

**ASSEMBLY BILL**

**No. 2398**

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**Introduced by Assembly Member Hueso**

February 24, 2012

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An act to amend Sections 28, 5410, 5411, and 5411.5 of, and to add Chapter 20 (commencing with Section 26300) to Division 20 of, the Health and Safety Code, to repeal Article 10.9 (commencing with Section 65601) of Chapter 3 of Division 1 of Title 7 of the Government Code, to amend Section 1502 of the Public Utilities Code, to amend Sections 1058.5, 10616.5, 13050, 13260, 13263, and 13271 of, to add Division 8 (commencing with Section 18000) to, to repeal Chapter 6 (commencing with Section 460) of Division 1 of, to repeal Chapter 7.3 (commencing with Section 13560) and Chapter 7.5 (commencing with Section 13575) of, and to repeal and add Chapter 7 (commencing with Section 13500) of Division 7 of the Water Code, relating to water recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 2398, as introduced, Hueso. Water recycling.

Existing law establishes the State Water Resources Control Board (state board) and the California regional water quality control boards as the principal state agencies with authority over matters relating to water quality. Existing law requires the State Department of Public Health (department) to adopt uniform water recycling criteria for indirect potable water reuse for groundwater recharge, as defined, by December 31, 2013. Existing law requires the department to develop and adopt uniform water recycling criteria for surface water augmentation, as defined, by December 31, 2016, if a specified expert panel convened by the department finds that the criteria would adequately protect public

health. Existing law requires the department to investigate the feasibility of developing uniform water recycling criteria for direct potable reuse, as defined, and to provide a final report on that investigation to the Legislature by December 31, 2016. Existing law requires the department, in consultation with the state board, to report to the Legislature from 2011 to 2016, inclusive, as part of the annual budget process, on the progress towards developing and adopting the water recycling criteria for surface water augmentation and its investigation of the feasibility of developing water recycling criteria for direct potable reuse. Existing law requires the state board to enter into an agreement with the department to assist in implementing the water recycling criteria provisions.

This bill would enact the Water Recycling Act of 2012 to revise and consolidate those and other provisions relating to recycled water, and make other conforming changes to existing law. The act would establish a statewide goal to recycle a total of 1.5 million acre-feet of water per year by the year 2020 and 2.5 million acre-feet of water per year by the year 2030. The act would require the state board and regional boards, the department, the Public Utilities Commission, the Department of Water Resources, and other state agencies to exercise the authority and discretion granted to them by the Legislature to encourage the use of recycled water and meet the goals of the act. The act would state that it is the intent of the Legislature that the department permit potable reuse projects using advanced treated purified water and that the state board and regional boards permit nonpotable reuse projects and potable reuse projects using potable water other than advanced treated purified water. Because certain reports submitted as part of the permit application process would be submitted under penalty of perjury, this bill would impose a state-mandated local program by creating a new crime. The act would establish the Water Recycling Research Fund and require that certain civil penalties be deposited into the fund, to be expended by the state board, upon appropriation by the Legislature, to conduct or fund research necessary to support the continued and safe use of recycled water in the state.

The bill would also authorize the department to issue permits for raw water augmentation projects utilizing advanced treated purified water in conformance with the uniform drinking water criteria established pursuant to the act.

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

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

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 28 of the Health and Safety Code is  
2 amended to read:

3 28. For the purposes of this code, “recycled water” or  
4 “reclaimed water” has the same meaning as ~~reecycled water~~  
5 “*recycled water*” as defined in subdivision (n) of Section 13050  
6 of the Water Code.

7 SEC. 2. Section 5410 of the Health and Safety Code is amended  
8 to read:

9 5410. As used in this chapter:

10 (a) “Waste” includes sewage and any and all other waste  
11 substances, liquid, solid, gaseous, or radioactive, associated with  
12 human habitation, or of human or animal origin, or from any  
13 producing, manufacturing, or processing operation of whatever  
14 nature.

15 (b) “Person” as used in this article also includes any city,  
16 county, district, the state or any department or agency thereof.

17 (c) “Waters of the state” means any water, surface or  
18 underground, including saline waters, within the boundaries of the  
19 state.

20 (d) “Contamination” means an impairment of the quality of the  
21 waters of the state by waste to a degree which creates a hazard to  
22 the public health through poisoning or through the spread of  
23 disease. “Contamination” shall include any equivalent effect  
24 resulting from the disposal of waste, whether or not waters of the  
25 state are affected.

26 (e) “Pollution” means an alteration of the quality of the waters  
27 of the state by waste to a degree which unreasonably affects: (1)  
28 such waters for beneficial uses, or (2) facilities which serve such  
29 beneficial uses. “Pollution” may include “contamination.”

1 (f) “Nuisance” means anything which: (1) is injurious to health,  
2 or is indecent or offensive to the senses, or an obstruction to the  
3 free use of property, so as to interfere with the comfortable  
4 enjoyment of life or property, and (2) affects at the same time an  
5 entire community or neighborhood, or any considerable number  
6 of persons, although the extent of the annoyance or damage  
7 inflicted upon individuals may be unequal, and (3) occurs during,  
8 or as a result of, the treatment or disposal of wastes. *The use of*  
9 *recycled water, as defined in Section 18005 of the Water Code,*  
10 *and in accordance with the requirements of the Water Recycling*  
11 *Act of 2012 (Division 8 (commencing with Section 18000) of the*  
12 *Water Code) or the requirements of this division does not create*  
13 *a nuisance.*

14 (g) “Regional board” means any California regional water  
15 quality control board created pursuant to Section 13201 of the  
16 Water Code.

17 SEC. 3. Section 5411 of the Health and Safety Code is amended  
18 to read:

19 5411. ~~No~~A person shall *not* discharge sewage or other waste,  
20 or the effluent of treated sewage or other waste, in any manner  
21 ~~which~~ *that* will result in contamination, pollution or a nuisance.  
22 *This section does not apply to the use of recycled water, as defined*  
23 *in Section 18005 of the Water Code, and in accordance with the*  
24 *requirements of the Water Recycling Act of 2012 (Division 8*  
25 *commencing with Section 18000) of the Water Code) or the*  
26 *requirements of this division.*

27 SEC. 4. Section 5411.5 of the Health and Safety Code is  
28 amended to read:

29 5411.5. (a) Any person who, without regard to intent or  
30 negligence, causes or permits any sewage or other waste, or the  
31 effluent of treated sewage or other waste to be discharged in or on  
32 any waters of the state, or discharged in or deposited where it is,  
33 or probably will be, discharged in or on any waters of the state, as  
34 soon as that person has knowledge of the discharge, shall  
35 immediately notify the local health officer or the director of  
36 environmental health of the discharge.

37 (b) Any person who fails to provide the notice required by this  
38 section is guilty of a misdemeanor and shall be punished by a fine  
39 of not less than five hundred dollars (\$500) nor more than one

1 thousand dollars (\$1,000), or imprisonment for less than one year,  
2 or both the fine and imprisonment.

3 (c) The notification required by this section shall not apply to  
4 a discharge authorized by law and in compliance with waste  
5 discharge requirements or other requirements established by the  
6 appropriate regional water quality control board or the State Water  
7 Resources Control Board.

8 (d) *This section does not apply to the use of recycled water, as*  
9 *defined in Section 18005 of the Water Code, and in accordance*  
10 *with the requirements of the Water Recycling Act of 2012 (Division*  
11 *8 (commencing with Section 18000) of the Water Code) or the*  
12 *requirements of this division.*

13 SEC. 5. Chapter 20 (commencing with Section 26300) is added  
14 to Division 20 of the Health and Safety Code, to read:

15

16 CHAPTER 20. GROUNDWATER AQUIFER RECHARGE

17

18 26300. The Legislature finds and declares the following:

19 (a) Advanced treated purified water is being used to recharge  
20 groundwater aquifers in California through direct injection of the  
21 aquifer.

22 (b) Advanced treatment facilities, operated in California, have  
23 demonstrated the ability of advanced treated purified water  
24 technologies to reliably produce water of a higher quality than  
25 most raw surface water sources in California.

26 (c) If the planned introduction of advanced treated purified water  
27 into a raw water supply can be demonstrated to be safe and feasible,  
28 its use will significantly aid in achieving the state board's recycling  
29 goals.

30 (d) Upon completing a rigorous review and public process for  
31 determining the safety of utilizing advanced treated purified water  
32 for raw water augmentation, clear authority needs to be established  
33 for the permitting of such a project.

34 (e) This chapter is not intended to delay, invalidate, or reverse  
35 any study or project, or development of regulations by the  
36 department regarding the use of recycled water for groundwater  
37 recharge, surface water augmentation, or direct potable reuse.

38 26301. As used in this chapter, "advanced treated purified  
39 water" means \_\_\_\_.

1 26302. (a) The department shall issue permits for raw water  
2 augmentation projects utilizing advanced treated purified water.

3 (b) Each person who is subject to a permit pursuant to this  
4 section shall submit an annual fee to the department according to  
5 a fee schedule established by the department in conformance with  
6 this section.

7 (c) The total amount of annual fees collected pursuant to this  
8 section shall not exceed the amount necessary to recover costs  
9 incurred in connection with the issuance, administration, reviewing,  
10 monitoring, and enforcement of permits for the use of advanced  
11 treated purified water.

12 (d) Recoverable costs may include, but are not limited to, costs  
13 incurred in reviewing monitoring reports; prescribing permit terms  
14 and monitoring requirements; enforcing and evaluating compliance  
15 with permits; analyzing laboratory samples; reviewing documents  
16 prepared for the purpose of regulating the use of advanced treated  
17 purified water; development of uniform criteria for potable and  
18 nonpotable uses pursuant to Article 1 (commencing with Section  
19 18020) and Article 2 (commencing with Section 18030) of Chapter  
20 3 of Division 8 of the Water Code; and administrative costs  
21 incurred in connection with carrying out these actions.

22 (e) The fee paid to the department for any permit for an  
23 advanced treated purified water project shall not exceed twenty-five  
24 thousand dollars (\$25,000) per year.

25 26303. The department shall not issue a permit to a public  
26 water system or amend a valid existing permit for a raw water  
27 augmentation project utilizing advanced treated purified water  
28 unless the department does all of the following:

29 (a) Performs an engineering evaluation that evaluates the  
30 proposed treatment technology and finds that the proposed  
31 technology will ensure that the advanced treated purified water  
32 meets or exceeds all applicable primary and secondary drinking  
33 water standards and poses no significant threat to public health.

