

Senate Bill No. 1018

Passed the Senate June 27, 2012

Secretary of the Senate

Passed the Assembly June 27, 2012

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 17210, 19970, 100010, 100115, and 100125 of the Education Code, to amend Section 5653.1 of, to add Section 2948 to, and to repeal Article 2 (commencing with Section 2940) of Chapter 13 of Division 3 of, the Fish and Game Code, to amend Sections 33222, 33223, 33225, 33251, 33252, 33253, 33257, 33291, 33292, 35221, and 35231 of, and to repeal and add Section 33294 of, the Food and Agricultural Code, to amend Section 65962.5 of, to repeal Sections 14669.13 and 15819.05 of, to add Article 9.7 (commencing with Section 16428.8) to Chapter 2 of Part 2 of Division 4 of Title 2 of, and to add Chapter 5 (commencing with Section 12894) to Part 2.5 of Division 3 of Title 2 of, the Government Code, to amend Sections 25173.6, 25173.7, 25174, 25185.5, 25200.14, 25201.6, 25202.5, 25244.12, 25244.13, 25244.14, 25244.15, 25244.15.1, 25244.16, 25244.17, 25244.17.1, 25244.17.2, 25244.18, 25244.19, 25244.20, 25244.21, 25244.22, 25244.23, 25269.2, 25299.50.3, 25299.81, 25390.7, 25395.30, 25395.99, 25395.119, 25404, 44299.91, 44392, and 106615 of, to amend the heading of Article 11.9 (commencing with Section 25244.12) of Chapter 6.5 of Division 20 of, to add Sections 25114.5, 25244.01, and 25244.13.1 to, to add Article 11.1 (commencing with Section 25220) to Chapter 6.5 of Division 20 of, to add Chapter 6.86 (commencing with Section 25396) to Division 20 of, to repeal Sections 25117.3, 25117.4, 25149.3, 25244.24, 25356.2, 25356.3, 25356.4, 25356.5, 25356.6, 25356.7, 25356.8, 25356.9, 25356.10, 57009, and 58004.5 of, to repeal Article 11 (commencing with Section 25220) of Chapter 6.5 of, to repeal Article 6.5 (commencing with Section 25369) of Chapter 6.8 of, to repeal Article 8 (commencing with Section 25395.1) of Chapter 6.8 of, to repeal Chapter 6.85 (commencing with Section 25396) of, to repeal Chapter 6.10 (commencing with Section 25401) of, and to repeal Chapter 6.98 (commencing with Section 25570) of, Division 20 of, the Health and Safety Code, to amend Sections 3258, 5096.255, 5930, 14574, 21155.1, 21159.21, 25740.5, 25744.5, 25746, 25751, 32605, 42474, 42649.2, and 71300 of, to add Sections 5010.6.5, and 5010.7 to, to add Chapter 8.1 (commencing with Section 25710) to Division 15 of, to add and repeal Section 5010.6 of, and to repeal Sections 25742, 25743,

25744, and 25748 of, the Public Resources Code, to amend Section 2851 of, and to add Section 748.5 to, the Public Utilities Code, to amend Section 5155 of, and to add Section 5161 to, the Vehicle Code, to amend Sections 175.5, 13201, 13202, 13207, 13388, and 13860 of, and to add Sections 147.5 and 11913.1 to, the Water Code, to amend Section 17645.40 of the 1992 School Facilities Bond Act (Section 34 of Chapter 552 of the Statutes of 1995), to amend Section 17660.40 of the 1990 School Facilities Bond Act (Section 34 of Chapter 552 of the Statutes of 1995), and to amend Section 17698.20 of the 1988 School Facilities Bond Act (Section 34 of Chapter 552 of the Statutes of 1995), relating to public resources, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

SB 1018, Committee on Budget and Fiscal Review. Public resources.

(1) Existing law establishes the Office of Education and the Environment in the California Environmental Protection Agency to implement the statewide environmental educational program and, in cooperation with the State Department of Education and the State Board of Education, develop and implement a unified education strategy on the environment for elementary and secondary schools in the state.

This bill would establish the office in the Department of Resources Recycling and Recovery instead and make conforming changes.

(2) An existing provision of the California Constitution authorizes the Legislature, at any time after the approval by the voters of a law authorizing the issuance of bonded indebtedness, to reduce the amount of the indebtedness authorized by the law to an amount not less than the amount contracted at the time of the reduction.

This bill would reduce, by prescribed amounts, the amount of bonded indebtedness authorized in the California Library Construction and Renovation Bond Act of 1988, the Public Education Facilities Bond Act of 1996, the California Park and Recreational Facilities Act of 1984, the California Wildlife, Coastal, and Park Land Conservation Act of 1988, the California

Safe Drinking Water Bond Law of 1976, the 1992 School Facilities Bond Act, the 1990 School Facilities Bond Act, and the 1988 School Facilities Bond Act.

(3) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. CEQA exempts from its provisions, among other things, certain types of ministerial projects proposed to be carried out or approved by public agencies, and emergency repairs to public service facilities necessary to maintain service.

Existing law designates the issuance of permits to operate vacuum or suction dredge equipment by the Department of Fish and Game to be a project under CEQA, and suspends the issuance of those permits until the department has completed a court-ordered environmental impact report for the project, as specified. Existing law prohibits the use of any vacuum or suction dredge equipment in any river, stream, or lake, for instream mining purposes, until the earlier of the following dates: June 30, 2016, or when the Director of Fish and Game makes a prescribed certification to the Secretary of State, including certifying that new regulations fully mitigate all identified significant environmental impacts and that a fee structure is in place that will fully cover all costs to the department related to the administration of the program.

This bill would repeal the June 30, 2016 date, and, instead, make the moratorium operative until the director makes that certification to the secretary. The bill would, in order to facilitate the making of that certification, require the department to consult with other agencies as it determines to be necessary, and, on or before April 1, 2013, prepare and submit to the Legislature a report with recommendations on statutory changes or authorizations necessary to develop the required suction dredge regulations, including, but not limited to, recommendations relating to the mitigation of all identified significant environmental impacts and a fee structure that will fully cover all program costs.

(4) Existing law establishes the Salton Sea Restoration Council as a state agency in the Natural Resources Agency to oversee the restoration of the Salton Sea.

This bill would, on January 1, 2013, eliminate the council.

(5) Existing law, the Milk and Milk Products Act of 1947, regulates the production of milk and milk products in this state and requires a permit from the Secretary of Food and Agriculture or from the approved milk inspection service maintained by the county designated by the secretary for each dairy farm in order to engage in the business of producing market milk, as defined. Existing law authorizes inspection fees to be levied by the county or, where there is no approved milk inspection service for the county, the secretary. A violation of any provision regulating the production of milk or milk products is a crime.

This bill would expand the permitting and inspection fee requirements to persons engaged in the business of producing manufacturing milk, as provided. The bill would revise the method under which the secretary assesses inspection fees, require the money collected to be placed into the Department of Food and Agriculture Fund, which may be expended upon appropriation by the Legislature, and require the secretary to establish plan review fees for sanitary design and construction review activities relating to dairy farms. Because this bill would expand the scope of a crime, it would create a state-mandated local program.

(6) Existing law requires a license from the secretary for each separate milk products plant or place of business dealing in, receiving, manufacturing, freezing, or processing milk, or any milk product, or manufacturing, freezing, or processing imitation ice cream or imitation ice milk.

This bill would raise the license fees for semifrozen milk product plants, limited manufacturing permits issued to hotels, restaurants, or boardinghouses, and butter testers, samplers and weighers, technicians, pasteurizers, and graders. The bill would also include related legislative findings.

(7) Existing law authorizes the Director of General Services to enter into an agreement to lease-purchase finance or lease with an option to purchase, with an initial option purchase price that exceeds \$2,000,000, for the purpose of providing a specified amount of square footage of office, warehouse, parking, and related facilities to consolidate the operations of state agencies in Long Beach. Existing law authorizes the State Public Works Board to issue revenue bonds, negotiable notes, or negotiable bond anticipation notes to finance the acquisition of these facilities.

This bill would delete this provision.

(8) Existing law authorizes the State Public Works Board to issue revenue bonds, negotiable notes, or negotiable bond anticipation notes to finance specified facilities pursuant to a Riverside/San Bernardino Regional Facilities Study.

This bill would delete this provision.

(9) Existing law establishes until July 1, 2014, the School District Account in the Underground Storage Tank Cleanup Fund and transfers in the 2009–10, 2010–11, and 2011–12 fiscal years \$10,000,000 per year from the fund to the account for payment of claims filed by a school district that takes corrective actions to clean up an unauthorized release from a petroleum underground storage tank.

This bill would extend the provisions establishing the School District Account from July 1, 2014, until January 1, 2016. The bill would require that funds in the School District Account not expended in a fiscal year remain in the School District Account, and that any funds remaining in the account on January 1, 2016, revert to the Underground Tank Cleanup Fund. The bill would repeal provisions specific to encumbered funds that are in the School District Account on July 1, 2012.

(10) Existing law provides for the establishment of the Underground Storage Tank Cleanup Fund and associated authority, until January 1, 2016, to pay for various costs of corrective action in regard to unauthorized releases of petroleum from underground storage tanks. Existing law provides that the repeal of the fund and associated authority does not terminate the filing and payment of claims against that fund until the moneys are exhausted.

This bill would add specified claims for corrective action filed by a school district to those claims that can be filed and paid until the Underground Storage Tank Cleanup Fund moneys are exhausted.

(11) Existing law requires an owner, lessor, or lessee who knows of or has probable cause to believe that a significant disposal of hazardous waste has occurred on, under, or into land or that the land is within 2,000 feet of a significant disposal of hazardous waste and who intends to construct or allow to be constructed on the land a building or structure for specified uses to apply with DTSC to determine whether the land is to be designated as a hazardous waste property or a border zone property. Existing law

authorizes a person to enter into an agreement with DTSC providing for the imposition of land use restrictions on the land. Existing law restricts the use of land if the land has been designated as a hazardous waste property or a border zone property. Existing law authorizes DTSC to grant a variance from the land use restrictions.

