Upon direction by the commission, the Controller shall create any accounts or subaccounts within the fund that the commission determines are necessary to facilitate management of the fund.

(3) The Controller shall disburse and receive moneys in the fund for purposes of the program and as authorized by the commission.

(4) All loans and repayments of loans made pursuant to this section, including interest payments, penalty payments, and all interest earning on or accruing to any moneys in the fund, shall be deposited in the fund and shall be available for the purposes of this section.

(5) The commission may expend up to 5 percent of moneys in the fund for its administrative costs to implement the program.

(f) Federal funds available to the commission pursuant to this chapter shall be transferred to the fund in the loan amounts when loans are awarded under the program by the commission.

SEC. 19. Section 25806 of the Public Resources Code is amended to read:

25806. (a) A person who submits to the commission an application for certification for a proposed generating facility shall submit with the application a fee of two hundred fifty thousand dollars ($250,000) plus five hundred dollars ($500) per megawatt of gross generating capacity of the

proposed facility. The total fee accompanying an application shall not exceed seven hundred fifty thousand dollars ($750,000).

(b) A person who receives certification of a proposed generating facility shall pay an annual fee of twenty-five thousand dollars ($25,000). For a facility certified on or after January 1, 2004, the first payment of the annual fee is due on the date the commission adopts the final decision. All subsequent payments are due by July 1 of each year in which the facility retains its certification. The fiscal year for the annual fee is July 1 to June 30, inclusive.

(c) The fees in subdivisions (a) and (b) shall be adjusted annually to reflect the percentage change in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the United States Department of Commerce.

(d) The Energy Facility License and Compliance Fund is hereby created in the State Treasury. All fees received by the commission pursuant to this section shall be remitted to the Treasurer for deposit in the fund. The money in the fund shall be expended, upon appropriation by the Legislature, for processing applications for certification and for compliance monitoring.

(e) (1) On or before July 1, 2012, the commission shall report to the Joint Legislative Budget Committee and to the appropriate fiscal and policy committees of each house of the Legislature on the fiscal and programmatic impact of the changes made to this section by the act of the 2009–10 Regular Session of the Legislature amending this section.

(2) The requirement for submitting a report imposed under paragraph (1) is inoperative on July 1, 2016, pursuant to Section 10231.5 of the Government Code.

(3) A report required to be submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 20. Section 48004 of the Public Resources Code is amended to read:

48004. (a) The money in the account shall be used by the Department of Resources Recycling and Recovery, upon appropriation by the Legislature, for the following purposes:

(1) The administration and implementation of this division by the Department of Resources Recycling and Recovery.

(2) The state water board's and regional water boards' administration and implementation of Division 7 (commencing with Section 13000) of the Water Code at solid waste disposal sites.

(b) It is the intent of the Legislature that an amount that is sufficient to fund state water board and regional water board regulatory activities for solid waste landfills be appropriated from the account by the Legislature in the annual Budget Act. Those persons who are required to pay the fee imposed pursuant to Section 48000 shall not be required to pay the annual fee imposed pursuant to subdivision (d) of Section 13260 of the Water Code with regard to the same discharge if the requirements for the waiver of that fee set forth in paragraph (3) of subdivision (d) of Section 13260 of the Water Code are met.

(c) Notwithstanding subdivisions (a) and (b), if the fee established pursuant to Section 48000 does not generate revenues sufficient to fund the programs specified in this section, or if the amount appropriated by the Legislature for these purposes is reduced, those reductions shall be equally and proportionally distributed between funding for the solid waste programs of the state water board and the regional water boards and the Department of Resources Recycling and Recovery.

SEC. 21. The Legislature finds and declares the following:

(a) Maintenance of the Environmental Education Account in the State Treasury, established pursuant to Section 71305 of the Public Resources Code, is of the utmost importance to the state and any moneys in the account should be used solely for statewide environmental education, as prescribed in Part 4 (commencing with Section 71300) of Division 34 of the Public Resources Code.

(b) State agencies that promote environmental education for elementary and secondary school pupils will benefit from the environmental curriculum adopted pursuant to Part 4 (commencing with Section 71300) of Division 34 of the Public Resources Code, which provides equitable and balanced support for environmental education programs.

SEC. 22. Section 71305 of the Public Resources Code is amended to read:

71305. (a) The Environmental Education Account is hereby established within the State Treasury. Moneys in the account may, upon appropriation by the Legislature, be expended by the California Environmental Protection Agency for the purposes of this part. The Secretary for Environmental Protection shall administer this part, including, but not limited to, the account.