34 (b) Holds at least three duly noticed public hearings in the area  
35 where the advanced treated purified water is proposed to be used  
36 or supplied for human consumption to receive testimony from the  
37 public and the regional board on that proposed use. The department  
38 shall make available to the public, not less than 10 days prior to  
39 the date of the first hearing held pursuant to this subdivision, the  
40 evaluations and findings made pursuant to subdivision (a).

1 SEC. 6. Article 10.9 (commencing with Section 65601) of  
2 Chapter 3 of Division 1 of Title 7 of the Government Code is  
3 repealed.

4 SEC. 7. Section 1502 of the Public Utilities Code is amended  
5 to read:

6 1502. (a) As used in this chapter, “political subdivision” means  
7 a county, city and county, city, municipal water district, county  
8 water district, irrigation district, public utility district, California  
9 water district, or any other public corporation.

10 (b) As used in this chapter, “service area” means an area served  
11 by a privately owned public utility in which the facilities have  
12 been dedicated to public use and in which territory the utility is  
13 required to render service to the public.

14 (c) As used in this chapter, “operating system” means an  
15 integrated water system for the supply of water to a service area  
16 of a privately owned public utility.

17 (d) As used in this chapter, “private utility” means a privately  
18 owned public utility providing a water service.

19 (e) As used in this chapter, “type of service” means, among  
20 other things, domestic, commercial, industrial, fire protection,  
21 wholesale, or irrigation service.

22 (f) As used in this chapter, “reclaimed water” means ~~reclaimed~~  
23 *recycled* water as defined in Section 13050 of the Water Code.

24 (g) As used in this chapter, “private use” means an entity’s use  
25 of its own reclaimed water.

26 SEC. 8. Chapter 6 (commencing with Section 460) of Division  
27 1 of the Water Code is repealed.

28 SEC. 9. Section 1058.5 of the Water Code is amended to read:

29 1058.5. (a) This section applies to any emergency regulation  
30 adopted by the board for which the board makes both of the  
31 following findings:

32 (1) The emergency regulation is adopted to prevent the waste,  
33 unreasonable use, unreasonable method of use, or unreasonable  
34 method of diversion, of water, to promote ~~wastewater reclamation~~  
35 *water recycling*, or to promote water conservation.

36 (2) The emergency regulation is adopted in response to  
37 conditions which exist, or are threatened, in a critically dry year  
38 immediately preceded by two or more consecutive dry or critically  
39 dry years.

1 (b) Notwithstanding Sections 11346.1 and 11349.6 of the  
2 Government Code, any findings of emergency adopted by the  
3 board, in connection with the adoption of an emergency regulation  
4 to which this section applies, are not subject to review by the Office  
5 of Administrative Law.

6 (c) Any emergency regulation adopted by the board to which  
7 this section applies may remain in effect for up to 270 days, as  
8 determined by the board, and is deemed repealed immediately  
9 upon a finding by the board that due to changed conditions it is  
10 no longer necessary for the regulation to remain in effect.

11 SEC. 10. Section 10616.5 of the Water Code is amended to  
12 read:

13 10616.5. ~~‘Reecycled~~ *“Recycled water” means the reclamation*  
14 ~~and reuse of wastewater for beneficial use has the same meaning~~  
15 *as defined in subdivision (n) of Section 13050.*

16 SEC. 11. Section 13050 of the Water Code is amended to read:

17 13050. As used in this division:

18 (a) “State board” means the State Water Resources Control  
19 Board.

20 (b) “Regional board” means any California regional water  
21 quality control board for a region as specified in Section 13200.

22 (c) “Person” includes any city, county, district, the state, and  
23 the United States, to the extent authorized by federal law.

24 (d) “Waste” includes sewage and any and all other waste  
25 substances, liquid, solid, gaseous, or radioactive, associated with  
26 human habitation, or of human or animal origin, or from any  
27 producing, manufacturing, or processing operation, including waste  
28 placed within containers of whatever nature prior to, and for  
29 purposes of, disposal.

30 (e) “Waters of the state” means any surface water or  
31 groundwater, including saline waters, within the boundaries of the  
32 state.

33 (f) “Beneficial uses” of the waters of the state that may be  
34 protected against quality degradation include, but are not limited  
35 to, domestic, municipal, agricultural and industrial supply; power  
36 generation; recreation; aesthetic enjoyment; navigation; and  
37 preservation and enhancement of fish, wildlife, and other aquatic  
38 resources or preserves.

1 (g) “Quality of the water” refers to chemical, physical,  
2 biological, bacteriological, radiological, and other properties and  
3 characteristics of water which affect its use.

4 (h) “Water quality objectives” means the limits or levels of  
5 water quality constituents or characteristics which are established  
6 for the reasonable protection of beneficial uses of water or the  
7 prevention of nuisance within a specific area.

8 (i) “Water quality control” means the regulation of any activity  
9 or factor which may affect the quality of the waters of the state  
10 and includes the prevention and correction of water pollution and  
11 nuisance.

12 (j) “Water quality control plan” consists of a designation or  
13 establishment for the waters within a specified area of all of the  
14 following:

15 (1) Beneficial uses to be protected.

16 (2) Water quality objectives.

17 (3) A program of implementation needed for achieving water  
18 quality objectives.

19 (k) “Contamination” means an impairment of the quality of the  
20 waters of the state by waste to a degree which creates a hazard to  
21 the public health through poisoning or through the spread of  
22 disease. “Contamination” includes any equivalent effect resulting  
23 from the disposal of waste, whether or not waters of the state are  
24 affected.

25 (l) (1) “Pollution” means an alteration of the quality of the  
26 waters of the state by waste to a degree which unreasonably affects  
27 either of the following:

28 (A) The waters for beneficial uses.

29 (B) Facilities which serve these beneficial uses.

30 (2) “Pollution” may include “contamination.”

31 (m) “Nuisance” means anything which meets all of the following  
32 requirements:

33 (1) Is injurious to health, or is indecent or offensive to the senses,  
34 or an obstruction to the free use of property, so as to interfere with  
35 the comfortable enjoyment of life or property.

36 (2) Affects at the same time an entire community or  
37 neighborhood, or any considerable number of persons, although  
38 the extent of the annoyance or damage inflicted upon individuals  
39 may be unequal.

1 (3) Occurs during, or as a result of, the treatment or disposal of  
2 wastes.

3 (n) “Recycled water” means water which, as a result of treatment  
4 of waste, is suitable for a direct beneficial use or a controlled use  
5 that would not otherwise occur and is therefor considered a  
6 valuable resource. *Recycled water includes recycled water as*  
7 *defined in Section 18005 of the Water Code.*

8 (o) “Citizen or domiciliary” of the state includes a foreign  
9 corporation having substantial business contacts in the state or  
10 which is subject to service of process in this state.

11 (p) (1) “Hazardous substance” means either of the following:

12 (A) For discharge to surface waters, any substance determined  
13 to be a hazardous substance pursuant to Section 311(b)(2) of the  
14 Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.).

15 (B) For discharge to groundwater, any substance listed as a  
16 hazardous waste or hazardous material pursuant to Section 25140  
17 of the Health and Safety Code, without regard to whether the  
18 substance is intended to be used, reused, or discarded, except that  
19 “hazardous substance” does not include any substance excluded  
20 from Section 311(b)(2) of the Federal Water Pollution Control Act  
21 because it is within the scope of Section 311(a)(1) of that act.

22 (2) “Hazardous substance” does not include any of the  
23 following:

24 (A) Nontoxic, nonflammable, and noncorrosive stormwater  
25 runoff drained from underground vaults, chambers, or manholes  
26 into gutters or storm sewers.

27 (B) Any pesticide which is applied for agricultural purposes or  
28 is applied in accordance with a cooperative agreement authorized  
29 by Section 116180 of the Health and Safety Code, and is not  
30 discharged accidentally or for purposes of disposal, the application  
31 of which is in compliance with all applicable state and federal laws  
32 and regulations.

33 (C) Any discharge to surface water of a quantity less than a  
34 reportable quantity as determined by regulations issued pursuant  
35 to Section 311(b)(4) of the Federal Water Pollution Control Act.

36 (D) Any discharge to land which results, or probably will result,  
37 in a discharge to groundwater if the amount of the discharge to  
38 land is less than a reportable quantity, as determined by regulations  
39 adopted pursuant to Section 13271, for substances listed as  
40 hazardous pursuant to Section 25140 of the Health and Safety

1 Code. No discharge shall be deemed a discharge of a reportable  
2 quantity until regulations set a reportable quantity for the substance  
3 discharged.

4 (q) (1) "Mining waste" means all solid, semisolid, and liquid  
5 waste materials from the extraction, beneficiation, and processing  
6 of ores and minerals. Mining waste includes, but is not limited to,  
7 soil, waste rock, and overburden, as defined in Section 2732 of  
8 the Public Resources Code, and tailings, slag, and other processed  
9 waste materials, including cementitious materials that are managed  
10 at the cement manufacturing facility where the materials were  
11 generated.

12 (2) For the purposes of this subdivision, "cementitious material"  
13 means cement, cement kiln dust, clinker, and clinker dust.

14 ~~(r) "Master recycling permit" means a permit issued to a supplier  
15 or a distributor, or both, of recycled water, that includes waste  
16 discharge requirements prescribed pursuant to Section 13263 and  
17 water recycling requirements prescribed pursuant to Section  
18 13523.1.~~

19 SEC. 12. Section 13260 of the Water Code is amended to read:

20 13260. (a) Each of the following persons shall file with the  
21 appropriate regional board a report of the discharge, containing  
22 the information that may be required by the regional board:

23 (1) A person discharging waste, or proposing to discharge waste,  
24 within any region that could affect the quality of the waters of the  
25 state, other than into a community sewer system.

26 (2) A person who is a citizen, domiciliary, or political agency  
27 or entity of this state discharging waste, or proposing to discharge  
28 waste, outside the boundaries of the state in a manner that could  
29 affect the quality of the waters of the state within any region.

30 (3) A person operating, or proposing to construct, an injection  
31 well.

32 (b) No report of waste discharge need be filed pursuant to  
33 subdivision (a) if the requirement is waived pursuant to Section  
34 13269.

35 (c) Each person subject to subdivision (a) shall file with the  
36 appropriate regional board a report of waste discharge relative to  
37 any material change or proposed change in the character, location,  
38 or volume of the discharge.

1 (d) (1) (A) Each person who is subject to subdivision (a) or  
 2 (c) shall submit an annual fee according to a fee schedule  
 3 established by the state board.