This bill would repeal the above provisions, but DTSC would retain the authority to grant a variance from the land use restrictions imposed pursuant to the repealed provisions. DTSC would also retain the authority to enter into an agreement with a property owner providing for restricting specific uses of the property.

(12) The California Expedited Remedial Action Reform Act of 1994 requires DTSC, upon the request of a responsible party, to have a site remediated pursuant to that act. That act authorizes the use of land use control as a part of the remedial plan for the site. That act authorizes DTSC to modify the land use control under specified conditions.

This bill would repeal that act. The bill would provide that the requirements of the act continue to apply to sites selected for remediation pursuant to the act before the effective date of this measure.

(13) Existing law establishes the Hazardous Substance Cleanup Arbitration Panel in the Office of Environmental Health Hazard Assessment and authorizes a responsible party to request arbitration before the panel, in lieu of a judicial process, for the purposes of apportioning liability for the costs of removal and remedial actions incurred in response to a release or threatened release of a hazardous substance into the environment.

This bill would repeal the panel and the arbitration process.

(14) Existing law authorizes a private site management team, upon the approval of DTSC, to conduct an investigation of potential hazardous substances release sites and to prepare a remedial design for the implementation of a response plan for a release site.

This bill would repeal these provisions.

(15) Existing law establishes the abandoned site program and requires DTSC to develop protocols and procedures for conducting an abandoned site survey of rural unsurveyed counties.

This bill would repeal that program.

(16) The California Land Environmental Restoration and Reuse Act authorizes a local government to implement a program to

require the owner of property that may be affected by a hazardous material release, or threat of a release, to undertake remedial action on the property.

This bill would repeal the act.

(17) Existing law, the Hazardous Waste Reduction, Recycling, and Treatment Research and Demonstration Act of 1985, requires DTSC to establish a Hazardous Waste Technology, Research, Development, and Demonstration Program, consisting of specified elements.

This bill would provide that DTSC's duty to implement that act is contingent upon, and limited to, the availability of funding, except as specified.

(18) The existing Hazardous Waste Source Reduction and Management Review Act of 1989 requires DTSC to establish a program for hazardous waste source reduction and provides for the creation and nonoperation of the California Source Reduction Advisory Committee. The act requires DTSC to establish, with regard to source reduction, various programs, including a technical and research assistance program, a technical assistance and outreach program, and a California Green Business Program.

This bill would rename the act the Pollution Prevention and Hazardous Waste Source Reduction and Management Review Act (act) and would instead provide for the creation of the California Pollution Prevention Advisory Committee, with specified membership and duties. The bill would delete the requirement that DTSC establish those source reduction technical assistance, research, and outreach programs and would instead authorize DTSC to establish a technical and research program to assist businesses in identifying and applying pollution prevention methods, to establish a technical assistance and outreach program to promote implementation of model pollution prevention measures for priority business categories, and to provide pollution prevention and training resources. The bill would also make discretionary the development of the California Green Business Program.

This bill would provide that DTSC's duty to implement the act is contingent upon, and is limited to, the availability of funding, except as provided with regard to the requirements imposed upon generators.

(19) DTSC is required, under the act, to select at least 2 categories of generators every 2 years, for specified enforcement

activities, and is authorized to request, from any generator subject to the act, a copy of the generator's source reduction evaluation review and plan. A generator is required to provide the review and plan to DTSC or unified program agency, upon request.

The bill would delete the requirements that DTSC select at least 2 categories of generators every 2 years for those specified enforcement activities.

(20) The act requires DTSC to prepare a draft work plan once every 2 years, with specified information.

This bill would instead authorize DTSC to prepare a work plan on a periodic basis, and would revise the information included in the work plan.

(21) Existing law requires DTSC to develop a low-cost voluntary program to reduce the generation of hazardous waste by large businesses.

This bill would repeal that requirement. The bill would also make conforming and technical changes.

(22) The Environmental Quality Assessment Act of 1986 requires the Director of Toxic Substances Control to develop and adopt by regulation criteria for a voluntary registration of environmental assessors.

This bill would repeal the act and make conforming changes.

(23) Existing law defines the term "phase I environmental assessment" for purposes of the provisions requiring the preparation of a phase I environmental assessment before the acquisition of a schoolsite and specifies the information that a phase I environmental assessment may include.

This bill would revise the definition of a phase I environmental assessment to require the assessment to meet the current requirements adopted by the American Society for Testing and Materials (ASTM) for Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process or certain federal regulations. The bill would impose a state-mandated local program by imposing new duties upon local agencies.

(24) Existing law, the California Global Warming Solutions Act of 2006, designates the State Air Resources Board (state board) as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved

by 2020, and to adopt rules and regulations in an open public process to achieve the maximum, technologically feasible, and cost-effective greenhouse gas emissions reductions. The act authorizes the state board to include use of market-based compliance mechanisms. The act authorizes the state board to adopt a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to the act, and requires the revenues collected pursuant to that fee schedule be deposited into the Air Pollution Control Fund and be available, upon appropriation by the Legislature, for the purposes of carrying out the act.

This bill would create the Greenhouse Gas Reduction Fund as a special fund in the State Treasury and would require any money collected by the state board from the auction or sale of allowances pursuant to a market-based compliance mechanism to be deposited into the fund and available for appropriation by the Legislature. The bill would require a state agency, prior to expending any money appropriated to it by the Legislature from the fund, to prepare a record consisting of a description of proposed expenditures and of how they will further the regulatory purposes of the Global Warming Solutions Act of 2006, of how they will achieve specified greenhouse gas emission reductions, how the agency considered other objectives of that act, and how the agency will document expenditure results. The bill would declare that these provisions do not amend the act or the authority of the state board to adopt and implement a fee pursuant to the act, and would declare expenditures of moneys from the fund severable, as specified.

This bill would require the Department of Finance, on or before January 10, 2013, to submit a proposed bill to the Legislature that provides a detailed spending plan for the expenditure of moneys from the Greenhouse Gas Reduction Fund, as specified, if the Legislature does not pass a bill, on or before August 31, 2012, that, among other things, specifies a process for the establishment of a long-term spending strategy for these funds. The bill would establish a Cost of Implementation Account in the Air Pollution Control Fund and require fees collected from sources of greenhouse gas emissions to be deposited into this account and available upon appropriation by the Legislature for purposes of carrying out the California Global Warming Solutions Act of 2006.

(25) Under existing law, the state board is required to consult with other states, and the federal government, and other nations to identify the most effective strategies and methods to, among other things, reduce greenhouse gases.

This bill would impose conditions on nongovernmental entities created to assist the state board in the implementation of the Global Warming Solutions Act of 2006. It would also impose limitations on any link, as defined, between the state and another state, province, or country for purposes of a market-based compliance mechanism, by, among other things, prohibiting any state agency, including the state board, from taking any action to create such a link unless the state agency notifies the Governor, and the Governor issues specified written findings on the proposed link, that consider the advice of the Attorney General. The bill would require the state board to give notice to the Joint Legislative Budget Committee before undertaking expenditures over \$150,000 connected with a specified nonprofit corporation involved in administering the extraterritorial aspects of the state's greenhouse gas reduction program. It would also require the California officers on the board of that nonprofit corporation to report every 6 months to the Joint Legislative Budget Committee on certain actions of the corporation.

(26) Under the Public Utilities Act, the Public Utilities Commission (PUC) has regulatory jurisdiction over public utilities, including electrical corporations. A violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the PUC is a crime. The California Global Warming Solutions Act of 2006 and its implementing regulations provide for the direct allocation of greenhouse gas allowances to electrical corporations.

This bill would authorize the PUC to allocate, for specified clean energy programs, up to 15% of the revenues received by electrical corporations as a result of that allocation of allowances and would require the PUC to direct the balance of those revenues to be credited directly to the residential, small business, and emissions-intensive trade-exposed retail customers of the electrical corporations, as specified. The bill would also require the PUC to require each electrical corporation to adopt a customer outreach plan in regard to the crediting of those allowance revenues, as specified. Because a violation of this requirement is a crime, this bill would impose a state-mandated local program.

(27) Existing law, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by the voters as Proposition 1B at the November 7, 2006, general election, authorizes the issuance of \$19.925 billion of general obligation bonds for specified purposes, including schoolbus retrofit and replacement purposes. Existing law specifies the responsibilities of various agencies with regard to implementing the bond act. Existing law also establishes various programs for the reduction of vehicular air pollution, including the Lower-Emission School Bus Program adopted by the State Air Resources Board. Existing law appropriates funds to the board and requires the board to allocate these bond funds in specified ways, including funding local air quality management districts.

This bill would require the bond funds to be transferred by January 1, 2013, if a local air district's funds, including accrued interest, are not committed by an executed contract, as reported to the board, by June 30, 2012, as provided. The bill would require the local air district and the board to, by September 30, 2012, establish a list of potential local air districts that can be the recipient of the transferred funds, with priority given to districts with the most polluting school buses and with the greatest need for school bus funding.

The bill would require each allocation of funding made by the board to a local air district to include enough funding for at least one project to be implemented pursuant to the Lower-Emission School Bus Program.

The bill would require all funds allocated by the board to a local air district to be expended by June 30, 2014, and would require all funds not expended by that date to be returned to the board.

(28) Existing law prohibits the Division of Oil, Gas, and Geothermal Resources (DOGGR) from expending, through the 2011–12 fiscal year, more than \$2,000,000 in any one fiscal year for the purpose of hazardous or idle-deserted wells. The division is prohibited from expending, commencing with the 2012–13 fiscal year, more than \$1,000,000 in any one fiscal year for the purpose of hazardous or idle-deserted wells.

This bill, instead, would authorize DOGGR to expend, commencing on July 1, 2008, up to \$2,000,000 in any one fiscal year through the 2014–15 fiscal year, and up to \$1,000,000 commencing with the 2015–16 fiscal year.