(b) Notwithstanding any other law to the contrary, the agency may accept and receive federal, state, and local funds and contributions of funds from a public or private organization or individual. The account may also receive proceeds from a judgment in state or federal court, when the funds are contributed or the judgment specifies that the proceeds are to be used for the purposes of this part. The account may receive those funds, contributions, or proceeds from judgments, that are specifically designated for use for environmental education purposes. The agency may enter into an agreement with an external fiscal agent for the receipt of those contributions for use for the purposes of this part. Private contributors shall not have the authority to further influence or direct the use of their contributions, regardless of whether their contributions are made directly to the agency or to an external fiscal agent.

(c) (1) For purposes of this section, an "external fiscal agent" means an independent nonprofit organization that may receive and retain contributions from a private organization or individual, or both, intended to support the purposes of this part. The external fiscal agent shall retain all contributions for the purposes of this part in a single account, without regard to the origin of those contributions, and shall not expend any moneys from the account, except at the direction of the Secretary for Environmental Protection. The

external fiscal agent shall be required to enter into a contract with the Secretary for Environmental Protection, which shall prescribe procedures for the expenditure of contributions made for the purposes of this part.

(2) (A) All donations received by the fiscal agent shall be reviewed by the Secretary for Environmental Protection and the Department of Finance to ensure the donations and gifts are consistent with state law and policies regarding the receipt of gifts to the state and the purposes for which those gifts are intended.

(B) Terms and conditions, including the purposes for which the donations shall be expended, of the contract entered into between the state and the fiscal agent shall be subject to review by the Department of Finance.

(C) The Department of Finance shall review the proposed contract within 45 business days of receiving a complete contract, including all exhibits and related supporting documents.

(3) (A) The external fiscal agent shall maintain separate bank or savings and loan association accounts to account for any money under its control, and shall follow the same approval procedures and reporting requirements as apply to any account outside the State Treasury, as may be prescribed in the State Administrative Manual, including all year-end accounting reporting requirements.

(B) Any bank or investment interest earned by the fiscal agent resulting from donations received by the fiscal agent pursuant to this section shall be remitted to the state for the purposes of the Education and the Environment Initiative program.

(4) Notwithstanding Section 10231.5 of the Government Code, the agency shall report, pursuant to the requirements in Section 9795 of the Government Code, to the Joint Legislative Budget Committee and the relevant fiscal and policy committees of each house of the Legislature no later than January 10, 2011, and annually thereafter on the condition of the account described in paragraph (1), including expenditures, if any, from the account in the prior fiscal year and anticipated expenditures in the current and upcoming fiscal year. The agency shall submit an update to the report, to the required entities, containing any revisions or updates to the condition of the account or the anticipated expenditures therefrom, no later than May 15, 2011, and annually thereafter.

(d) Notwithstanding any other law, a state agency that requires the development of, or encourages the promotion of, environmental education for elementary and secondary school pupils, may contribute to the account.

(e) The agency shall immediately deposit any funds contributed pursuant to subdivision (b) into the account.

(f) The Legislature finds and declares that the maintenance of the account is of the utmost importance to the state and that it is essential that any moneys in the account be used solely for the purposes authorized in this section and not be used, loaned, or transferred for any other purposes. State agencies that promote environmental education for elementary and secondary school pupils will benefit from the environmental curriculum adopted pursuant to this part and should provide equitable and balanced support for the program.

(g) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2013, deletes or extends that date.

SEC. 23. Section 71305 is added to the Public Resources Code, to read:

71305. (a) The Environmental Education Account is hereby established within the State Treasury. Moneys in the account may, upon appropriation by the Legislature, be expended by the California Environmental Protection Agency for the purposes of this part. The Secretary for Environmental Protection shall administer this part, including, but not limited to, the account.

(b) Notwithstanding any other law to the contrary, the agency may accept and receive federal, state, and local funds and contributions of funds from a public or private organization or individual. The account may also receive proceeds from a judgment in state or federal court, when the funds are contributed or the judgment specifies that the proceeds are to be used for the purposes of this part. The account may receive those funds, contributions, or proceeds from judgments, that are specifically designated for use for environmental education purposes. Private contributors shall not have the authority to further influence or direct the use of their contributions.

(c) Notwithstanding any other law, a state agency that requires the development of, or encourages the promotion of, environmental education for elementary and secondary school pupils, may contribute to the account.

(d) The agency shall immediately deposit any funds contributed pursuant to subdivision (b) into the account.