4 (B) The total amount of annual fees collected pursuant to this  
 5 section shall equal that amount necessary to recover costs incurred  
 6 in connection with the issuance, administration, reviewing,  
 7 monitoring, and enforcement of waste discharge requirements and  
 8 waivers of waste discharge requirements.

9 (C) Recoverable costs may include, but are not limited to, costs  
 10 incurred in reviewing waste discharge reports, prescribing terms  
 11 of waste discharge requirements and monitoring requirements,  
 12 enforcing and evaluating compliance with waste discharge  
 13 requirements and waiver requirements, conducting surface water  
 14 and groundwater monitoring and modeling, analyzing laboratory  
 15 samples, adopting, reviewing, and revising water quality control  
 16 plans and state policies for water quality control, and reviewing  
 17 documents prepared for the purpose of regulating the discharge of  
 18 waste, and administrative costs incurred in connection with  
 19 carrying out these actions.

20 (D) In establishing the amount of a fee that may be imposed on  
 21 a confined animal feeding and holding operation pursuant to this  
 22 section, including, but not limited to, a dairy farm, the state board  
 23 shall consider all of the following factors:

- 24 (i) The size of the operation.
- 25 (ii) Whether the operation has been issued a permit to operate  
 26 pursuant to Section 1342 of Title 33 of the United States Code.
- 27 (iii) Any applicable waste discharge requirement or conditional  
 28 waiver of a waste discharge requirement.
- 29 (iv) The type and amount of discharge from the operation.
- 30 (v) The pricing mechanism of the commodity produced.
- 31 (vi) Any compliance costs borne by the operation pursuant to  
 32 state and federal water quality regulations.
- 33 (vii) Whether the operation participates in a quality assurance  
 34 program certified by a regional water quality control board, the  
 35 state board, or a federal water quality control agency.

36 (2) (A) Subject to subparagraph (B), the fees collected pursuant  
 37 to this section shall be deposited in the Waste Discharge Permit  
 38 Fund, which is hereby created. The money in the fund is available  
 39 for expenditure by the state board, upon appropriation by the  
 40 Legislature, solely for the purposes of carrying out this division.

1 (B) (i) Notwithstanding subparagraph (A), the fees collected  
2 pursuant to this section from stormwater dischargers that are  
3 subject to a general industrial or construction stormwater permit  
4 under the national pollutant discharge elimination system (NPDES)  
5 shall be separately accounted for in the Waste Discharge Permit  
6 Fund.

7 (ii) Not less than 50 percent of the money in the Waste  
8 Discharge Permit Fund that is separately accounted for pursuant  
9 to clause (i) is available, upon appropriation by the Legislature,  
10 for expenditure by the regional board with jurisdiction over the  
11 permitted industry or construction site that generated the fee to  
12 carry out stormwater programs in the region.

13 (iii) Each regional board that receives money pursuant to clause  
14 (ii) shall spend not less than 50 percent of that money solely on  
15 stormwater inspection and regulatory compliance issues associated  
16 with industrial and construction stormwater programs.

17 (3) A person who would be required to pay the annual fee  
18 prescribed by paragraph (1) for waste discharge requirements  
19 applicable to discharges of solid waste, as defined in Section 40191  
20 of the Public Resources Code, at a waste management unit that is  
21 also regulated under Division 30 (commencing with Section 40000)  
22 of the Public Resources Code, shall be entitled to a waiver of the  
23 annual fee for the discharge of solid waste at the waste management  
24 unit imposed by paragraph (1) upon verification by the state board  
25 of payment of the fee imposed by Section 48000 of the Public  
26 Resources Code, and provided that the fee established pursuant to  
27 Section 48000 of the Public Resources Code generates revenues  
28 sufficient to fund the programs specified in Section 48004 of the  
29 Public Resources Code and the amount appropriated by the  
30 Legislature for those purposes is not reduced.

31 (e) Each person that discharges waste in a manner regulated by  
32 this section shall pay an annual fee to the state board. The state  
33 board shall establish, by regulation, a timetable for the payment  
34 of the annual fee. If the state board or a regional board determines  
35 that the discharge will not affect, or have the potential to affect,  
36 the quality of the waters of the state, all or part of the annual fee  
37 shall be refunded.

38 (f) (1) The state board shall adopt, by emergency regulations,  
39 a schedule of fees authorized under subdivision (d). The total  
40 revenue collected each year through annual fees shall be set at an

1 amount equal to the revenue levels set forth in the Budget Act for  
2 this activity. The state board shall automatically adjust the annual  
3 fees each fiscal year to conform with the revenue levels set forth  
4 in the Budget Act for this activity. If the state board determines  
5 that the revenue collected during the preceding year was greater  
6 than, or less than, the revenue levels set forth in the Budget Act,  
7 the state board may further adjust the annual fees to compensate  
8 for the over and under collection of revenue.

9 (2) The emergency regulations adopted pursuant to this  
10 subdivision, any amendment thereto, or subsequent adjustments  
11 to the annual fees, shall be adopted by the state board in accordance  
12 with Chapter 3.5 (commencing with Section 11340) of Part 1 of  
13 Division 3 of Title 2 of the Government Code. The adoption of  
14 these regulations is an emergency and shall be considered by the  
15 Office of Administrative Law as necessary for the immediate  
16 preservation of the public peace, health, safety, and general welfare.  
17 Notwithstanding Chapter 3.5 (commencing with Section 11340)  
18 of Part 1 of Division 3 of Title 2 of the Government Code, any  
19 emergency regulations adopted by the state board, or adjustments  
20 to the annual fees made by the state board pursuant to this section,  
21 shall not be subject to review by the Office of Administrative Law  
22 and shall remain in effect until revised by the state board.

23 (g) The state board shall adopt regulations setting forth  
24 reasonable time limits within which the regional board shall  
25 determine the adequacy of a report of waste discharge submitted  
26 under this section.

27 (h) Each report submitted under this section shall be sworn to,  
28 or submitted under penalty of perjury.

29 (i) The regulations adopted by the state board pursuant to  
30 subdivision (f) shall include a provision that annual fees shall not  
31 be imposed on those who pay fees under the national pollutant  
32 discharge elimination system until the time when those fees are  
33 again due, at which time the fees shall become due on an annual  
34 basis.

35 (j) A person operating or proposing to construct an oil, gas, or  
36 geothermal injection well subject to paragraph (3) of subdivision  
37 (a) shall not be required to pay a fee pursuant to subdivision (d) if  
38 the injection well is regulated by the Division of Oil and Gas of  
39 the Department of Conservation, in lieu of the appropriate  
40 California regional water quality control board, pursuant to the

1 memorandum of understanding, entered into between the state  
2 board and the Department of Conservation on May 19, 1988. This  
3 subdivision shall remain operative until the memorandum of  
4 understanding is revoked by the state board or the Department of  
5 Conservation.

6 (k) In addition to the report required by subdivision (a), before  
7 a person discharges mining waste, the person shall first submit  
8 both of the following to the regional board:

9 (1) A report on the physical and chemical characteristics of the  
10 waste that could affect its potential to cause pollution or  
11 contamination. The report shall include the results of all tests  
12 required by regulations adopted by the board, any test adopted by  
13 the Department of Toxic Substances Control pursuant to Section  
14 25141 of the Health and Safety Code for extractable, persistent,  
15 and bioaccumulative toxic substances in a waste or other material,  
16 and any other tests that the state board or regional board may  
17 require, including, but not limited to, tests needed to determine  
18 the acid-generating potential of the mining waste or the extent to  
19 which hazardous substances may persist in the waste after disposal.

20 (2) A report that evaluates the potential of the discharge of the  
21 mining waste to produce, over the long term, acid mine drainage,  
22 the discharge or leaching of heavy metals, or the release of other  
23 hazardous substances.

24 ~~(l) Except upon the written request of the regional board, a report~~  
25 ~~of waste discharge need not be filed pursuant to subdivision (a) or~~  
26 ~~(e) by a user of recycled water that is being supplied by a supplier~~  
27 ~~or distributor of recycled water for whom a master recycling permit~~  
28 ~~has been issued pursuant to Section 13523.1.~~

29 SEC. 13. Section 13263 of the Water Code is amended to read:

30 13263. (a) The regional board, after any necessary hearing,  
31 shall prescribe requirements as to the nature of any proposed  
32 discharge, existing discharge, or material change in an existing  
33 discharge, except discharges into a community sewer system, with  
34 relation to the conditions existing in the disposal area or receiving  
35 waters upon, or into which, the discharge is made or proposed.  
36 The requirements shall implement any relevant water quality  
37 control plans that have been adopted, and shall take into  
38 consideration the beneficial uses to be protected, the water quality  
39 objectives reasonably required for that purpose, other waste

1 discharges, the need to prevent nuisance, and the provisions of  
2 Section 13241.

3 (b) A regional board, in prescribing requirements, need not  
4 authorize the utilization of the full waste assimilation capacities  
5 of the receiving waters.

6 (c) The requirements may contain a time schedule, subject to  
7 revision in the discretion of the board.

8 (d) The regional board may prescribe requirements although no  
9 discharge report has been filed.

10 (e) Upon application by any affected person, or on its own  
11 motion, the regional board may review and revise requirements.  
12 All requirements shall be reviewed periodically.

13 (f) The regional board shall notify in writing the person making  
14 or proposing the discharge or the change therein of the discharge  
15 requirements to be met. After receipt of the notice, the person so  
16 notified shall provide adequate means to meet the requirements.

17 (g) No discharge of waste into the waters of the state, whether  
18 or not the discharge is made pursuant to waste discharge  
19 requirements, shall create a vested right to continue the discharge.  
20 All discharges of waste into waters of the state are privileges, not  
21 rights.

22 ~~(h) The regional board may incorporate the requirements~~  
23 ~~prescribed pursuant to this section into a master recycling permit~~  
24 ~~for either a supplier or distributor, or both, of recycled water.~~

25 ~~(i)~~

26 (h) The state board or a regional board may prescribe general  
27 waste discharge requirements for a category of discharges if the  
28 state board or that regional board finds or determines that all of  
29 the following criteria apply to the discharges in that category:

30 (1) The discharges are produced by the same or similar  
31 operations.

32 (2) The discharges involve the same or similar types of waste.

33 (3) The discharges require the same or similar treatment  
34 standards.

35 (4) The discharges are more appropriately regulated under  
36 general discharge requirements than individual discharge  
37 requirements.

38 ~~(j)~~

39 (i) The state board, after any necessary hearing, may prescribe  
40 waste discharge requirements in accordance with this section.