(29) Existing law establishes the State Parks and Recreation Fund into which are deposited fees, rents, and other returns for use of the state parks, and moneys in the fund are available for expenditure for state park planning, acquisition, and development projects, operation of the state park system, and resource and property management and protection, when appropriated by the Legislature.

This bill would require the Department of Parks and Recreation (DPR) to develop a revenue generation program as an essential component of a long-term sustainable park funding strategy, in accordance with prescribed requirements. The bill would require that all revenues generated by the revenue program developed pursuant to the bill be deposited into the California State Park Enterprise Fund, which the bill would create. The bill would make moneys in the fund available to the department for expenditure, upon appropriation by the Legislature, to be used for specified purposes relating to revenue generating activities by specified park districts and DPR. The bill would require DPR to establish a revolving loan program and prepare guidelines for park districts to apply for funds available under the program, as prescribed.

The bill would require that the sum of \$3,000,000, unexpended and available to DPR from the California Clean Water, Clean Air Safe Neighborhood Parks, and Coastal Protection Fund, and the sum of \$10,000,000 from the unexpended balance of specified bond funds made available to DPR under the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, be transferred and deposited into the California State Park Enterprise Fund, and would authorize the expenditure of those funds, upon appropriation by the Legislature, for the purposes of the revenue generation program.

(30) Existing law authorizes DPR to collect fees, rents, and other returns for the use of any state park system area, in amounts determined by DPR. Existing law requires that all revenues received by DPR during each fiscal year be paid into the State Treasury to the credit of the State Parks and Recreation Fund, and requires that those funds be available, with specified exceptions, for state park planning, acquisition, and development projects, operation of the state park system, and resource and property management and protection, when appropriated by the Legislature.

This bill would create the State Parks Revenue Incentive Subaccount within the State Parks and Recreation Fund and would require the Controller to annually transfer \$15,340,000 from the State Parks and Recreation Fund into the subaccount. The bill would continuously appropriate the money in the subaccount to DPR to create incentives for projects that are consistent with the mission of DPR and that generate revenue and would prohibit DPR from expending more than \$11,000,000 annually from the subaccount to administer, protect, develop, and interpret the property under its jurisdiction. The bill would require the Office of State Audits and Evaluations to review the activities funded from the subaccount.

The bill would require the revenue generated from projects funded by the subaccount to be deposited in the subaccount and would continuously appropriate that revenue for expenditure by DPR, of which at least 50% of the revenue would be required to be expended in the district of DPR that earned the revenue.

The bill would provide that the funds in the subaccount are available for encumbrance and expenditure until June 30, 2014, and for liquidation until June 30, 2016. The bill would make the provision establishing the subaccount inoperative on June 30, 2016, and would repeal the provision on January 1, 2017. The bill would require the Controller, on July 1, 2016, to transfer any unexpended funds remaining in the subaccount to the State Parks and Recreation Fund.

(31) Existing law authorizes the Department of Motor Vehicles (DMV) to issue specialty license plates, including environmental license plates and specified special environmental design license plates. The department is required to charge specified fees for certain services related to the issuance of those plates.

This bill would additionally authorize DMV, in consultation with DPR, to design and make available for issuance special state parks environmental license plates bearing a full-plate graphic design depicting a California redwood tree, as specified, upon payment of an additional fee by a person applying for the special plate.

(32) Existing law continuously appropriates state and federal funds in the State Water Pollution Control Revolving Fund to the State Water Resources Control Board for loans and other financial assistance for the construction of publicly owned treatment works

by a municipality, the implementation of a management program, the development and implementation of a conservation and management plan, and other related purposes in accordance with the federal Clean Water Act and the Porter-Cologne Water Quality Control Act.

This bill would state the intent of the Legislature that the State Water Resources Control Board make loans to DPR of up to \$10,000,000 each fiscal year until June 30, 2016, from the State Water Pollution Control Revolving Fund for eligible projects associated with water, wastewater, and septic systems, and other water-related projects.

(33) Existing law requires moneys deposited to the credit of the Motor Vehicle Fuel Account in the Transportation Tax Fund to be transferred monthly to the Off-Highway Vehicle Trust Fund in an amount attributable to taxes imposed upon distributions of motor vehicle fuel used in the operation of motor vehicles off highway. The Off-Highway Vehicle Trust Fund is administered by DPR, and moneys in the fund are available, upon appropriation, to the department.

This bill would require the Controller to transfer the sum of \$21,000,000 on July 1, 2012, to the Department of Parks and Recreation Fund from moneys in the Motor Vehicle Fuel Account that would otherwise be deposited into the Off-Highway Motor Vehicle Fund.

(34) The Reliable Electric Service Investments Act required the PUC to require the state's 3 largest electrical corporations, until January 1, 2012, to identify a separate electrical rate component, commonly referred to as the "public goods charge," to collect specified amounts to fund energy efficiency, renewable energy, and research, development, and demonstration programs that enhance system reliability and provide in-state benefits, including the California Solar Initiative. An existing decision of the PUC institutes an Electric Program Investment Charge (EPIC), subject to refund, to fund renewable energy and research, development, and demonstration programs.

This bill would create in the State Treasury the Electric Program Investment Charge Fund to be administered by the State Energy Resources Conservation and Development Commission (Energy Commission). The bill would require moneys received by the PUC for those EPIC programs the PUC has determined should be

administered by the Energy Commission to be forwarded by the PUC to the Energy Commission at least quarterly for deposit in the fund, as specified. This bill would revise language regarding funding for the California Solar Initiative to conform with the termination of the “public goods charge.”

(35) Existing law establishes the Renewable Energy Resources Program for the purposes of optimizing public investment and ensuring the most cost-effective and efficient investment in renewable energy resources. Existing law establishes the Renewable Resource Trust Fund, and upon appropriation by the Legislature in the annual Budget Act, moneys in the fund may be expended for the administration of the program and state expenditures associated with an accounting system. The remaining moneys in the fund are deposited in various accounts within the fund, and those moneys and accounts are continuously appropriated to the commission to implement the program. Existing law requires the Energy Commission to administer the program.

This bill would revise and recast the program to conform these provisions with the termination of the public goods charge and, except for the Emerging Renewable Resources Account, would eliminate the accounts within the fund. The bill would continuously appropriate the money in the Emerging Renewable Resources Account to the Energy Commission to close out the award of incentives for emerging technologies and consumer education activities, as specified.

(36) Existing law establishes the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, and prescribes the functions, duties, and membership of the conservancy. Existing law requires that the governing board of the conservancy consist of 13 voting members and 7 nonvoting members, and requires that the voting members include 2 members of the board of directors of the San Gabriel Valley Council of Governments, one of whom shall be a mayor or city council member of a city bordering along the San Gabriel River, and one of whom shall be a mayor or a city council member of a city bordering the San Gabriel Mountains area. Existing law further requires that one member be appointed by a majority of the membership of that board of directors, and one member be appointed by the Senate Committee on Rules from a list of 2 or more potential members submitted by the board of directors.

This bill would authorize the Senate Committee on Rules, if the San Gabriel Valley Council of Governments fails to provide to the Senate Committee on Rules a list of 2 or more potential members at least 30 days prior to the date a current appointee's term of office ends, to appoint a mayor or city council member of a city bordering along the San Gabriel River or the San Gabriel Mountains, or a member of the public who resides within the territory of the conservancy.

(37) Existing law, the California Beverage Container Recycling and Litter Reduction Act (act), requires a distributor to pay a redemption payment no later than the 2nd month following the sale of a beverage container, between February 1, 2010, and June 30, 2012, and, after that date, to make that payment no later than the 3rd month following the sale. Existing law requires the payments to be made to the Department of Resources Recycling and Recovery (CalRecycle), which is required to deposit those amounts in the California Beverage Container Recycling Fund. Under existing law, the money in the fund is continuously appropriated to CalRecycle. A violation of the act is a crime.

This bill would instead require, as of July 1, 2012, that the payment be made no later than the last day of the month following the sale, thereby imposing a state-mandated local program by changing the definition of a crime.

(38) The Electronic Waste Recycling Act of 2003 requires a retailer selling a covered electronic device in this state to collect an electronic waste recycling fee and to transmit the fee to CalRecycle. Existing law provides for the administration of the act by both CalRecycle and DTSC and authorizes CalRecycle to administratively impose civil liability for each sale of a covered electronic device for which a covered electronic waste recycling fee has not been paid and against manufacturers for failure to comply with the act. The fines and penalties collected under the act are required to be deposited in the Electronic Waste Penalty Subaccount, and CalRecycle and the DTSC are authorized to expend the fines and penalties deposited in the subaccount, upon appropriation by the Legislature. CalRecycle is required to make electronic waste recovery payments directly to an authorized collector or to a covered electronic waste recycler that meets specified eligibility requirements for payment to an authorized

collector and to make electronic waste recycling payments to a covered electronic waste recycler.

This bill would authorize CalRecycle to administratively impose civil liability against a person who makes a false statement or representation in a document filed, submitted, maintained, or used for purposes of compliance with the act. The bill would authorize CalRecycle to revoke the approval or deny the renewal application of an authorized collector or covered electronic waste recycler that makes a false statement or representation, and to deny an application for approval or renewal from an authorized collector or covered electronic waste recycler that, or an individual identified in the application who, has a history demonstrating a pattern of operation in conflict with the act. The bill would require a person challenging certain regulatory actions under the act, or an approved covered electronic waste recycler challenging the denial or adjustment of an electronic waste recovery payment or electronic waste recycling payment, to first exhaust all administrative remedies by filing with CalRecycle a timely administrative appeal, in accordance with the regulations adopted to implement the act.

(39) Existing law requires a business that generates more than 4 cubic yards of commercial solid waste per week to arrange for recycling services, as prescribed.

This bill would instead require a business that generates 4 cubic yards or more of commercial solid waste per week to arrange for the recycling services.