(e) The Legislature finds and declares that the maintenance of the account is of the utmost importance to the state and that it is essential that any moneys in the account be used solely for the purposes authorized in this section and not be used, loaned, or transferred for any other purposes. Further, state agencies that promote environmental education for elementary and secondary school pupils will benefit from the environmental curriculum adopted pursuant to this part and should provide equitable and balanced support for the program.

(f) This section shall become operative on January 1, 2013.

SEC. 24. Section 13628.5 is added to the Water Code, to read:

13628.5. (a) The Wastewater Operator Certification Fund is hereby created in the State Treasury.

(b) Beginning July 1, 2010, the fees collected pursuant to Section 13627.5 or 13628 shall be deposited in the Wastewater Operator Certification Fund.

(c) The state board may expend the moneys in the Wastewater Operator Certification Fund, upon appropriation by the Legislature, for purposes of administering this chapter.

SEC. 25. Section 85214 is added to the Water Code, to read:

85214. (a) It is the intent of the Legislature to avoid any actual or apparent conflict of interest with respect to contracts entered into by the council for work relating to the Delta Plan and the Bay Delta Conservation Plan.

(b) Therefore, it is the intent of the Legislature that any contract entered into by the council for purposes of developing the Delta Plan should include provisions ensuring the independence of the contractor's work on the Delta Plan with respect to any work that the contractor may do, or may have completed, related to the Bay Delta Conservation Plan.

SEC. 26. Section 1 of Chapter 384 of the Statutes of 2009 is amended to read:

Section 1. It is the intent of the Legislature in enacting this act to ensure that the public is provided all of the information relied on by State Air Resources Board staff in proposing the adoption, amendment, or repeal of a regulation, including all information related to, but not limited to, air emissions, public health impacts, and economic impacts. Nothing in this act is intended to supersede the provisions of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) or the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 27. (a) It is the intent of the Legislature that a zero-based budget for programs and expenditures related to water and ecosystem restoration activities in the Sacramento-San Joaquin Delta will enable the Legislature to better understand the overall size of the state's investment in the Sacramento-San Joaquin Delta and how funds are being allocated and prioritized for particular programs and functions.

(b) (1) On or before April 1, 2011, the Governor shall submit to the Legislature a report on the budget for the 2011–12 fiscal year for all state agency programs that implement water and ecosystem restoration activities in the Sacramento-San Joaquin Delta, including activities related to the CALFED Bay-Delta Program, using a zero-based budget methodology.

(2) The budget submitted pursuant to this subdivision shall complement the budget display for the CALFED Bay-Delta Program budget annually submitted by the Governor in conjunction with the budget, and shall show all state agency expenditures that implement water and ecosystem restoration activities in the Sacramento-San Joaquin Delta. All state expenditures reported in the budget for the CALFED Bay-Delta Program for the 2011–12 fiscal year shall be reported using a zero-based budget methodology, regardless of whether the appropriation authority is continuous or on an annual basis.

(c) As used in the section, "zero-based budget methodology" means determining a budget by starting with a base of zero dollars ($0) and adding dollar amounts necessary to conduct specific activities and operations. A zero-based budget shall set forth all of the following:

(1) Each activity performed for which an appropriation is made or is requested.

(2) The legal basis for performing the activity.

(3) An itemized justification for the amount requested to perform the activity.

SEC. 28. (a) (1) No later than March 1, 2011, the State Water Resources Control Board shall submit to the budget committees in each house of the Legislature an analysis and report, pursuant to Section 9795 of the Government Code, on the costs of regulating water quality at active landfills.

(2) The requirement for submitting a report imposed under this subdivision is inoperative on January 1, 2015, pursuant to Section 10231.5 of the Government Code.

(b) It is the intent of the Legislature to avoid any unnecessary adverse effects to permittees resulting from the cessation of the fee waiver granted pursuant to paragraph (3) of subdivision (d) of Section 13260 of the Water Code. In order to maximize the permittee's ability to prepare to pay the assessment of the Waste Discharge Fee, the State Water Resources Control Board shall, on a one-time basis, bill permittees in the second half of the 2010–11 fiscal year for the entire fiscal year.

SEC. 29. (a) On or before July 1, 2013, the State Water Resources Control Board shall prepare, publish on its Internet Web site, and submit to the Joint Legislative Budget Committee, a report on the effectiveness of directly contracting with environmental consultants to prepare documents required pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code and the effectiveness of recovering the costs of preparing those documents from water rights applicants and petitioners. The report shall include information on the number and types of documents completed, the effects of directly contracting with environmental consultants on application and petition processing times, staff resources devoted to the direct contracting program, and the effectiveness of obtaining reimbursement from water rights applicants and petitioners.