1 SEC. 14. Section 13271 of the Water Code is amended to read:

2 13271. (a) (1) Except as provided by subdivision (b), any  
3 person who, without regard to intent or negligence, causes or  
4 permits any hazardous substance or sewage to be discharged in or  
5 on any waters of the state, or discharged or deposited where it is,  
6 or probably will be, discharged in or on any waters of the state,  
7 shall, as soon as (A) that person has knowledge of the discharge,  
8 (B) notification is possible, and (C) notification can be provided  
9 without substantially impeding cleanup or other emergency  
10 measures, immediately notify the California Emergency  
11 Management Agency of the discharge in accordance with the spill  
12 reporting provision of the state toxic disaster contingency plan  
13 adopted pursuant to Article 3.7 (commencing with Section 8574.16)  
14 of Chapter 7 of Division 1 of Title 2 of the Government Code.

15 (2) The California Emergency Management Agency shall  
16 immediately notify the appropriate regional board, the local health  
17 officer, and the director of environmental health of the discharge.  
18 The regional board shall notify the state board as appropriate.

19 (3) Upon receiving notification of a discharge pursuant to this  
20 section, the local health officer and the director of environmental  
21 health shall immediately determine whether notification of the  
22 public is required to safeguard public health and safety. If so, the  
23 local health officer and the director of environmental health shall  
24 immediately notify the public of the discharge by posting notices  
25 or other appropriate means. The notification shall describe  
26 measures to be taken by the public to protect the public health.

27 (b) The notification required by this section shall not apply to  
28 a discharge in compliance with waste discharge requirements or  
29 other provisions of this division.

30 (c) Any person who fails to provide the notice required by this  
31 section is guilty of a misdemeanor and shall be punished by a fine  
32 of not more than twenty thousand dollars (\$20,000) or  
33 imprisonment in a county jail for not more than one year, or both.  
34 Except where a discharge to the waters of this state would have  
35 occurred but for cleanup or emergency response by a public agency,  
36 this subdivision shall not apply to any discharge to land which  
37 does not result in a discharge to the waters of this state.

38 (d) Notification received pursuant to this section or information  
39 obtained by use of that notification shall not be used against any

1 person providing the notification in any criminal case, except in  
2 a prosecution for perjury or giving a false statement.

3 (e) For substances listed as hazardous wastes or hazardous  
4 material pursuant to Section 25140 of the Health and Safety Code,  
5 the state board, in consultation with the Department of Toxic  
6 Substances Control, shall by regulation establish reportable  
7 quantities for purposes of this section. The regulations shall be  
8 based on what quantities should be reported because they may  
9 pose a risk to public health or the environment if discharged to  
10 groundwater or surface water. Regulations need not set reportable  
11 quantities on all listed substances at the same time. Regulations  
12 establishing reportable quantities shall not supersede waste  
13 discharge requirements or water quality objectives adopted  
14 pursuant to this division, and shall not supersede or affect in any  
15 way the list, criteria, and guidelines for the identification of  
16 hazardous wastes and extremely hazardous wastes adopted by the  
17 Department of Toxic Substances Control pursuant to Chapter 6.5  
18 (commencing with Section 25100) of Division 20 of the Health  
19 and Safety Code. The regulations of the Environmental Protection  
20 Agency for reportable quantities of hazardous substances for  
21 purposes of the *federal* Comprehensive Environmental Response,  
22 Compensation, and Liability Act of 1980, as amended (42 U.S.C.  
23 Sec. 9601 et seq.) shall be in effect for purposes of the enforcement  
24 of this section until the time that the regulations required by this  
25 subdivision are adopted.

26 (f) (1) The state board shall adopt regulations establishing  
27 reportable quantities of sewage for purposes of this section. The  
28 regulations shall be based on the quantities that should be reported  
29 because they may pose a risk to public health or the environment  
30 if discharged to groundwater or surface water. Regulations  
31 establishing reportable quantities shall not supersede waste  
32 discharge requirements or water quality objectives adopted  
33 pursuant to this division. For purposes of this section, “sewage”  
34 means the effluent of a municipal wastewater treatment plant or a  
35 private utility wastewater treatment plant, as those terms are  
36 defined in Section 13625, except that sewage does not include  
37 recycled water, as defined in ~~subdivisions (e) and (d) of Section~~  
38 ~~13529.2~~ *Section 18005*.

39 (2) A collection system owner or operator, as defined in  
40 paragraph (1) of subdivision (a) of Section 13193, in addition to

1 the reporting requirements set forth in this section, shall submit a  
2 report pursuant to subdivision (c) of Section 13193.

3 (g) Except as otherwise provided in this section and Section  
4 8589.7 of the Government Code, a notification made pursuant to  
5 this section shall satisfy any immediate notification requirement  
6 contained in any permit issued by a permitting agency. When  
7 notifying the California Emergency Management Agency, the  
8 person shall include all of the notification information required in  
9 the permit.

10 (h) For the purposes of this section, the reportable quantity for  
11 perchlorate shall be 10 pounds or more by discharge to the  
12 receiving waters, unless a more restrictive reporting standard for  
13 a particular body of water is adopted pursuant to subdivision (e).

14 (i) Notification under this section does not nullify a person's  
15 responsibility to notify the local health officer or the director of  
16 environmental health pursuant to Section 5411.5 of the Health and  
17 Safety Code.

18 SEC. 15. Chapter 7 (commencing with Section 13500) of  
19 Division 7 of the Water Code is repealed.

20 SEC. 16. Chapter 7 (commencing with Section 13500) is added  
21 to Division 7 of the Water Code, to read:

22  
23 CHAPTER 7. WASTE WELLS  
24

25 13500. (a) A person shall not construct, maintain, or use any  
26 waste well extending to or into a subterranean water-bearing  
27 stratum that is used or intended to be used as, or is suitable for, a  
28 source of water supply for domestic purposes.

29 (b) As used in this chapter, "waste well" includes any hole dug  
30 or drilled into the ground, used, or intended to be used for the  
31 disposal of waste.

32 SEC. 17. Chapter 7.3 (commencing with Section 13560) of  
33 Division 7 of the Water Code is repealed.

34 SEC. 18. Chapter 7.5 (commencing with Section 13575) of  
35 Division 7 of the Water Code is repealed.

36 SEC. 19. Division 8 (commencing with Section 18000) is added  
37 to the Water Code, to read:

DIVISION 8. WATER RECYCLING

CHAPTER 1. GENERAL

Article 1. Short Title

18000. This division shall be known and may be cited as the Water Recycling Act of 2012.

Article 2. Findings and Declarations

18001. The Legislature hereby finds and declares all of the following:

(a) The State of California is subject to periodic drought conditions, and the development of traditional water resources in California has not kept pace with the state’s growing population.

(b) The people of the state have a primary interest in the development of new basic water supplies, as that term is used in Chapter 5 (commencing with Section 12880) of Part 6 of Division 6, including maximizing recycled water use to supplement existing water supplies and to minimize the impacts of growing demand for new water on sensitive natural water bodies. As such, the state is to encourage development of water recycling facilities so that recycled water may be made available to help meet the water requirements of the state.

(c) Recycled water has been beneficially used in the state since 19\_\_, and proven to be a safe, cost-effective, and reliable method of helping to meet California’s water supply needs.

(d) A substantial portion of the future water requirements of this state may be economically met by the beneficial use of recycled water. Recycled water is a key and necessary component for California’s long-term reliable water supply, and complements demand management, improvements in efficiency, and supply augmentation strategies.

(e) The benefits of using recycled water include, but are not limited to, a reduced demand for water in the Sacramento-San Joaquin Delta that is otherwise needed to maintain water quality; reduced discharges of waste into inland surface waters and the ocean; the enhancement and protection of groundwater basins, recreation, fisheries, wetlands, and riparian areas; a reduction in

1 greenhouse gas emissions; the protection of investments in  
2 agriculture, greenbelts, and recreation; the provision of jobs; and  
3 enhancement of the state's economy through the development and  
4 implementation of recycled water projects.

5 (f) In accordance with Section 2 of Article X of the California  
6 Constitution, in order to put the water resources of the state to  
7 beneficial use to the fullest extent of which they are capable, the  
8 use of potable water or raw water from a natural stream or water  
9 course in this state is unreasonable and a waste of such water where  
10 recycled water is reasonably available in accordance with this  
11 division for the beneficial use to be served. Any use of recycled  
12 water in lieu of water suitable for potable domestic use is, to the  
13 extent of the recycled water so used, deemed to constitute a  
14 reasonable beneficial use of water, and the use of recycled water  
15 shall not cause any loss or diminution of any existing water right.

16 (g) The state board is charged with permitting the diversion of  
17 surface water for beneficial use, pursuant to Part 2 (commencing  
18 with Section 1200) of Division 2. This authority is separate and  
19 distinct from the state board's authority to regulate water quality  
20 pursuant to Division 7 (commencing with Section 13000).

21 (h) The department establishes uniform water recycling criteria  
22 for each varying type of use of recycled water where the use  
23 involves the protection of public health.

24 (i) Recycled water can be produced using different levels of  
25 treatment, as necessary and appropriate for the beneficial use to  
26 be made, and for the protection of public health and the  
27 environment.

28 (j) The use of recycled water in accordance with this division  
29 is presumed not to have adverse impacts on public health, the  
30 environment, or on the protection of beneficial uses, and to meet  
31 applicable water quality objectives in the basin plans adopted by  
32 the state board and regional boards.

33 (k) The impoundment of recycled water can augment surface  
34 storage capability, thereby increasing the quantity of recycled  
35 water that can be applied to beneficial uses, and can also reduce  
36 the unnecessary use of potable water to fill impoundments.

37 (l) It is the intent of the Legislature that the provisions of this  
38 division shall be construed to encourage the development by local  
39 public agencies and water suppliers of recycled water and its  
40 potential for use as a water source consistent with the goals of

1 Chapter 3 (commencing with Section 10608) of Part 2.55 of  
2 Division 6.

3 (m) It is the intent of the Legislature to establish a clear statutory  
4 framework for the permitting and regulation of recycled water.  
5 This division shall fully cover the requirements, permitting, and  
6 enforcement applicable to recycled water other than advanced  
7 treated purified water. Advanced treated purified water, as defined  
8 in this division, shall be permitted as a source of supply in  
9 accordance with Section \_\_\_\_ of the Health and Safety Code. The  
10 recycling of water, the supply, storage, or use of recycled water  
11 in accordance with the requirements of this division shall not be  
12 considered a discharge of waste or sewage for purposes of Section  
13 13264 or 13271, or a nuisance, except as provided in this division.