(40) Under existing law, the State Water Resources Control Board and the 9 California regional water quality control boards prescribe waste discharge requirements in accordance with the federal national pollutant discharge elimination system (NPDES) permit program established by the federal Clean Water Act and the Porter-Cologne Water Quality Control Act (state act). The state act requires regional boards to consist of 9 members appointed by the Governor, one for each of 6 descriptions of qualifications enumerated in the state act and 3 not specifically associated with any of those enumerated qualifications. The state act disqualifies a person from being a member of the state board or a regional board if that person receives or has received during the previous 2 years a significant portion of his or her income directly or indirectly from a person subject to, or applicants for discharge permits pursuant to, the NPDES requirements.

This bill would revise the state act to establish regional boards of 7 members each, as specified, to be appointed by the Governor. This bill would also require the terms of office for members of each regional board to be staggered and expire in accordance with a prescribed schedule. This bill would, under specified conditions, provide that a person is not disqualified from being a member of a regional board if that person receives or has received during the previous 2 years income directly or indirectly from a person who has been issued a discharge permit by the state board or a regional board other than the one of which he or she is a member.

(41) The state act prohibits a member of the state board or a regional board from participating in specified board actions that involve the board member or any waste discharger with which the board member is connected as a director, officer, or employee, or in which the board member has a financial interest within the meaning of the Political Reform Act of 1974.

This bill would delete the provision prohibiting a board member from participating in actions that involve the member or a waste discharger with which the member is connected. The bill would specify that the limitation on a board member's financial interest applies only to a disqualifying financial interest within the meaning of the Political Reform Act of 1974.

(42) Under existing law, costs of the state water project incurred for the enhancement of fish and wildlife or for the development of public recreation are nonreimbursable from prices, rates, or charges for water or power. Existing law states the intent of the Legislature to appropriate money from the General Fund to reimburse those costs in connection with the state water project, as prescribed.

Existing law establishes the Harbors and Watercraft Revolving Fund and requires all money received by the Department of Boating and Waterways to be credited to this fund. Under existing law, fees for the issuance and renewal of a certification of numbering of a vessel by DMV are also deposited into the Harbors and Watercraft Revolving Fund and the moneys from these fees are continuously appropriated to the Department of Motor Vehicles to administer the registration program and to the Department of Boating and Waterways, as prescribed. Existing law also transfers money deposited to the credit of the Motor Vehicle Fuel Account to the Harbors and Watercraft Revolving Fund, for expenditure,

as prescribed. Under existing law, all money in the fund is also available, upon appropriation, to the Department of Boating and Waterways, DPR, the Department of Fish and Game, the Department of Food and Agriculture, and the State Water Resources Control Board for, among other things, boating-related facility development, addressing boating safety programs, boating-related spread of invasive species, and regulatory activities.

This bill would, on July 1, 2012, and each July 1 thereafter, transfer \$7,500,000 from the General Fund portion of the Harbors and Watercraft Revolving Fund to the Davis-Dolwig Account (account), which this bill would establish in the California Water Resources Development Bond Fund. This bill would, for the purposes of reimbursing costs of the State Water Resources Development System incurred for recreation and the enhancement of fish and wildlife, continuously appropriate \$7,500,000 from the account to the Department of Water Resources (DWR) and require any amount in the account in excess of \$20,000,000 on June 30 of each year to be transferred back to the Harbors and Watercraft Revolving Fund. This bill would also transfer \$2,500,000 from the General Fund portion of the Harbors and Watercraft Revolving Fund to the account and continuously appropriate \$2,500,000 from the account to DWR for the payment of state recreation and fish and wildlife enhancement costs incurred on or before December 31, 2011, and would make this transfer and appropriation inoperative upon certification of full payment of these costs by the Director of Finance. This bill would require the DWR to provide, as part of the annual Governor's budget process, details of the account balance and expenditures from the account. This bill would provide that funds made available to the DWR in the account fulfill the legislative intent to provide funds for fish and wildlife enhancements and recreation.

(43) Existing law authorizes the Governor, in certain circumstances, to direct the Controller to make transfers of money from any special funds and other accounts to the General Cash Revolving Fund.

This bill would authorize the Controller to use the Davis-Dolwig Account for cash flow loans to the General Fund in accordance with specified provisions.

(44) Existing law requires the department to prepare and submit annually, as prescribed, to the chairpersons of the fiscal committees

of the Legislature a report with regard to the budget for the State Water Resources Development System.

This bill would require the department, at least 60 days prior to the final approval of the renewal or extension of a long-term water supply contract, to present, at an informational hearing before specified committees of the Legislature, the details of the terms and conditions of the contract and how they serve as a template for the remaining long-term water supply contracts.

(45) Existing law establishes the Public Utilities Reimbursement Account into which is deposited registration fees collected from electric service providers and annual fees paid by every electrical, gas, telephone, telegraph, water, sewer system, and heat corporation and every other public utility providing service directly to customers or subscribers and subject to the jurisdiction of the commission other than a railroad.

The bill would appropriate \$139,000 from the Public Utilities Reimbursement Account to the Office of Environmental Health Hazard Assessment for staffing to perform activities related to identifying and determining inhalation standards for certain constituents of biomethane injected into a common carrier pipeline.

(46) The bill would appropriate \$1,000 from the State Parks and Recreation Fund to DPR for administrative costs.

(47) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(48) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. Section 17210 of the Education Code is amended to read:

17210. As used in this article, the following terms have the following meanings:

(a) “Administering agency” means any agency designated pursuant to Section 25502 of the Health and Safety Code.

(b) “Environmental assessor” means an environmental professional as defined in Section 312.10 of Title 40 of the Code of Federal Regulations.

(c) “Handle” has the meaning the term is given in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

(d) “Hazardous air emissions” means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(e) “Hazardous material” has the meaning the term is given in subdivision (d) of Section 25260 of the Health and Safety Code.

(f) “Operation and maintenance,” “removal action work plan,” “respond,” “response,” “response action,” and “site” have the meanings those terms are given in Article 2 (commencing with Section 25310) of the state act.

(g) “Phase I environmental assessment” means a preliminary assessment of a property to determine whether there has been or may have been a release of a hazardous material, or whether a naturally occurring hazardous material is present, based on reasonably available information about the property and the area in its vicinity. A phase I environmental assessment shall meet the most current requirements adopted by the American Society for Testing and Materials (ASTM) for Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process or meet the requirements of Part 312 (commencing with Section 312.1) of Title 40 of the Code of Federal Regulations. That ASTM Standard Practice for

Environmental Site Assessments or the requirements of Part 312 (commencing with Section 312.1) of Title 40 of the Code of Federal Regulations shall satisfy the requirements of this article for conducting a phase I environmental assessment unless and until the Department of Toxic Substances Control adopts final regulations that establish guidelines for a phase I environmental assessment for purposes of schoolsites that impose different requirements.

(h) “Preliminary endangerment assessment” means an activity that is performed to determine whether current or past hazardous material management practices or waste management practices have resulted in a release or threatened release of hazardous materials, or whether naturally occurring hazardous materials are present, which pose a threat to children’s health, children’s learning abilities, public health or the environment. A preliminary endangerment assessment requires sampling and analysis of a site, a preliminary determination of the type and extent of hazardous material contamination of the site, and a preliminary evaluation of the risks that the hazardous material contamination of a site may pose to children’s health, public health, or the environment, and shall be conducted in a manner that complies with the guidelines published by the Department of Toxic Substances Control entitled “Preliminary Endangerment Assessment: Guidance Manual,” including any amendments that are determined by the Department of Toxic Substances Control to be appropriate to address issues that are unique to schoolsites.

(i) “Proposed schoolsite” means real property acquired or to be acquired or proposed for use as a schoolsite, prior to its occupancy as a school.

(j) “Regulated substance” means any material defined in subdivision (g) of Section 25532 of the Health and Safety Code.

(k) “Release” has the same meaning the term is given in Article 2 (commencing with Section 25310) of Chapter 6.8 of Division 20 of the Health and Safety Code, and includes a release described in subdivision (d) of Section 25321 of the Health and Safety Code.

(l) “Remedial action plan” means a plan approved by the Department of Toxic Substances Control pursuant to Section 25356.1 of the Health and Safety Code.

(m) “State act” means the Carpenter-Presley-Tanner Hazardous Substance Account Act (Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code).

SEC. 2. Section 19970 of the Education Code is amended to read:

19970. Bonds in the total amount of seventy-two million four hundred five thousand dollars (\$72,405,000) (exclusive of refunding bonds), or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds shall, when sold, be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

SEC. 3. Section 100010 of the Education Code is amended to read:

100010. An amount of up to two billion twenty-five million dollars (\$2,025,000,000) of the proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the State School Building Lease-Purchase Fund.

SEC. 4. Section 100115 of the Education Code is amended to read:

100115. An amount of up to nine hundred seventy-five million dollars (\$975,000,000) of the proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the 1996 Higher Education Capital Outlay Bond Fund, which is hereby created.

SEC. 5. Section 100125 of the Education Code is amended to read:

100125. (a) Bonds in the total amount of two billion nine hundred eighty-seven million thirty-five thousand dollars (\$2,987,035,000), not including the amount of any refunding bonds issued in accordance with Section 100175, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation

of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the Higher Education Facilities Finance Committee created pursuant to Section 67353 at any different times necessary to service expenditures required by the apportionments.

SEC. 6. Section 2948 is added to the Fish and Game Code, to read:

2948. This article shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 7. Section 5653.1 of the Fish and Game Code is amended to read:

5653.1. (a) The issuance of permits to operate vacuum or suction dredge equipment is a project pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and permits may only be issued, and vacuum or suction dredge mining may only occur as authorized by any existing permit, if the department has caused to be prepared, and certified the completion of, an environmental impact report for the project pursuant to the court order and consent judgment entered in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case No. RG 05211597.