(b) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2015.

SEC. 30. (a) The sum of two hundred fifty million dollars ($250,000,000) appropriated to the Department of Water Resources by subdivision (a) of Section 8 of Chapter 2 of the Seventh Extraordinary Session of the Statutes of 2009 is hereby reverted to the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006.

(b) The sum of thirty-two million dollars ($32,000,000) appropriated to the Department of Water Resources by subdivision (b) of Section 8 of Chapter 2 of the Seventh Extraordinary Session of the Statutes of 2009 is hereby reverted to the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006.

(c) The sum of one hundred seventy million dollars ($170,000,000) appropriated to the Department of Water Resources pursuant subdivision (c) of Section 8 of Chapter 2 of the Seventh Extraordinary Session of the Statutes of 2009 is hereby reverted to the Disaster Preparedness and Flood Prevention Bond Fund of 2006.

(d) The sum of seventy million dollars ($70,000,000) appropriated to the Department of Water Resources pursuant subdivision (d) of Section 8 of Chapter 2 of the Seventh Extraordinary Session of the Statutes of 2009 is

hereby reverted to the Disaster Preparedness and Flood Prevention Bond Fund of 2006.

SEC. 31. The sum of five hundred twenty-two million dollars ($522,000,000) is hereby appropriated as follows:

(a) (1) One hundred seventy million dollars ($170,000,000) from the funds made available by, and consistent with, Section 5096.821 of the Public Resources Code to the Department of Water Resources for flood protection projects that improve the sustainability of the Sacramento-San Joaquin Delta, including, but not limited to, projects that reduce the risk of levee failure that would jeopardize water conveyance.

(2) The funds appropriated pursuant to paragraph (1) also may be expended by the Department of Water Resources for both of the following purposes, consistent with Section 5096.821 of the Public Resources Code:

(A) Local assistance under the delta levee maintenance subventions program pursuant to Part 9 (commencing with Section 12980) of Division 6 of the Water Code.

(B) Special flood protection projects under Chapter 2 (commencing with Section 12310) of Part 4.8 of Division 6 of the Water Code.

(b) Seventy million dollars ($70,000,000) from the funds made available by, and consistent with, Section 5096.827 of the Public Resources Code to the Department of Water Resources for grants for stormwater flood management projects. Not less than fifteen million dollars ($15,000,000) shall be available for grants consistent with a stormwater resource plan developed pursuant to Part 2.3 (commencing with Section 10560) of Division 6 of the Water Code, or an integrated regional water management plan that includes the stormwater resources plan requirements specified in Section 10562 of the Water Code.

(c) (1) Two hundred fifty million dollars ($250,000,000) from the funds made available by, and consistent with, Section 75026 of the Public Resources Code to the Department of Water Resources for grants and expenditures for programs and projects that implement integrated regional water management plans. In areas that receive water supplied from the Sacramento-San Joaquin Delta, eligible programs and projects shall be components of an integrated regional water management plan that will help reduce dependence on the Sacramento-San Joaquin Delta for water supply. Grants shall be available only for a project included in an integrated regional water management plan that meets either of the following conditions:

(A) The integrated regional water management plan complies with Part 2.2 (commencing with Section 10530) of Division 6 of the Water Code.

(B) If the integrated regional water management plan was adopted before September 30, 2008, the regional water management group that prepared the plan entered into a binding agreement with the Department of Water Resources to update the plan to comply with Part 2.2 (commencing with Section 10530) of Division 6 of the Water Code within two years and to undertake all reasonable and feasible efforts to take into account the water-related needs of disadvantaged communities in the area within the boundaries of the plan.

(2) At least 10 percent of the funds appropriated by this subdivision shall be available to facilitate and support the participation of disadvantaged communities in integrated regional water management planning and for projects that address critical water supply or water quality needs for disadvantaged communities.

(d) (1) Thirty-two million dollars ($32,000,000) from the funds made available by, and consistent with, Section 75033 of the Public Resources Code to the Department of Water Resources for flood control projects in the Sacramento-San Joaquin Delta designed to reduce the potential for levee failures, including, but not limited to, projects that reduce the risk of levee failure that would jeopardize water conveyance.

(2) The funds appropriated pursuant to paragraph (1) also may be expended by the Department of Water Resources for both of the following purposes, consistent with Section 75033 of the Public Resources Code:

(A) Local assistance under the delta levee maintenance subventions program pursuant to Part 9 (commencing with Section 12980) of Division 6 of the Water Code.