14  
15 Article 3. Definitions

16  
17 18005. As used in this division:

- 18 (a) "Recycled water" means \_\_\_\_.
- 19 (b) \_\_\_\_.

20  
21 CHAPTER 2. RECYCLING GOALS

22  
23 18010. This division establishes a statewide goal to recycle a  
24 total of 1.5 million acre-feet of water per year by the year 2020  
25 and 2.5 million acre-feet of water per year by the year 2030. The  
26 state board and regional boards, the department, the Public Utilities  
27 Commission, the Department of Water Resources, and other state  
28 agencies shall exercise the authority and discretion granted to them  
29 by the Legislature to encourage the use of recycled water and meet  
30 the goals of this division.

31  
32 CHAPTER 3. USES OF RECYCLED WATER

33  
34 Article 1. Uniform Water Recycling Criteria for Nonpotable  
35 Uses

36  
37 18020. The department shall establish and maintain uniform  
38 water recycling criteria for each varying type of nonpotable use  
39 of recycled water where the use involves protection of public  
40 health.

1 Article 2. Uniform Criteria for Potable Uses

2  
3 18030. The Legislature finds and declares the following:

4 The use of recycled water for potable reuse is critical to achieving  
5 the state's water recycling goals established in Section 18010 for  
6 increased use of recycled water in the state.

7 18032. (a) (1) The department shall investigate and report to  
8 the Legislature on the feasibility of developing uniform criteria  
9 for direct potable reuse.

10 (2) The department shall complete a public review draft of its  
11 report by June 30, 2016. The department shall provide the public  
12 not less than 45 days to review and comment on the public review  
13 draft.

14 (3) The department shall provide a final report to the Legislature  
15 by December 31, 2016. The department shall make the final report  
16 available to the public.

17 (b) In conducting the investigation pursuant to subdivision (a),  
18 the department shall examine all of the following:

19 (1) The availability and reliability of recycled water treatment  
20 technologies necessary to ensure the protection of public health.

21 (2) Multiple barriers and sequential treatment processes that  
22 may be appropriate at wastewater and water treatment facilities.

23 (3) Available information on health effects.

24 (4) Mechanisms that should be employed to protect the public  
25 health if problems are found in recycled water that is being served  
26 to the public as a potable water supply, including, but not limited  
27 to, the failure of treatment systems at the wastewater or water  
28 treatment facility.

29 (5) Monitoring needed to ensure protection of public health,  
30 including, but not limited to, the identification of appropriate  
31 indicator and surrogate constituents.

32 (6) Any other scientific or technical issues that the department  
33 determines to be necessary, including, but not limited to, the need  
34 for additional research.

35 (c) (1) Notwithstanding Section 10231.5 of the Government  
36 Code, the requirement for submitting a report imposed under  
37 paragraph (3) of subdivision (a) is inoperative on December 31,  
38 2020.

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

4

5 Article 3. Nonpotable Uses of Recycled Water

6

7 18040. (a) The use of potable water for nonpotable uses,  
8 including, but not limited to, toilet and urinal flushing in structures,  
9 cemeteries, golf courses, parks, highway landscaped areas,  
10 irrigation of residential landscaping, floor trap priming, cooling  
11 towers, air conditioning devices, and other industrial and irrigation  
12 uses, is a waste or an unreasonable use of the water within the  
13 meaning of Section 2 of Article X of the California Constitution  
14 if recycled water meeting all of the following conditions is  
15 available, as determined by the state board or regional board, after  
16 notice to any person or entity who may be ordered to use recycled  
17 water or to cease using potable water:

18 (1) The source of recycled water is of adequate quality for  
19 nonpotable uses and is available for these uses. In determining  
20 adequate quality, the state board or regional board shall consider  
21 all relevant factors, including, but not limited to, food and  
22 employee safety, and level and types of specific constituents in  
23 the recycled water affecting these uses, on a user-by-user basis.

24 (2) The recycled water may be furnished for nonpotable uses  
25 at a reasonable cost to the user. In determining reasonable cost,  
26 the state board or regional board shall consider all relevant factors,  
27 including, but not limited to, the present and projected costs of  
28 supplying, delivering, and treating potable water for these uses  
29 and the present and projected costs of supplying and delivering  
30 recycled water for these uses, and shall find that the cost of  
31 supplying the treated recycled water is comparable to, or less than,  
32 the cost of supplying potable water.

33 (3) After concurrence with the department, the use of recycled  
34 water from the proposed source will not be detrimental to the public  
35 health.

36 (4) The use of recycled water for these uses will not adversely  
37 affect downstream water rights, will not degrade water quality,  
38 and is determined not to be injurious to plantlife, fish, and wildlife.

1 (b) In making the determination pursuant to subdivision (a), the  
2 state board or regional board shall consider the impact of the cost  
3 and quality of the nonpotable water on each individual user.

4 (c) The state board or regional board may require a public  
5 agency or person subject to this article to furnish information which  
6 the state board or regional board determines to be relevant to  
7 making the determination required in subdivision (a).

8 18041. (a) The state or any local public agency, may require  
9 the use of recycled water for irrigation of residential landscaping,  
10 if all of the following requirements are met:

11 (1) The use of recycled water does not cause any loss or  
12 diminution of any existing water right.

13 (2) The irrigation systems are constructed in accordance with  
14 Chapter 3 (commencing with Section 60301) of Division 4 of Title  
15 22 of the California Code of Regulations.

16 (b) This section applies to both of the following:

17 (1) Any existing approved use that is retrofitted to receive  
18 recycled water.

19 (2) Any new use that is permitted or begins construction after  
20 January 1, 2013.

21 18042. (a) The state or any local public agency may require  
22 the use of recycled water in floor trap priming, cooling towers,  
23 and air-conditioning devices, if both of the following requirements  
24 are met:

25 (1) The use of recycled water does not cause any loss or  
26 diminution of any existing water right.

27 (2) If public exposure to aerosols, mist, or spray may occur,  
28 appropriate mist mitigation or mist control is provided, such as  
29 the use of mist arrestors or the addition of biocides to the water in  
30 accordance with criteria established pursuant to Section \_\_\_\_.

31 (b) This section applies to both of the following:

32 (1) New industrial facilities and subdivisions for which the  
33 building permit is issued on or after January 1, 2013, or, if a  
34 building permit is not required, new structures for which  
35 construction begins on or after January 1, 2013, for which the  
36 department has approved the use of recycled water.

37 (2) Any structure that is retrofitted to permit the use of recycled  
38 water for floor traps, cooling towers, or air-conditioning devices,  
39 for which the department has approved the use of recycled water.

1 18043. (a) The state or any local public agency may require  
2 the use of recycled water for toilet and urinal flushing in structures,  
3 except a mental hospital or other facility operated by a public  
4 agency for the treatment of persons with mental disorders, if all  
5 of the following requirements are met:

6 (1) The use of recycled water does not cause any loss or  
7 diminution of any existing water right.

8 (2) The public agency has prepared an engineering report  
9 pursuant to Section 60323 of Title 22 of the California Code of  
10 Regulations that includes plumbing design, cross-connection  
11 control, and monitoring requirements for the use site, which are  
12 in compliance with criteria established pursuant to Section \_\_\_\_.

13 (b) Recycled water may be used in condominiums for toilet and  
14 urinal flushing, subject to all of the following additional conditions:

15 (1) For any condominium, the lease or condominium’s  
16 declaration, as defined in Section 1351 of the Civil Code, shall  
17 provide that the laws and regulations governing recycled water  
18 apply, shall not permit any exceptions to those laws and  
19 regulations, shall incorporate the report described in subdivision  
20 (a), and shall contain the following statement:

21  
22 “NOTICE OF USE OF RECYCLED WATER  
23 This property is approved by the State Department of Public  
24 Health for the use of recycled water for toilet and urinal flushing.  
25 This water is not potable, is not suitable for indoor purposes other  
26 than toilet and urinal flushing purposes, and requires dual  
27 plumbing. Alterations and modifications to the plumbing system  
28 require a permit and are prohibited without first consulting with  
29 the appropriate local building code enforcement agency and your  
30 property management company or homeowners’ association to  
31 ensure that the recycled water is not mixed with the drinking  
32 water.”  
33

34 (2) That each project will be tested by the recycled water agency  
35 or the responsible local agency at least once every four years to  
36 ensure that there are no indications of a possible cross connection  
37 between the condominium’s potable and nonpotable systems.

38 (3) The recycled water agency or the responsible local agency  
39 shall maintain records of all tests and annual inspections conducted.

1 Article 4. Exemptions from Environmental Quality Act

2  
3 18050. Division 13 (commencing with Section 21000) of the  
4 Public Resources Code does not apply to any project that involves  
5 only the retrofit of existing plumbing systems to accommodate the  
6 use of recycled water.

7  
8 Article 5. Special Provisions

9  
10 18060. (a) The Legislature hereby finds and declares that  
11 certain coastal areas of the state have been using sea water to flush  
12 toilets and urinals as a means of conserving potable water; that  
13 this practice precludes the beneficial reuse of treated wastewater  
14 and has had a deleterious effect on the proper wastewater treatment  
15 process, and has led to corrosion of the sea water distribution  
16 pipelines and wastewater collection systems; that this situation  
17 must be changed; and that the use of recycled water in residential  
18 buildings for toilet and urinal flushing does not pose a threat to  
19 public health and safety.

20 (b) Any public agency, including a state agency, city, county,  
21 city and county, district, or any other political subdivision of the  
22 state, that is providing a separate distribution system for sea water  
23 for use in flushing toilets and urinals in residential structures may,  
24 by ordinance or regulation, as appropriate, authorize the use of  
25 recycled water for the flushing of toilets and urinals in residential  
26 structures if the level of treatment and the use of the recycled water  
27 meets the criteria set by the department.

28  
29 CHAPTER 4. PLANNING FOR RECYCLED WATER

30  
31 Article 1. Installation of Dual Piping for Irrigation

32  
33 18100. (a) If a recycled water producer determines that within  
34 10 years the recycled water producer proposes to provide recycled  
35 water for use for state landscape irrigation that meets all of the  
36 conditions set forth in Section 18040, the recycled water producer  
37 shall so notify the Department of Transportation and the  
38 Department of General Services, and shall identify in the notice  
39 the area that is eligible to receive the recycled water, and the  
40 necessary infrastructure that the recycled water producer or the

1 retail water supplier proposes to provide, to facilitate delivery of  
2 the recycled water.