(b) Notwithstanding Section 5653, the use of any vacuum or suction dredge equipment in any river, stream, or lake of this state is prohibited until the director certifies to the Secretary of State that all of the following have occurred:

(1) The department has completed the environmental review of its existing suction dredge mining regulations, as ordered by the court in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case No. RG 05211597.

(2) The department has transmitted for filing with the Secretary of State pursuant to Section 11343 of the Government Code, a certified copy of new regulations adopted, as necessary, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) The new regulations described in paragraph (2) are operative.

(4) The new regulations described in paragraph (2) fully mitigate all identified significant environmental impacts.

(5) A fee structure is in place that will fully cover all costs to the department related to the administration of the program.

(c) (1) To facilitate its compliance with subdivision (b), the department shall consult with other agencies as it determines to be necessary, including, but not limited to, the State Water Resources Control Board, the State Department of Public Health, and the Native American Heritage Commission, and, on or before April 1, 2013, shall prepare and submit to the Legislature a report with recommendations on statutory changes or authorizations that, in the determination of the department, are necessary to develop the suction dredge regulations required by paragraph (2) of subdivision (b), including, but not limited to, recommendations relating to the mitigation of all identified significant environmental impacts and a fee structure that will fully cover all program costs.

(2) The requirement for submitting a report imposed under this subdivision is inoperative on January 1, 2017, pursuant to Section 10231.5 of the Government Code.

(3) The report submitted to the Legislature pursuant to this subdivision shall be submitted in accordance with Section 9795 of the Government Code.

(d) The Legislature finds and declares that this section, as added during the 2009–10 Regular Session, applies solely to vacuum and suction dredging activities conducted for instream mining purposes. This section does not expand or provide new authority for the department to close or regulate suction dredging conducted for regular maintenance of energy or water supply management infrastructure, flood control, or navigational purposes governed by other state or federal law.

(e) This section does not prohibit or restrict nonmotorized recreational mining activities, including panning for gold.

SEC. 8. The Legislature finds and declares that licensing, permitting, and inspection fees collected from milk producers, semifrozen milk product plants, hotels, restaurants, or boardinghouses issued limited manufacturing permits, and those engaged in the manufacture and testing of butter have not kept pace with the true cost of providing those services. Sections 10, 12, 13, 15, 16, and 17 of this act address those deficiencies by

raising the fees charged for those services to a level that more accurately reflects the reasonable costs incurred by the agency providing those services.

SEC. 9. Section 33222 of the Food and Agricultural Code is amended to read:

33222. Every person, before engaging in the business of producing market milk or manufacturing milk, shall obtain a permit from the secretary or from the approved milk inspection service that is maintained by the county designated by the secretary pursuant to this chapter for each dairy farm.

SEC. 10. Section 33223 of the Food and Agricultural Code is amended to read:

33223. If a permit is issued by an approved milk inspection service designated by the secretary to a producer of market milk or manufacturing milk, no other permit shall be required of the producer by any other approved milk inspection service.

SEC. 11. Section 33225 of the Food and Agricultural Code is amended to read:

33225. If this division and the standards that are established by or adopted pursuant to the authority that is granted in this division are complied with, a permit shall be issued by the secretary or the designated approved milk inspection service, to the dairy farm. The permit shall be issued for a period not to exceed one year.

SEC. 12. Section 33251 of the Food and Agricultural Code is amended to read:

33251. The county that maintains an approved milk inspection service where an inspection fee is levied and collected shall determine the actual cost of making an inspection of a dairy farm that produces milk within the area that is designated and assigned to that service by the secretary. Records of the cost determination shall be made and maintained by the county for examination by the secretary or other interested person.

SEC. 13. Section 33252 of the Food and Agricultural Code is amended to read:

33252. For the purpose of maintaining an approved milk inspection service, the county may, but is not required to, levy and collect an inspection fee or fees from producers of milk that is produced at dairy farms within the area that is designated and assigned to that service by the secretary.

SEC. 14. Section 33253 of the Food and Agricultural Code is amended to read:

33253. The dairy farm inspection fee shall not exceed the actual cost to the county of making the dairy farm inspection, provided that an additional 15 percent of the fees collected shall be remitted to the secretary to cover the reasonable cost of administering Sections 33082, 33118, and 33119, and the oversight requirements of the National Conference on Interstate Milk Shipments.

SEC. 15. Section 33257 of the Food and Agricultural Code is amended to read:

33257. If an approved milk inspection service inspects a dairy farm, the dairy farm inspection fee, if levied, shall be collected from the producer of milk that is produced on the dairy farm.

SEC. 16. Section 33291 of the Food and Agricultural Code is amended to read:

33291. Every person that is engaged in the production of milk outside the jurisdiction of an approved milk inspection service and every person engaged in the processing, manufacture, or distribution of milk, milk products, or products resembling milk products, in the cleaning or sanitizing of bulk milk tanker trucks, or in the processing, manufacture, or freezing of ice cream, ice milk, sherbet, or any similar frozen product shall pay a cost-related inspection fee, not to exceed the reasonable costs of the services provided, to the secretary.

SEC. 17. Section 33292 of the Food and Agricultural Code is amended to read:

33292. (a) Every milk products plant or milk handler that purchases, or otherwise acquires possession or control of, milk directly from producers shall deduct from payments that are due producers for milk, and shall pay to the secretary, the fee, not to exceed the reasonable costs of the services provided, required to be paid by the producer.

(b) For purposes of this article, “milk handler” means any person that, as owner, agent, broker, or intermediary, receives, purchases, or otherwise acquires ownership, possession, or control of milk or manufacturing milk in unprocessed or bulk form from a producer for the purpose of manufacture, processing, sale, distribution, or other handling.

(c) For purposes of this article, “producer” means any person that operates a dairy farm as defined in Section 32505.

SEC. 18. Section 33294 of the Food and Agricultural Code is repealed.

SEC. 19. Section 33294 is added to the Food and Agricultural Code, to read:

33294. (a) Every producer shall pay an inspection fee not to exceed twelve cents (\$0.12) per hundredweight of the first 482,000 pounds only on milk produced by him or her during the quarter year preceding the date the inspection fee becomes due and payable or two hundred fifty dollars (\$250), whichever is greater.

(b) Notwithstanding the fee limit specified in this section for producers, the secretary may increase the inspection fee by an amount not to exceed one-half cent (\$0.005) per hundredweight per annum.

(c) The secretary shall annually fix the fees at an amount not to exceed actual reasonable program costs for administration of this chapter, and may adjust the per hundredweight fee whenever he or she finds that the cost of administering the provisions of this chapter can be defrayed from revenues derived from lower rates. Any money collected by the secretary pursuant to this section shall be paid into the Department of Food and Agriculture Fund.

(d) The secretary shall charge a dairy farm all actual direct costs for initial and any followup dairy farm inspections for a facility out of compliance with the initial inspection. However, in no event shall the fee for an initial inspection exceed the limitation established in subdivisions (a) and (b).

(e) The secretary shall establish plan review fees for sanitary design and construction review activities relating to dairy farms pursuant to Chapter 5 (commencing with Section 33451).

SEC. 20. Section 35221 of the Food and Agricultural Code is amended to read:

35221. (a) Every person that is engaged in the business of dealing in, receiving, manufacturing, freezing, or processing ice cream, ice milk, sherbet, or any similar frozen product, of manufacturing, freezing, or processing imitation ice cream, imitation ice milk, or any similar frozen product, or of processing any other dairy product for which a license is required, shall pay the following fees:

(1) For a license for all frozen milk products and all imitation frozen milk products, one hundred dollars (\$100) for the calendar year for which the license is issued. The fee for the renewal of this

license is one hundred dollars (\$100), plus one dollar (\$1) for each additional 10,000 gallons or fraction of 10,000 gallons over and above 20,000 gallons that were manufactured during the preceding year, ending December 31.

(2) For a semifrozen (soft-serve) milk products plant license issued to persons making application under Section 33704, two hundred twenty-five dollars (\$225) for the calendar year for which the semifrozen (soft-serve) milk products plant license is issued. The fee for the renewal of this license is two hundred twenty-five dollars (\$225).

(3) For a limited packaging permit issued to a licensed semifrozen (soft-serve) milk products plant making application under subdivision (b) of Section 33704, three hundred dollars (\$300) for issuance of the initial permit. The fee for the annual renewal of this permit is one hundred fifty dollars (\$150).

(4) For a limited manufacturing permit issued to a hotel, restaurant, or boardinghouse pursuant to Section 35016, two hundred twenty-five dollars (\$225) for the initial permit. The fee for the annual renewal of this permit shall be two hundred twenty-five dollars (\$225).

(5) For a person, except a hospital or sanitarium, that is engaged in the business of manufacturing any diabetic or dietetic frozen milk product or mix, one hundred dollars (\$100) for the calendar year for which a diabetic or dietetic frozen milk products license is issued. The fee for the renewal of this license is one hundred dollars (\$100).

(6) For any other product for which a license is required, one hundred dollars (\$100) for the calendar year for which the license is issued. The fee for the renewal of this license is one hundred dollars (\$100), plus one dollar (\$1) for each additional 10,000 pounds or fraction of 10,000 pounds over and above the first 100,000 pounds, of milk fat that was purchased or received during the preceding year, ending December 31.

(b) The license and permit fees required by this section shall be prorated on a quarterly basis for any licensee or permittee that commences operations after the first quarter in any calendar year, regardless of whether or not the milk products plant was licensed or permitted during the preceding calendar year.

SEC. 21. Section 35231 of the Food and Agricultural Code is amended to read:

35231. The initial and renewal fees for a tester's, sampler's and weigher's, technician's, pasteurizer's, and butter grader's license are as follows:

- (a) For a tester's license, including a nonfat milk solids tester, one hundred dollars (\$100).
- (b) For a sampler's and weigher's license, one hundred dollars (\$100).
- (c) For a limited sampler's and weigher's license, seventy-five dollars (\$75).
- (d) For a technician's license, one hundred dollars (\$100).
- (e) For a pasteurizer's license, one hundred dollars (\$100).
- (f) For a butter grader's license, one hundred dollars (\$100).