(B) Special flood protection projects under Chapter 2 (commencing with Section 12310) of Part 4.8 of Division 6 of the Water Code.

SEC. 32. The Department of Water Resources shall give preference, as a statewide priority for purposes of paragraph (5) of subdivision (b) of Section 75026 of the Public Resources Code, when making grants for integrated regional water management planning from the funds made available in clause (ii) of subparagraph (A) of paragraph (3) of subdivision (b) of Section 83002 of the Water Code, to proposals that include actions designed to integrate the stormwater resource plan requirements specified in Section 10562 of the Water Code into an integrated regional water management plan.

SEC. 33. (a) It is the intent of the Legislature that a zero-based budget for California Global Warming Solutions Act of 2006 programs and expenditures will enable the Legislature to better understand the overall size of these programs and expenditures, the manner in which funds are being allocated and prioritized for particular programs and functions, and the manner in which the proposed expenditures will further the goals and objectives of the California Global Warming Solutions Act of 2006.

(b) On or before April 1, 2011, the Governor shall submit to the Legislature a report on the budget for the 2011–12 fiscal year for all state agency programs that implement, or directly further the goals of, the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code) using a zero-based budget methodology.

(c) As used in the section, “zero-based budget methodology” means determining a budget by starting with a base of zero dollars ($0) and adding dollar amounts necessary to conduct specific activities and operations. A zero-based budget shall set forth all of the following:

(1) Each activity performed for which an appropriation is made or is requested.

(2) The legal basis for performing the activity.

(3) An itemized justification for the amount requested to perform the activity.

SEC. 34. (a) On or before January 1, 2012, the Department of Forestry and Fire Protection shall report to the Joint Legislative Budget Committee on the steps taken by the Office of the State Fire Marshal to improve fire and panic safety with respect to green building standards. The report also shall describe all steps taken by the Office of the State Fire Marshal to better coordinate work on green building standards code development with the California Building Standards Commission and the Department of Housing and Community Development.

(b) (1) The requirement for submitting a report imposed under subdivision (a) is inoperative on January 1, 2016, pursuant to Section 10231.5 of the Government Code.

(2) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 35. (a) The Department of Conservation shall report to the Legislature on the Underground Injection Control Program under the Division of Oil, Gas, and Geothermal Resources. The report shall be delivered to the fiscal and relevant policy committees of each house by January 30, 2011, and annually thereafter, and shall include, but is not limited to, all of the following:

(1) The number of underground injection permits issued by the department.

(2) The average length of time to obtain a permit from date of application to the date of issuance.

(3) The number and description of permit violations identified.

(4) The number of enforcement actions taken.

(5) The number of staff and vacancies in the program.

(6) Any state or federal legislation, administrative, or rulemaking changes to the program.

(7) The program's assessment findings.

(b) By January 30, 2012, and annually thereafter, the department shall report to the Legislature on its Underground Injection Control Program's action plan developed to address the program's assessment findings and its existing efforts to implement the plan and shall deliver that report to the fiscal and relevant policy committees of each house.

(c) The reports required pursuant to subdivisions (a) and (b) shall be in compliance with Section 9795 of the Government Code.

(d) This section shall become inoperative on March 1, 2015, and, as of January 1, 2016, is repealed, unless a later enacted statute that is enacted before January 1, 2016, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 36. (a) The Governor shall include as part of the submission to the Legislature of the budget for the 2011–12 fiscal year, as required by Section 12 of Article IV of the California Constitution, a zero-based 2011–12 fiscal year budget for all activities that were supported from the Department

of Forestry and Fire Protection's emergency fund in the 2009–10 fiscal year that were subsequently shifted to support from the department's main budget item in the 2010–11 fiscal year.

(b) It is the Legislature's intent that a zero-based budget should justify all ongoing state expenditures proposed for the support of four, rather than three, persons on an engine, defensible space inspections, aviation, Tahoe stations, support costs, and the San Bernardino Very Large Air Tanker.

(c) As used in this section, "zero-based budget" means determining a budget by starting with a base of zero dollars ($0) and adding dollar amounts necessary to conduct specific activities and operations. A zero-based budget sets forth all of the following:

(1) Each activity performed for which an appropriation is made or requested.

(2) The legal basis for performing the activity.

(3) An itemized justification for the amount requested to perform the activity.

SEC. 37. 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 implement the Budget Act of 2010 as quickly as possible, it is necessary that this act take immediate effect.

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