3 (b) If notice has been provided pursuant to subdivision (a), all  
4 pipe installed by the Department of Transportation or the  
5 Department of General Services for landscape irrigation within  
6 the identified area shall be of the type necessary to meet the  
7 requirements of Section 116815 of the Health and Safety Code  
8 and applicable regulations.

9

10 Article 2. Studies Related to Recycled Water

11

12 18110. The Department of Water Resources shall conduct  
13 studies and investigations on the availability and quality of  
14 wastewater and the uses of recycled water for beneficial purposes,  
15 including, but not limited to, groundwater recharge, municipal and  
16 industrial use, irrigation use, and cooling for thermal electric  
17 powerplants.

18 18111. The Department of Water Resources shall study and  
19 investigate the technology of the use of recycled water and further  
20 the development of the technology of the recycling of water.

21

22 Article 3. Water Recycling in Landscaping Act

23

24 18120. If a recycled water producer determines that within 10  
25 years the recycled water producer will provide recycled water  
26 within the boundaries of a land use agency that meets all of the  
27 conditions described in Section 18040, the recycled water producer  
28 shall notify the land use agency of that fact and shall identify in  
29 the notice the area that is eligible to receive the recycled water,  
30 and the necessary infrastructure that the recycled water producer  
31 or retail water supplier will provide to support delivery of the  
32 recycled water.

33 18121. (a) Within 180 days of receipt of notification from a  
34 recycled water producer pursuant to Section 18120, the land use  
35 agency shall adopt and enforce a recycled water ordinance pursuant  
36 to this chapter.

37 (b) The ordinance shall include, but not be limited to, provisions  
38 that do all of the following:

39 (1) State that it is the policy of the land use agency that recycled  
40 water determined to be available pursuant to Section 18040 shall

1 be used for nonpotable uses within the designated recycled water  
2 use area set forth by the land use agency when the local agency  
3 determines that there is not an alternative higher or better use for  
4 the recycled water, its use is economically justified, and its use is  
5 financially and technically feasible for projects under consideration  
6 by the land use agency.

7 (2) Designate the areas within the boundaries of the land use  
8 agency that can or may in the future use recycled water, including,  
9 but not limited to, existing urban areas in lieu of potable water.

10 (3) Establish general rules and regulations governing the use  
11 and distribution of recycled water in accordance with applicable  
12 laws and regulations.

13 (4) Establish that the use of the recycled water is determined to  
14 be available pursuant to Section 18040 in new industrial,  
15 commercial, or residential subdivisions located within the  
16 designated recycled water use areas for which a tentative map or  
17 parcel map is required pursuant to Section 66426 of the  
18 Government Code. These provisions shall require a separate  
19 plumbing system to serve nonpotable uses in the common areas  
20 of the subdivision, including, but not limited to, golf courses, parks,  
21 greenbelts, landscaped streets, and landscaped medians. The  
22 separate plumbing system to serve nonpotable uses shall be  
23 independent of the plumbing system provided to serve domestic,  
24 residential, and other potable water uses in the subdivision.

25 (5) Require that recycled water service shall not commence  
26 within the designated recycled water use area in any service area  
27 of a private utility, as defined in Section 1502 of the Public Utilities  
28 Code, or to any service area of a public agency retail water supplier  
29 that is not a local agency as defined in Section \_\_\_\_\_, except in  
30 accordance with a written agreement between the recycled water  
31 producer and the private utility or public agency retail water  
32 supplier that shall be made available in a timely manner by the  
33 recycled water producer to the land use agency adopting the  
34 ordinance pursuant to this chapter.

35 18122. The recycled water ordinance adopted by a land use  
36 agency pursuant to Section 18121 shall not apply to either of the  
37 following:

38 (a) A tentative map as defined in Section 66424.5 of the  
39 Government Code, or a development, as defined in Section 65927  
40 of the Government Code, that was approved by the local agency

1 prior to the receipt of notification from a recycled water producer  
2 pursuant to Section 18120.

3 (b) A subdivision map application that is deemed complete  
4 pursuant to Section 65943 of the Government Code prior to the  
5 local agency’s receipt of a notice from a recycled water producer  
6 pursuant to Section 18120.

7 18123. (a) This chapter shall not apply to any land use agency  
8 that adopted a recycled water ordinance or other regulation  
9 requiring the use of recycled water in its jurisdiction prior to  
10 January 1, 2001.

11 (b) This chapter does not alter any rights, remedies, or  
12 obligations that may exist pursuant to Chapter 8.5 (commencing  
13 with Section 1501) of Part 1 of Division 1 of the Public Utilities  
14 Code.

15  
16 Article 4. Provisions Specific to Recycled Water Suppliers and  
17 Retail  
18

19 18130. In addition to any other authority provided in law, any  
20 water supplier described in subdivision (b) of Section 1745 may  
21 acquire, store, provide, sell, and deliver recycled water for any  
22 beneficial use, including, but not limited to, municipal, industrial,  
23 domestic, and irrigation uses, if the water use is in accordance with  
24 the uniform criteria and regulations established pursuant to this  
25 division or the uniform criteria for advanced treated purified water  
26 established pursuant to Section \_\_\_\_.

27 18131. (a) Retail water suppliers shall identify potential uses  
28 for recycled water within their service areas, potential customers  
29 for recycled water service within their service areas, and, within  
30 a reasonable time, potential sources of recycled water.

31 (b) Recycled water producers and recycled water wholesalers  
32 may also identify potential uses for recycled water, and may assist  
33 retail water suppliers in identifying potential customers for recycled  
34 water service within the service areas of those retail water suppliers.

35 (c) Recycled water producers, retail water suppliers, and entities  
36 responsible for groundwater replenishment may cooperate in joint  
37 technical, economic, and environmental studies, as appropriate,  
38 to determine the feasibility of providing recycled water service  
39 and recycled water for groundwater replenishment consistent with  
40 the criteria set forth in paragraphs (1) to (3), inclusive, of

1 subdivision (a) of Section \_\_\_\_ and in accordance with Section  
2 60320 of Title 22 of the California Code of Regulations.

3 18132. (a) A retail water supplier that has identified a potential  
4 use or customer pursuant to Section 18131 may apply to a recycled  
5 water producer or recycled water wholesaler for a recycled water  
6 supply.

7 (b) A recycled water producer or recycled water wholesaler that  
8 has identified a potential use or customer pursuant to Section 18131  
9 may request, in writing, a retail water supplier to enter into an  
10 agreement to provide recycled water to the potential customer.

11 (c) A customer may request, in writing, a retail water supplier  
12 to enter into an agreement to provide recycled water to the  
13 customer.

14 (d) (1) An entity responsible for groundwater replenishment  
15 that is a customer of a retail water supplier and that has identified  
16 the potential use of recycled water for groundwater replenishment  
17 purposes may, in writing, request that retail water supplier to enter  
18 into an agreement to provide recycled water for that purpose. That  
19 entity shall not obtain recycled water for that purpose from a  
20 recycled water producer, a recycled water wholesaler, or another  
21 retail water supplier without the agreement of the entity's retail  
22 water supplier.

23 (2) An entity responsible for groundwater replenishment that  
24 is not a customer of a retail water supplier and that has identified  
25 the potential use of recycled water for groundwater replenishment  
26 purposes may, in writing, request a retail water supplier, a recycled  
27 water producer, or a recycled water wholesaler to enter into an  
28 agreement to provide recycled water for that purpose.

29 18133. (a) (1) Subject to subdivision (e) of Section \_\_\_\_, a  
30 retail water supplier that receives a request from a customer  
31 pursuant to subdivision (c) of Section 18132 shall enter into an  
32 agreement to provide recycled water, if recycled water is available,  
33 or can be made available, to the retail water supplier for sale to  
34 the customer.

35 (2) Notwithstanding paragraph (1), in accordance with a written  
36 agreement between a recycled water producer or a recycled water  
37 wholesaler and a retail water supplier, the retail water supplier  
38 may delegate to a recycled water producer or a recycled water  
39 wholesaler its responsibility under this section to provide recycled  
40 water.

1 (b) A customer shall not obtain recycled water from a recycled  
 2 water producer, a recycled water wholesaler, or a retail water  
 3 supplier other than the retail water supplier whose service area  
 4 includes the property to which the customer requests recycled  
 5 water delivery without the agreement of the retail water supplier  
 6 for that service area.

7 (c) If either a recycled water producer or a recycled water  
 8 wholesaler provides a customer of a retail water supplier with a  
 9 written statement that it can and will provide recycled water to the  
 10 retail water supplier, the retail water supplier shall, not later than  
 11 120 days from the date on which the retail water supplier receives  
 12 the written statement from the customer, by certified mail, return  
 13 receipt requested, submit a written offer to the customer. A  
 14 determination of availability pursuant to Section \_\_\_\_ is not  
 15 required.

16 (d) If the state board, pursuant to Section \_\_\_\_, makes a  
 17 determination that there is available recycled water to serve a  
 18 customer of a retail water supplier, the retail water supplier, not  
 19 later than 120 days from the date on which the retail water supplier  
 20 receives a copy of that determination from the customer, by  
 21 certified mail, return receipt requested, shall submit a written offer  
 22 to the customer.

23

24 Article 5. Distribution of Recycled Water in Separate Purple  
 25 Pipelines  
 26

27 18140. (a) Water delivery systems on private property that  
 28 could deliver recycled water for nonpotable uses described in  
 29 Section \_\_\_\_, that are constructed on and after January 1, 1993,  
 30 shall be designed to ensure that the water to be used for potable  
 31 uses is delivered, from the point of entry to the private property  
 32 to be served, in a separate pipeline which is not used to deliver the  
 33 recycled water.

34 (b) This section applies to water delivery systems on private  
 35 property constructed within either of the following jurisdictions:

36 (1) One that has an urban water management plan that includes  
 37 the intent to develop recycled water use.

38 (2) One that does not have an urban water management plan  
 39 that includes recycled water use, but that is within five miles of a  
 40 jurisdiction that does have an urban water management plan that

1 includes recycled water use, and has indicated a willingness to  
2 serve the water delivery system.

3 (3) One that has received notice under Section \_\_\_\_.

4 (c) This section does not preempt local regulation of the delivery  
5 of water for potable and nonpotable uses and any local governing  
6 body may adopt requirements for water delivery systems on private  
7 property that are more restrictive than the requirements of this  
8 section.

9 18141. (a) All pipes installed above or below the ground, on  
10 and after June 1, 1993, that are designed to carry recycled water,  
11 shall be colored purple or distinctively wrapped with purple tape.

12 (b) Purple pipe shall be used solely for distribution of recycled  
13 water or any combination of recycled water, potable water, and  
14 raw water that the supplier may elect to use to supplement its  
15 recycled water for operational reasons.