SEC. 22. Chapter 5 (commencing with Section 12894) is added to Part 2.5 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 5. GREENHOUSE GAS MARKET-BASED COMPLIANCE
MECHANISMS AND LINKAGES TO THE STATE

12894. (a) (1) The Legislature finds and declares that the establishment of nongovernmental entities, such as the Western Climate Initiative, Incorporated, and linkages with other states and countries by the State Air Resources Board or other state agencies for the purposes of implementing Division 25.5 (commencing with Section 38500) of the Health and Safety Code, should be done transparently and should be independently reviewed by the Attorney General for consistency with all applicable laws.

(2) The purpose of this section is to establish new oversight and transparency over any such linkages and related activities undertaken in relation to Division 25.5 (commencing with Section 38500) of the Health and Safety Code by the executive agencies in order to ensure consistency with applicable laws.

(b) (1) The California membership of the board of directors of the Western Climate Initiative, Incorporated, shall be modified as follows:

(A) One appointee or his or her designee who shall serve as an ex officio nonvoting member shall be appointed by the Senate Committee on Rules.

(B) One appointee or his or her designee who shall serve as an ex officio nonvoting member shall be appointed by the Speaker of the Assembly.

(C) The Chairperson of the State Air Resources Board or her or his designee.

(D) The Secretary for Environmental Protection or his or her designee.

(2) Sections 11120 through 11132 do not apply to the Western Climate Initiative, Incorporated, or to appointees specified in subparagraphs (C) and (D) of paragraph (1) when performing their duties under this section.

(c) The State Air Resources Board shall provide notice to the Joint Legislative Budget Committee, consistent with that required for Department of Finance augmentation or reduction authorizations pursuant to subdivision (e) of Section 28.00 of the annual Budget Act, of any funds over one hundred fifty thousand dollars (\$150,000) provided to the Western Climate Initiative, Incorporated, or its derivatives or subcontractors no later than 30 days prior to transfer or expenditure of these funds.

(d) The Chairperson of the State Air Resources Board and the Secretary for Environmental Protection, as the California voting representatives on the Western Climate Initiative, Incorporated, shall report every six months to the Joint Legislative Budget Committee on any actions proposed by the Western Climate Initiative, Incorporated, that affect California state government or entities located within the state.

(e) For purposes of this section, “link,” “linkage,” or “linking” means an action taken by the State Air Resources Board or any other state agency that will result in acceptance by the State of California of compliance instruments issued by any other governmental agency, including any state, province, or country, for purposes of demonstrating compliance with the market-based compliance mechanism established pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code and specified in Sections 95801 to 96022, inclusive, of Title 17 of the California Code of Regulations.

(f) A state agency, including, but not limited to, the State Air Resources Board, shall not link a market-based compliance mechanism established pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code and specified

in Sections 95801 to 96022, inclusive, of Title 17 of the California Code of Regulations with any other state, province, or country unless the state agency notifies the Governor that the agency intends to take such action and the Governor, acting in his or her independent capacity, makes all of the following findings:

(1) The jurisdiction with which the state agency proposes to link has adopted program requirements for greenhouse gas reductions, including, but not limited to, requirements for offsets, that are equivalent to or stricter than those required by Division 25.5 (commencing with Section 38500) of the Health and Safety Code.

(2) Under the proposed linkage, the State of California is able to enforce Division 25.5 (commencing with Section 38500) of the Health and Safety Code and related statutes, against any entity subject to regulation under those statutes, and against any entity located within the linking jurisdiction to the maximum extent permitted under the United States and California Constitutions.

(3) The proposed linkage provides for enforcement of applicable laws by the state agency or by the linking jurisdiction of program requirements that are equivalent to or stricter than those required by Division 25.5 (commencing with Section 38500) of the Health and Safety Code.

(4) The proposed linkage and any related participation of the State of California in Western Climate Initiative, Incorporated, shall not impose any significant liability on the state or any state agency for any failure associated with the linkage.

(g) The Governor shall issue findings pursuant to subdivision (f) within 45 days of receiving a notice from a state agency, and shall provide those findings to the Legislature. The findings shall consider the advice of the Attorney General. The findings to be submitted to the Legislature shall not be unreasonably withheld.

SEC. 23. Section 14669.13 of the Government Code is repealed.

SEC. 24. Section 15819.05 of the Government Code is repealed.

SEC. 25. Article 9.7 (commencing with Section 16428.8) is added to Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, to read:

Article 9.7. GREENHOUSE GAS REDUCTION FUND AND
COST OF IMPLEMENTATION ACCOUNT

16428.8. (a) The Greenhouse Gas Reduction Fund, hereafter referred to in this article as the fund, is hereby created as a special fund in the State Treasury.

(b) Except for fines and penalties, all moneys collected by the State Air Resources Board from the auction or sale of allowances, pursuant to a market-based compliance mechanism established pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code and specified in Sections 95800 to 96022, inclusive, of Title 17 of the California Code of Regulations, shall be deposited in the fund and available for appropriation by the Legislature.

(c) All moneys deposited in the fund shall be appropriated and shall be separately identified in the annual Budget Act. No moneys from the General Fund or any other fund shall be deposited in the fund.

(d) Notwithstanding any other law, the Controller may use the moneys in the fund for cash flow loans to the General Fund as provided in Sections 16310 and 16381.

(e) Any technical amendments made by the State Air Resources Board to the regulations established under Sections 95800 to 96022, inclusive, of Title 17 of the California Code of Regulations to conform that regulation to this article shall be exempt from the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3) and from the review and approval of the Office of Administrative Law.

16428.85. (a) Except as provided in subdivision (b), the Department of Finance shall submit to the Legislature, in bill format, on or before January 10, 2013, a proposal that provides a detailed spending plan for the expenditure of moneys in the fund that includes the components specified in subdivision (b).

(b) Subdivision (a) shall not apply if the Legislature passes a bill on or before August 31, 2012, that becomes law specifying a process for the establishment of the long-term spending strategy for moneys in the fund that includes all of the following components:

- (1) Criteria and requirements for use of these moneys.
- (2) Establishment of program categories eligible for funding.

(3) The specification of a public process that the State Air Resources Board shall use to develop the strategy.

(4) The role of the Legislature in reviewing the strategy.

16428.9. (a) Prior to expending any moneys appropriated to it by the Legislature from the fund, a state agency shall prepare a record consisting of all of the following:

(1) A description of each expenditure proposed to be made by the state agency pursuant to the appropriation.

(2) A description of how a proposed expenditure will further the regulatory purposes of Division 25.5 (commencing with Section 38500) of the Health and Safety Code, including, but not limited to, the limit established under Part 3 (commencing with Section 38550) and other applicable requirements of law.

(3) A description of how a proposed expenditure will contribute to achieving and maintaining greenhouse gas emission reductions pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code.

(4) A description of how the state agency considered the applicability and feasibility of other nongreenhouse gas reduction objectives of Division 25.5 (commencing with Section 38500) of the Health and Safety Code.

(5) A description of how the state agency will document the result achieved from the expenditure to comply with Division 25.5 (commencing with Section 35800) of the Health and Safety Code.

(b) Nothing in this section alters, amends, or otherwise modifies in any manner Division 25.5 (commencing with Section 35800) of the Health and Safety Code, including the authority of the State Air Resources Board to adopt and implement a fee pursuant to that division.

(c) If any expenditure of moneys from the fund for any measure or project is determined by a court to be inconsistent with law, the funding for the remaining measures or projects shall be severable and shall not be affected.

16428.95. Notwithstanding Section 38597 of the Health and Safety Code, the Cost of Implementation Account is hereby established in the Air Pollution Control Fund, and revenues collected pursuant to that section shall be available upon appropriation by the Legislature for purposes of carrying out Division 25.5 (commencing with Section 38500) of the Health and

Safety Code, and shall be maintained separately from all other funds in the Air Pollution Control Fund.

SEC. 26. Section 65962.5 of the Government Code is amended to read:

65962.5. (a) The Department of Toxic Substances Control shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all of the following:

(1) All hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code.

(2) All land designated as hazardous waste property or border zone property pursuant to former Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20 of the Health and Safety Code.

(3) All information received by the Department of Toxic Substances Control pursuant to Section 25242 of the Health and Safety Code on hazardous waste disposals on public land.

(4) All sites listed pursuant to Section 25356 of the Health and Safety Code.

(b) The State Department of Health Services shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all public drinking water wells that contain detectable levels of organic contaminants and that are subject to water analysis pursuant to Section 116395 of the Health and Safety Code.

(c) The State Water Resources Control Board shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all of the following:

(1) All underground storage tanks for which an unauthorized release report is filed pursuant to Section 25295 of the Health and Safety Code.

(2) All solid waste disposal facilities from which there is a migration of hazardous waste and for which a California regional water quality control board has notified the Department of Toxic Substances Control pursuant to subdivision (e) of Section 13273 of the Water Code.

(3) All cease and desist orders issued after January 1, 1986, pursuant to Section 13301 of the Water Code, and all cleanup or abatement orders issued after January 1, 1986, pursuant to Section

13304 of the Water Code, that concern the discharge of wastes that are hazardous materials.

(d) The local enforcement agency, as designated pursuant to Section 18051 of Title 14 of the California Code of Regulations, shall compile as appropriate, but at least annually, and shall submit to the Department of Resources Recycling and Recovery, a list of all solid waste disposal facilities from which there is a known migration of hazardous waste. The Department of Resources Recycling and Recovery shall compile the local lists into a statewide list, which shall be submitted to the Secretary for Environmental Protection and shall be available to any person who requests the information.

(e) The Secretary for Environmental Protection shall consolidate the information submitted pursuant to this section and distribute it in a timely fashion to each city and county in which sites on the lists are located. The secretary shall distribute the information to any other person upon request. The secretary may charge a reasonable fee to persons requesting the information, other than cities, counties, or cities and counties, to cover the cost of developing, maintaining, and reproducing and distributing the information.

(f) Before a lead agency accepts as complete an application for any development project which will be used by any person, the applicant shall consult the lists sent to the appropriate city or county and shall submit a signed statement to the local agency indicating whether the project and any alternatives are located on a site that is included on any of the lists compiled pursuant to this section and shall specify any list. If the site is included on a list, and the list is not specified on the statement, the lead agency shall notify the applicant pursuant to Section 65943. The statement shall read as follows:

HAZARDOUS WASTE AND SUBSTANCES STATEMENT

The development project and any alternatives proposed in this application are contained on the lists compiled pursuant to Section 65962.5 of the Government Code. Accordingly, the project applicant is required to submit a signed statement that contains the following information:

Name of applicant:
Address:
Phone number:
Address of site (street name and number if available, and ZIP Code):
Local agency (city/county):
Assessor's book, page, and parcel number:
Specify any list pursuant to Section 65962.5 of the Government Code:
Regulatory identification number:
Date of list:

Applicant, Date

(g) The changes made to this section by the act amending this section, that takes effect January 1, 1992, apply only to projects for which applications have not been deemed complete on or before January 1, 1992, pursuant to Section 65943.

SEC. 27. Section 25114.5 is added to the Health and Safety Code, to read:

25114.5. "Environmental assessor" means an environmental professional as defined in Section 312.10 of Title 40 of the Code of Federal Regulations. Notwithstanding Section 25110, this definition shall apply for all California statutes, unless the context requires otherwise.

SEC. 28. Section 25117.3 of the Health and Safety Code is repealed.

SEC. 29. Section 25117.4 of the Health and Safety Code is repealed.

SEC. 30. Section 25149.3 of the Health and Safety Code is repealed.

SEC. 31. Section 25173.6 of the Health and Safety Code is amended to read:

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

(1) The fees collected pursuant to Section 25205.6.

(2) The fees collected pursuant to Section 25187.2, to the extent that those fees are for oversight of a removal or remedial action

taken under Chapter 6.8 (commencing with Section 25300) or Chapter 6.86 (commencing with Section 25396).

(3) Fines or penalties collected pursuant to this chapter, Chapter 6.8 (commencing with Section 25300) or Chapter 6.86 (commencing with Section 25396), except as directed otherwise by Section 25192.

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

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

(6) All money recovered pursuant to Section 25380.

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

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

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

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

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

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

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

(1) The administration and implementation of the following:

(A) Chapter 6.8 (commencing with Section 25300), except that funds shall not be expended from the Toxic Substances Control Account for purposes of Section 25354.5.

(B) Chapter 6.86 (commencing with Section 25396).

(C) Article 10 (commencing with Section 7710) of Chapter 1 of Division 4 of the Public Utilities Code, to the extent the

department has been delegated responsibilities by the secretary for implementing that article.

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

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

(A) The Human and Ecological Risk Division.

(B) The Environmental Chemistry Laboratory.

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

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

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

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

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

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

(8) For payment of all costs of actions taken pursuant to subdivision (b) of Section 25358.3, to the extent that these costs are not paid by the federal Comprehensive Environmental

Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

(9) For all costs incurred by the department in cooperation with the Agency for Toxic Substances and Disease Registry established pursuant to subsection (i) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604(i)) and all costs of health effects studies undertaken regarding specific sites or specific substances at specific sites. Funds appropriated for this purpose shall not exceed five hundred thousand dollars (\$500,000) in a single fiscal year. However, these actions shall not duplicate reasonably available federal actions and studies.

(10) For repayment of the principal of, and interest on, bonds sold pursuant to Article 7.5 (commencing with Section 25385) of Chapter 6.8.

(11) Direct site remediation costs.

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

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

(14) For allocation to the office of the Attorney General, pursuant to an interagency agreement or similar mechanism, for the support of the Toxic Substance Enforcement Program in the office of the Attorney General, in carrying out the purposes of Chapter 6.8 (commencing with Section 25300) and Chapter 6.86 (commencing with Section 25396).

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

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

(c) The funds deposited in the Toxic Substances Control Account may be appropriated by the Legislature to the Office of Environmental Health Hazard Assessment and the State Department of Public Health for the purposes of carrying out their duties pursuant to the California Environmental Contaminant

Biomonitoring Program (Chapter 8 (commencing with Section 105440) of Part 5 of Division 103).

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

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

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

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

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

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

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

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

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

(i) Notwithstanding Section 10231.5 of the Government Code, the department, on or before February 1 of each year, shall report to the Governor and the Legislature on the prior fiscal year's

expenditure of funds within the Toxic Substances Control Account for the purposes specified in subdivision (b).

SEC. 32. Section 25173.7 of the Health and Safety Code is amended to read:

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

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

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

(3) An amount that does not exceed the costs incurred by the State Board of Equalization, a private party, or other public agency, to administer and collect the fees imposed pursuant to Article 9.1 (commencing with Section 25205.1) and deposited into the Toxic Substances Control Account, for the purpose of reimbursing the State Board of Equalization, public agency, or private party, for those costs.

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

(5) Funds not appropriated as specified in paragraphs (1) to (4), inclusive, may be appropriated for any of the purposes specified in subdivision (b) of Section 25173.6, except the purposes specified in subparagraph (C) of paragraph (1) of, and paragraph (13) of, subdivision (b) of Section 25173.6.

(b) (1) The amounts specified in paragraphs (1) to (3), inclusive, of subdivision (a) are the amounts that the Legislature intends to

appropriate for the 1998–99 fiscal year for the purposes specified in those paragraphs, and the amount specified in paragraph (4) of subdivision (a) is the amount the Legislature intends to appropriate for the 1999–2000 fiscal year for the purposes specified in that paragraph. Beginning with the 1999–2000 fiscal year, and for each fiscal year thereafter, the amounts specified in paragraphs (1) to (3), inclusive, of subdivision (a), and beginning with the 2000–01 fiscal year, and for each fiscal year thereafter, the amount specified in paragraph (4) of subdivision (a) shall be adjusted annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or by a successor agency.

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

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

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

SEC. 33. Section 25174 of the Health and Safety Code is amended to read:

25174. (a) There is in the General Fund the Hazardous Waste Control Account, which shall be administered by the director. In addition to any other money that may be deposited in the Hazardous Waste Control Account, pursuant to statute, all of the following amounts shall be deposited in the account:

(1) The fees collected pursuant to Sections 25174.1, 25205.2, 25205.5, 25205.15, and 25205.16.

(2) The fees collected pursuant to Section 25187.2, to the extent that those fees are for the oversight of corrective action taken under this chapter.

(3) Any interest earned upon the money deposited in the Hazardous Waste Control Account.

(4) Any money received from the federal government pursuant to the federal act.

(5) Any reimbursements for funds expended from the Hazardous Waste Control Account for services provided by the department

pursuant to this chapter, including, but not limited to, the reimbursements required pursuant to Sections 25201.9 and 25205.7.

(b) The funds deposited in the Hazardous Waste Control Account may be appropriated by the Legislature, for expenditure as follows:

(1) To the department for the administration and implementation of this chapter.

(2) To the department for allocation to the State Board of Equalization to pay refunds of fees collected pursuant to Sections 43051 and 43053 of the Revenue and Taxation Code and for the administration and collection of the fees imposed pursuant to Article 9.1 (commencing with Section 25205.1) that are deposited into the Hazardous Waste Control Account.

(3) To the department for the costs of performance or review of analyses of past, present, or potential environmental public health effects related to toxic substances, including extremely hazardous waste, as defined in Section 25115, and hazardous waste, as defined in Section 25117.

(4) (A) To the department for allocation to the office of the Attorney General for the support of the Toxic Substance Enforcement Program in the office of the Attorney General, in carrying out the purposes of this chapter.

(B) On or before October 1 of each year, the Attorney General shall report to the Legislature on the expenditure of any funds allocated to the office of the Attorney General for the preceding fiscal year pursuant to this paragraph and paragraph (14) of subdivision (b) of Section 25173.6. The report shall include all of the following:

(i) A description of cases resolved by the office of the Attorney General through settlement or court order, including the monetary benefit to the department and the state.

(ii) A description of injunctions or other court orders benefiting the people of the state.

(iii) A description of any cases in which the Attorney General's Toxic Substance Enforcement Program is representing the department or the state against claims by defendants or responsible parties.

(iv) A description of other pending litigation handled by the Attorney General's Toxic Substance Enforcement Program.

(C) Nothing in subparagraph (C) shall require the Attorney General to report on any confidential or investigatory matter.

(5) To the department for administration and implementation of Chapter 6.11 (commencing with Section 25404).

(c) (1) Expenditures from the Hazardous Waste Control Account for support of state agencies other than the department shall, upon appropriation by the Legislature to the department, be subject to an interagency agreement or similar mechanism between the department and the state agency receiving the support.

(2) The department shall, at the time of the release of the annual Governor's Budget, describe the budgetary amounts proposed to be allocated to the State Board of Equalization, as specified in paragraph (2) of subdivision (b) and in paragraph (3) of subdivision (b) of Section 25173.6, for the upcoming fiscal year.

(3) It is the intent of the Legislature that moneys appropriated in the annual Budget Act each year for the purpose of reimbursing the State Board of Equalization, a private party, or other public agency, for the administration and collection of the fees imposed pursuant to Article 9.1 (commencing with Section 25205.1) and deposited in the Hazardous Waste Control Account, shall not exceed the costs incurred by the State Board of Equalization, the private party, or other public agency, for the administration and collection of those fees.

(d) With respect to expenditures for the purposes of paragraphs (1) and (3) of subdivision (b) and paragraphs (1) and (2) of subdivision (b) of Section 25173.6, the department shall, at the time of the release of the annual Governor's Budget, also make available the budgetary amounts and allocations of staff resources of the department proposed for the following activities:

(1) The department shall identify, by permit type, the projected allocations of budgets and staff resources for hazardous waste facilities permits, including standardized permits, closure plans, and postclosure permits.