16 (c) Subdivision (a) shall apply only in areas served by a water  
17 supplier delivering water for municipal and industrial purposes,  
18 and shall not apply to any of the following:

19 (1) Municipal or industrial facilities that have established a  
20 labeling or marking system for recycled water on their premises,  
21 as otherwise required by a local agency, that clearly distinguishes  
22 recycled water from potable water.

23 (2) Water delivered for agricultural use.

24

## 25 CHAPTER 5. PERMITTING OF RECYCLED WATER

26

27

### 28 Article 1. Authority

29

30 18200. (a) It is the intent of the Legislature that the department  
31 permit potable reuse projects using advanced treated purified water.

32 (b) It is the intent of the Legislature that the state board and  
33 regional boards permit nonpotable reuse projects and potable reuse  
34 projects using potable water other than advanced treated purified  
35 water.

36

37

### 38 Article 2. Permits

39

40 18210. (a) A water recycling permit may be issued to a  
producer, wholesaler, or supplier of recycled water, or a  
combination thereof for multiple users of recycled water.

1 (b) A water recycling permit shall include the following:

2 (1) \_\_\_\_.

3 (2) \_\_\_\_.

4 (c) With regard to requirements related to the protection of the  
5 public health, the state board and regional boards shall implement  
6 the recommendations of the department.

7 (d) Where water recycling occurs within an area covered by a  
8 municipal separate storm sewer permit issued pursuant to the  
9 federal National Pollutant Discharge Elimination System, the state  
10 board and regional water boards shall regulate incidental runoff  
11 to the extent necessary as a low threat nonstorm water discharge  
12 under the municipal separate storm sewer system permit.

13 (e) The state board and regional boards shall regulate filling  
14 and storm-induced overflow of nonpotable surface water  
15 augmentation reservoirs and other nonpotable impoundments on  
16 a case-by-case basis as the state board or a regional board  
17 determines to be necessary to avoid or minimize identified adverse  
18 impacts relating to the individual impoundment that are not  
19 addressed by uniform criteria.

20 18211. (a) In lieu of issuing a water recycling permit to a  
21 producer, wholesaler, or supplier of recycled water, general permits  
22 may be issued that provide coverage to producers, wholesalers, or  
23 suppliers, or a combination thereof.

24 (b) A general permit shall include requirements consistent with  
25 those specified in Section 18210 for an individual water recycling  
26 permit.

27  
28 Article 3. Permit Application

29  
30 18220. (a) Any recycled water producer, wholesaler, or  
31 supplier of recycled water for nonpotable purposes for which  
32 uniform criteria have been established shall file with the  
33 appropriate regional board a report of intent to recycle water  
34 containing the following information:

35 (1) \_\_\_\_.

36 (2) \_\_\_\_.

37 (3) \_\_\_\_.

38 (b) Every recycled water producer, wholesaler, or supplier of  
39 recycled water shall file with the appropriate regional board a

1 report of any material change or proposed change in the character  
2 of the recycled water or its use.

3 (c) Each report under this section shall be sworn to, or submitted  
4 under penalty of perjury.

5 (d) This section shall not be construed so as to require any report  
6 in the case of any producing, manufacturing, or processing  
7 operation involving the recycling of water solely for use in the  
8 producing, manufacturing, or processing operation.

9 18221. (a) Any person proposing a recycled water groundwater  
10 recharge project as defined in this division, within any region and  
11 in accordance with the uniform criteria, shall file with the  
12 appropriate regional board a report of intent to recycle water  
13 containing the following information:

14 (1) \_\_\_\_.

15 (2) \_\_\_\_.

16 (b) Every person recycling water or using recycled water subject  
17 to this section shall file with the appropriate regional board a report  
18 of any material change or proposed change in the character of the  
19 recycled water or its use.

20 (c) Each report under this section shall be sworn to, or submitted  
21 under penalty of perjury.

22 18222. The state board and each regional board shall consult  
23 with and receive the recommendations of the department prior to  
24 prescribing any water recycling permit as described in Section  
25 18210 or a general permit as described in Section 18211.

26 18223. (a) The state board or the regional board, as applicable,  
27 shall hold a public hearing for the adoption of any water recycling  
28 permit as described in Section 18210 or a general permit as  
29 described in Section 18211.

30 (b) The state board or the regional board, as applicable, shall  
31 provide notice and a period of at least 30 days for public comment  
32 prior to the adoption of any water recycling permit or general  
33 permit for recycled water.

34 (c) The notification required by subdivision (b) may be provided  
35 by mailing a draft of the water recycling permit or general permit  
36 to each person who has requested notice of the specific item, or  
37 by posting a draft of the respective requirements or order on the  
38 official Internet site maintained by the state board or regional  
39 board, and providing notice of that posting by electronic mail to  
40 each person who has requested notice.

1 (d) This section does not require the state board or the regional  
2 board to provide more than one notice or more than one public  
3 comment period prior to the adoption of a water recycling permit  
4 or general permit for recycled water.

5 18224. The state board and regional boards shall not deny  
6 issuance of a water recycling permit or general permit for recycled  
7 water to a project which causes or contributes to the exceedance  
8 of only a salinity standard in the basin plan.

9

10 Article 4. Permit Fees

11

12 18230. (a) Each person who is subject to a water recycling  
13 permit as described in Section 18210 or a general permit for  
14 recycled water as described in Section 18211, shall submit an  
15 annual fee according to a fee schedule established by the state  
16 board in conformance with this section.

17 (b) The total amount of annual fees collected pursuant to this  
18 section shall not exceed the amount necessary to recover costs  
19 incurred in connection with the issuance, administration, reviewing,  
20 monitoring, and enforcement of water recycling permits and general  
21 permits for recycled water.

22 (c) Recoverable costs may include, but are not limited to, costs  
23 incurred in reviewing monitoring reports; prescribing terms of  
24 water recycling permits, general permits for recycled water, and  
25 monitoring requirements; enforcing and evaluating compliance  
26 with water recycling permits and general permits for recycled  
27 water; analyzing laboratory samples; adopting, reviewing, and  
28 revising state policies as relevant to water recycling; and reviewing  
29 documents prepared for the purpose of regulating water recycling;  
30 and administrative costs incurred in connection with carrying out  
31 these actions.

32 (d) The fees paid to the state board and department for any single  
33 water recycling permit shall not exceed the amount necessary to  
34 recover the recoverable costs reasonably attributed to the permit,  
35 not to exceed ten thousand dollars (\$10,000) per year per agency.

36 (e) Notwithstanding any other provision of law, the state board  
37 or regional board may elect to charge no fee for water recycling  
38 permits in order to encourage recycling, reduce discharges, and  
39 enhance compliance with state and federal water quality laws.

1           CHAPTER 5.5. ADMINISTRATIVE AND JUDICIAL REVIEW

2  
3       18300. An aggrieved person may petition the state board to  
4 review any action or failure to act of a regional board pursuant to  
5 this division in the same manner as provided for an action or failure  
6 to act of a regional board pursuant to Division 7 (commencing  
7 with Section 13000) in accordance with Section 13320. The petition  
8 may include a request for stay of the water recycling permit or any  
9 requirements thereof. A request for stay shall be subject to the  
10 procedural requirements of Sections 13320 and 13321.

11       18301. A person aggrieved by a decision or order of a regional  
12 board subject to review under Section \_\_\_\_\_, or of a decision or  
13 order of the state board pursuant to Section \_\_\_\_\_, may obtain  
14 review of the decision or order of the regional board or state board,  
15 as appropriate, in the superior court in the same manner as provided  
16 for review of a regional board or state board decision or order  
17 under Division 7 (commencing with Section 13000) in the superior  
18 court in accordance with the procedural requirements of Section  
19 13330.

20  
21           CHAPTER 6. MONITORING AND REPORTING

22  
23       18350. (a) Any person who, without regard to intent or  
24 negligence, causes or permits an unauthorized release of 50,000  
25 gallons or more of tertiary recycled water, as defined in subdivision  
26 (c), in or on any waters of the state, or causes or permits such  
27 unauthorized release to occur where it has, or probably will, enter  
28 any waters of the state, shall, as soon as (1) that person has  
29 knowledge of the release, (2) notification is possible, and (3)  
30 notification can be provided without substantially impeding cleanup  
31 or other emergency measures, immediately notify the appropriate  
32 regional board.

33       (b) For the purposes of this section, an unauthorized release  
34 means a release of recycled water not authorized by a water  
35 recycling permit pursuant to Section 18210, a general permit  
36 pursuant to Section 18211, or any other provision of this division.

37       (c) For the purposes of this section, “tertiary recycled water”  
38 means wastewater treated as “disinfected tertiary 2.2 recycled  
39 water,” as defined or described by the department or wastewater

1 receiving advanced treatment beyond disinfected tertiary 2.2  
2 recycled water that is not advanced treated purified water.

3 (d) Incidental runoff shall be reported in accordance with this  
4 section.

5 (e) Storm-induced overflow is not an unauthorized release.

6 18351. (a) Any person refusing or failing to provide the notice  
7 required by Section 18350, or as required by a condition of a water  
8 recycling permit or a general permit for recycled water requiring  
9 notification of unauthorized releases of recycled water, may be  
10 subject to administrative civil liability in an amount not to exceed  
11 the following:

12 (1) For the first violation, or a subsequent violation occurring  
13 more than 365 days from a previous violation, five thousand dollars  
14 (\$5,000).

15 (2) For a second violation occurring within 365 days of a  
16 previous violation, ten thousand dollars (\$10,000).

17 (3) For a third or subsequent violation occurring within 365  
18 days of a previous violation, twenty-five thousand dollars  
19 (\$25,000).

20 (b) The penalties in this section supplement, and shall not  
21 supplant, any other provisions of law.

22 (c) Any penalties paid pursuant to this section shall be deposited  
23 into the Water Recycling Research Fund established pursuant to  
24 Section 18405.

25

26 CHAPTER 7. ENFORCEMENT

27

28 18400. (a) A person shall not serve or use recycled water for  
29 any purpose for which uniform criteria have been established until  
30 a water recycling permit or general permit has been established  
31 pursuant to this division or the state board or applicable regional  
32 board determines that no such requirements or permits are  
33 necessary.

34 (b) Upon the refusal or failure of any person or persons  
35 producing, wholesaling, supplying, or using recycled water to  
36 comply with subdivision (a), the Attorney General, at the request  
37 of the regional board, shall petition the superior court for the  
38 issuance of a temporary restraining order, preliminary injunction,  
39 or permanent injunction, or combination thereof, as may be  
40 appropriate, prohibiting forthwith any person or persons from

1 violating or threatening to violate the provisions of subdivision  
2 (a).

3 (c) Any person or persons producing, wholesaling, supplying,  
4 or using recycled water in violation of subdivision (a), after the  
5 violation has been called to his or her attention in writing by the  
6 state board or regional board, is guilty of a misdemeanor. Each  
7 day of production, wholesaling, supplying, or use of recycled water  
8 shall constitute a separate offense.

9 18401. (a) Any executive officer of a regional board may issue  
10 a complaint to any person on whom administrative civil liability  
11 may be imposed pursuant to this part. The complaint shall allege  
12 the act or failure to act that constitutes a violation of law, the  
13 provision of law authorizing civil liability to be imposed pursuant  
14 to this part, and the proposed civil liability.

15 (b) The complaint shall be served by certified mail or in  
16 accordance with Article 3 (commencing with Section 415.10) and  
17 Article 4 (commencing with Section 416.10) of Chapter 4 of Title  
18 5 of Part 2 of the Code of Civil Procedure, and shall inform the  
19 party so served that a hearing before the regional board shall be  
20 conducted within 90 days after the party has been served. The  
21 person who has been issued a complaint may waive the right to a  
22 hearing.

23 (c) In proceedings under this part for imposition of  
24 administrative civil liability by the state board, the executive  
25 director of the state board shall issue the complaint and any hearing  
26 shall be before the state board, or before a member of the state  
27 board in accordance with Section 183, and shall be conducted not  
28 later than 90 days after the party has been served.

29 (d) Orders imposing administrative civil liability shall become  
30 effective and final upon issuance thereof, and are not subject to  
31 review by any court or agency except as provided by Sections  
32 \_\_\_\_\_. Payment shall be made not later than 30 days from the date  
33 on which the order is issued. The time for payment is extended  
34 during the period in which a person who is subject to an order  
35 seeks review under Section \_\_\_\_\_. Copies of these orders shall be  
36 served by certified mail or in accordance with Article 3  
37 (commencing with Section 415.10) and Article 4 (commencing  
38 with Section 416.10) of Chapter 4 of Title 5 of Part 2 of the Code  
39 of Civil Procedure upon the party served with the complaint and

1 shall be provided to other persons who appeared at the hearing  
2 and requested a copy.

3 (e) Information relating to hearing waivers and the imposition  
4 of administrative civil liability, as proposed to be imposed and as  
5 finally imposed, under this section shall be made available to the  
6 public by means of the Internet.

7 18402. No person shall be subject to both civil liability imposed  
8 under this part and civil liability imposed by the superior court  
9 under Section \_\_\_\_ for the same act or failure to act.

10 18403. In determining the amount of civil liability, the regional  
11 board, and the state board upon review of any order pursuant to  
12 Section \_\_\_\_, shall take into consideration the nature, circumstance,  
13 extent, and gravity of the violation or violations, whether the  
14 release is susceptible to cleanup or abatement, and, with respect  
15 to the violator, the ability to pay, the effect on ability to continue  
16 in business, any voluntary cleanup efforts undertaken, any prior  
17 history of violations, the degree of culpability, economic benefit  
18 or savings, if any, resulting from the violation, and other matters  
19 as justice may require.

20 18404. After the time for judicial review under Section \_\_\_\_  
21 has expired, the state board may apply to the clerk of the  
22 appropriate court in the county in which the civil liability or penalty  
23 was imposed, for a judgment to collect the civil liability or penalty.  
24 The application, which shall include a certified copy of the state  
25 board or regional board action, constitutes a sufficient showing to  
26 warrant issuance of the judgment. The court clerk shall enter the  
27 judgment immediately in conformity with the application. The  
28 judgment so entered has the same force and effect as, and is subject  
29 to all the provisions of law relating to, a judgment in a civil action,  
30 and may be enforced in the same manner as any other judgment  
31 of the court in which it is entered.

32 18405. (a) A person who (1) violates a cease and desist order  
33 or cleanup and abatement order hereafter issued, reissued, or  
34 amended by a regional board or the state board pursuant to this  
35 division, or (2) in violation of a water recycling permit, waiver  
36 condition, certification, or other order or prohibition issued,  
37 reissued, or amended by a regional board or the state board  
38 pursuant to this division, causes or permits recycled water to be  
39 used except in accordance with a water recycling permit or other  
40 actions or provisions of this division, including overflow of

1 recycled water that does not constitute storm-induced overflow as  
2 defined in this division, shall be liable civilly, and remedies may  
3 be proposed, in accordance with subdivision (c) or (d).

4 (b) A person shall not be liable under subdivision (a) if the  
5 release is caused solely by any one or combination of the following:

6 (1) An act of war.

7 (2) An unanticipated grave natural disaster or other natural  
8 phenomenon of an exceptional, inevitable, and irresistible  
9 character, the effects of which could not have been prevented or  
10 avoided by the exercise of due care or foresight.

11 (3) Negligence on the part of the state, the United States, or any  
12 department or agency thereof. However, this paragraph shall not  
13 be interpreted to provide the state, the United States, or any  
14 department or agency thereof a defense to liability for any  
15 discharge caused by its own negligence.

16 (4) An intentional act of a third party, the effects of which could  
17 not have been prevented or avoided by the exercise of due care or  
18 foresight.

19 (5) Any other circumstance or event that causes the discharge  
20 despite the exercise of every reasonable precaution to prevent or  
21 mitigate the discharge.

22 (c) The court may impose civil liability either on a daily basis  
23 or on a per gallon basis, but not on both.

24 (1) The civil liability on a daily basis shall not exceed fifteen  
25 thousand dollars (\$15,000) for each day the violation occurs.

26 (2) The civil liability on a per gallon basis shall not exceed  
27 twenty dollars (\$20) for each gallon of recycled water discharged.

28 (d) The state board or a regional board may impose civil liability  
29 administratively pursuant to Section \_\_\_\_ either on a daily basis  
30 or on a per gallon basis, but not on both.

31 (1) The civil liability on a daily basis shall not exceed five  
32 thousand dollars (\$5,000) for each day the violation occurs.

33 (A) When there is a release, and a cleanup and abatement order  
34 is issued, except as provided in subdivision (f), the civil liability  
35 shall not be less than five hundred dollars (\$500) for each day in  
36 which the release occurs and for each day the cleanup and  
37 abatement order is violated.

38 (B) When there is no release, but an order issued by the regional  
39 board is violated, except as provided in subdivision (f), the civil

1 liability shall not be less than one hundred dollars (\$100) for each  
2 day in which the violation occurs.

3 (2) The civil liability on a per gallon basis shall not exceed ten  
4 dollars (\$10) for each gallon of recycled water released.

5 (e) A regional board shall not administratively impose civil  
6 liability in accordance with Section \_\_\_\_ in an amount less than  
7 the minimum amount specified, unless the regional board makes  
8 express findings setting forth the reasons for its action based upon  
9 the specific factors required to be considered pursuant to Section  
10 \_\_\_\_.

11 (f) The Attorney General, upon request of a regional board or  
12 the state board, shall petition the superior court to impose, assess,  
13 and recover the sums. Except in the case of a violation of a cease  
14 and desist order, a regional board or the state board shall make the  
15 request only after a hearing, with due notice of the hearing given  
16 to all affected persons. In determining the amount to be imposed,  
17 assessed, or recovered, the court shall be subject to Section \_\_\_\_.

18 (g) A person who incurs any liability established under this  
19 section shall be entitled to contribution for that liability from a  
20 third party, in an action in the superior court and upon proof that  
21 the release was caused in whole or in part by an act or omission  
22 of the third party, to the extent that the release is caused by the act  
23 or omission of the third party, in accordance with the principles  
24 of comparative fault.

25 (h) (1) The Legislature hereby establishes the Water Recycling  
26 Research Fund.

27 (2) Notwithstanding any other law, all funds generated by the  
28 imposition of liabilities pursuant to this section shall be deposited  
29 into the Water Recycling Research Fund. These moneys shall be  
30 separately accounted for, and shall be expended by the state board,  
31 upon appropriation by the Legislature, to conduct or fund research  
32 necessary to support the continued and safe use of recycled water  
33 in the state.

34 18406. In determining the amount of civil liability to be  
35 imposed pursuant to this chapter, the superior court shall take into  
36 consideration the nature, circumstance, extent, and gravity of the  
37 violation or violations, whether the release is susceptible to cleanup  
38 or abatement, the degree of toxicity of the release, and, with respect  
39 to the violator, the ability to pay, the effect on ability to continue  
40 in business, any voluntary cleanup efforts undertaken, any prior

1 history of violations, the degree of culpability, economic benefit  
2 or savings, if any, resulting from the violation, and such other  
3 matters as justice may require.

4 18407. (a) If the department or a local health officer finds that  
5 a contamination of potable water supplies exists as a result of the  
6 use of recycled water, the department or local health officer shall  
7 order the contamination abated in accordance with the procedure  
8 provided for in Chapter 6 (commencing with Section 5400) of Part  
9 3 of Division 5 of the Health and Safety Code.

10 (b) The use of recycled water in accordance with the uniform  
11 criteria, for the purpose of this section, does not cause, constitute,  
12 or contribute to, any form of contamination.

13

14 CHAPTER 8. FUNDING

15

16 18450. The department may assist local agencies and public  
17 utilities providing water service in applying for, and in obtaining  
18 approval of, federal and state funding and permits for cost-effective  
19 water recycling projects and shall confer and cooperate with the  
20 state board during the application and approval process.

21 18451. To implement the policy declarations of this division,  
22 the state board is authorized to provide loans for the development  
23 of water recycling facilities, or for studies and investigations in  
24 connection with water recycling, pursuant to the provisions of  
25 Chapter 6 (commencing with Section 13400) of Division 7.

26 18452. In administering any statewide program of financial  
27 assistance for water pollution or water quality control delegated  
28 to it pursuant to Chapter 6 (commencing with Section 13400) of  
29 Division 7, the state board shall give added consideration to water  
30 quality control facilities providing optimum water recycling and  
31 use of recycled water.

32 SEC. 20. No reimbursement is required by this act pursuant to  
33 Section 6 of Article XIII B of the California Constitution because  
34 the only costs that may be incurred by a local agency or school  
35 district will be incurred because this act creates a new crime or  
36 infraction, eliminates a crime or infraction, or changes the penalty  
37 for a crime or infraction, within the meaning of Section 17556 of  
38 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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