(2) The department shall identify, with regard to surveillance and enforcement activities, the projected allocations of budgets and staff resources for the following types of regulated facilities and activities:

(A) Hazardous waste facilities operating under a permit or grant of interim status issued by the department, and generator activities

conducted at those facilities. This information shall be reported by permit type.

(B) Transporters.

(C) Response to complaints.

(3) The department shall identify the projected allocations of budgets and staff resources for both of the following activities:

(A) The registration of hazardous waste transporters.

(B) The operation and maintenance of the hazardous waste manifest system.

(4) The department shall identify, with regard to site mitigation and corrective action, the projected allocations of budgets and staff resources for the oversight and implementation of the following activities:

(A) Investigations and removal and remedial actions at military bases.

(B) Voluntary investigations and removal and remedial actions.

(C) State match and operation and maintenance costs, by site, at joint state and federally funded National Priority List Sites.

(D) Investigation, removal and remedial actions, and operation and maintenance at the Stringfellow Hazardous Waste Site.

(E) Investigation, removal and remedial actions, and operation and maintenance at the Casmalia Hazardous Waste Site.

(F) Investigations and removal and remedial actions at nonmilitary, responsible party lead National Priority List Sites.

(G) Preremedial activities under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).

(H) Investigations, removal and remedial actions, and operation and maintenance at state-only orphan sites.

(I) Investigations and removal and remedial actions at nonmilitary, non-National Priority List responsible party lead sites.

(J) Investigations, removal and remedial actions, and operation and maintenance at Expedited Remedial Action Program sites pursuant to former Chapter 6.85 (commencing with Section 25396).

(K) Corrective actions at hazardous waste facilities.

(5) The department shall identify, with regard to the regulation of hazardous waste, the projected allocation of budgets and staff resources for the following activities:

(A) Determinations pertaining to the classification of hazardous wastes.

(B) Determinations for variances made pursuant to Section 25143.

(C) Other determinations and responses to public inquiries made by the department regarding the regulation of hazardous waste and hazardous substances.

(6) The department shall identify projected allocations of budgets and staff resources needed to do all of the following:

(A) Identify, remove, store, and dispose of, suspected hazardous substances or hazardous materials associated with the investigation of clandestine drug laboratories.

(B) Respond to emergencies pursuant to Section 25354.

(C) Create, support, maintain, and implement the railroad accident prevention and immediate deployment plan developed pursuant to Section 7718 of the Public Utilities Code.

(7) The department shall identify projected allocations of budgets and staff resources for the administration and implementation of the unified hazardous waste and hazardous materials regulatory program established pursuant to Chapter 6.11 (commencing with Section 25404).

(8) The department shall identify the total cumulative expenditures of the Regulatory Structure Update and Site Mitigation Update projects since their inception, and shall identify the total projected allocations of budgets and staff resources that are needed to continue these projects.

(9) The department shall identify the total projected allocations of budgets and staff resources that are necessary for all other activities proposed to be conducted by the department.

(e) Notwithstanding this chapter, or Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, for any fees, surcharges, fines, penalties, and funds that are required to be deposited into the Hazardous Waste Control Account or the Toxic Substances Control Account, the department, with the approval of the Secretary for Environmental Protection, may take any of the following actions:

(1) Assume responsibility for, or enter into a contract with a private party or with another public agency, other than the State Board of Equalization, for the collection of any fees, surcharges, fines, penalties and funds described in subdivision (a) or otherwise described in this chapter or Chapter 6.8 (commencing with Section

25300), for deposit into the Hazardous Waste Control Account or the Toxic Substances Control Account.

(2) Administer, or by mutual agreement, contract with a private party or another public agency, for the making of those determinations and the performance of functions that would otherwise be the responsibility of the State Board of Equalization pursuant to this chapter, Chapter 6.8 (commencing with Section 25300), or Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, if those activities and functions for which the State Board of Equalization would otherwise be responsible become the responsibility of the department or, by mutual agreement, the contractor selected by the department.

(f) If, pursuant to subdivision (e), the department, or a private party or another public agency, pursuant to a contract with the department, performs the determinations and functions that would otherwise be the responsibility of the State Board of Equalization, the department shall be responsible for ensuring that persons who are subject to the fees specified in subdivision (e) have equivalent rights to public notice and comment, and procedural and substantive rights of appeal, as afforded by the procedures of the State Board of Equalization pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code. Final responsibility for the administrative adjustment of fee rates and the administrative appeal of any fees or penalty assessments made pursuant to this section may only be assigned by the department to a public agency.

(g) If, pursuant to subdivision (e), the department, or a private party or another public agency, pursuant to a contract with the department, performs the determinations and functions that would otherwise be the responsibility of the State Board of Equalization, the department shall have equivalent authority to make collections and enforce judgments as provided to the State Board of Equalization pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code. Unpaid amounts, including penalties and interest, shall be a perfected and enforceable state tax lien in accordance with Section 43413 of the Revenue and Taxation Code.

(h) The department, with the concurrence of the Secretary for Environmental Protection, shall determine which administrative

functions should be retained by the State Board of Equalization, administered by the department, or assigned to another public agency or private party pursuant to subdivisions (e), (f), and (g).

(i) The department may adopt regulations to implement subdivisions (e) to (h), inclusive.

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

(k) The department shall establish, within the Hazardous Waste Control Account, a reserve of at least one million dollars (\$1,000,000) each year to ensure that all programs funded by the Hazardous Waste Control Account will not be adversely affected by any revenue shortfalls.

SEC. 34. Section 25185.5 of the Health and Safety Code is amended to read:

25185.5. For a property that is designated as a hazardous waste property or border zone property pursuant to the former Article 11 (commencing with Section 25220), an authorized representative of the department may, at any reasonable hour of the day, or as authorized pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, enter and inspect any real property that is within 2,000 feet of a deposit of hazardous waste or a hazardous waste property and do any of the following:

(a) Obtain samples of the soil, vegetation, air, water, and biota on or beneath the land.

(b) Set up and maintain monitoring equipment for the purpose of assessing or measuring the actual or potential migration of hazardous wastes on, beneath, or toward the land.

(c) Survey and determine the topography and geology of the land.

(d) Photograph any equipment, sample, activity, or environmental condition described in subdivision (a), (b), or (c). The photographs shall be subject to the requirements of subdivision (d) of Section 25185.

(e) This section does not apply to any hazardous waste facility that is required to be permitted pursuant to this chapter and that is subject to inspection pursuant to Section 25185.

(f) An inspector who inspects pursuant to this section shall make a reasonable effort to inform the owner or his or her authorized representative of the inspection and shall provide split samples to the owner or representative upon request and shall comply with the provisions of subdivision (b) of Section 25185.

SEC. 35. Section 25200.14 of the Health and Safety Code is amended to read:

25200.14. (a) For purposes of this section, “phase I environmental assessment” means a preliminary site assessment based on reasonably available knowledge of the facility, including, but not limited to, historical use of the property, prior releases, visual and other surveys, records, consultant reports, and regulatory agency correspondence.

(b) (1) Except as provided in paragraph (2) and in subdivision (i), in implementing the requirements of Section 25200.10 for facilities operating pursuant to a permit-by-rule under the regulations adopted by the department regarding transportable treatment units and fixed treatment units, which are contained in Chapter 45 (commencing with Section 67450.1) of Division 4.5 of Title 22 of the California Code of Regulations, or for generators operating pursuant to a grant of conditional authorization under Section 25200.3, the department or the unified program agency authorized to implement this section pursuant to Section 25404.1 shall require the owner or operator of the facility or the generator to complete and file a phase I environmental assessment with the department or the authorized unified program agency not later than one year from the date of adoption of the checklist specified in subdivision (f), but not later than January 1, 1997, or one year from the date that the facility or generator becomes authorized to operate, whichever date is later. After submitting a phase I environmental assessment, the owner or operator of the facility or the generator shall subsequently submit to the department or the authorized unified program agency, during the next regular reporting period, if any, updated information obtained by the facility owner or operator or the generator concerning releases subsequent to the submission of the phase I environmental assessment.

(2) Paragraph (1) does not apply to a facility owner or operator that is conducting, or has conducted, a site assessment of the entire facility or to a generator that is conducting, or has conducted, a site assessment of the entire facility of the generator in accordance

with an order issued by a California regional water quality control board or any other state or federal environmental enforcement agency.

(c) An assessment that would otherwise meet the requirements of this section that is prepared for another purpose and was completed not more than three years prior to the date by which the facility owner or operator or the generator is required to submit a phase I environmental assessment may be used to comply with this section if the assessment is supplemented by any relevant updated information reasonably available to the facility owner or operator or to the generator.

(d) The department or the unified program agency authorized to implement this section pursuant to Section 25404.1 shall not require sampling or testing as part of the phase I environmental assessment. A phase I environmental assessment shall be certified by the facility owner or operator or by the generator, or by their designee, or by a certified professional engineer, or a geologist, or an environmental assessor. The phase I environmental assessment shall indicate whether the preparer believes that further investigation, including sampling and analysis, is necessary to determine whether a release has occurred, or to determine the extent of a release from a solid waste management unit or hazardous waste management unit.

(e) (1) If the results of a phase I environmental assessment conducted pursuant to subdivision (b) indicate that further investigation is needed to determine the existence or extent of a release from a solid waste management unit or hazardous waste management unit, the facility owner or operator or the generator shall submit a schedule, within 90 days from the date of submission of the phase I environmental assessment, for that further investigation to the department or to the unified program agency authorized to implement this section pursuant to Section 25404.1. If the department or the authorized unified program agency determines, based upon a review of the phase I environmental assessment or other site-specific information in its possession, that further investigation is needed to determine the existence or extent of a release from a solid waste management unit or hazardous waste management unit, in addition to any further action proposed by the facility owner or operator or the generator, or determines that a different schedule is necessary to prevent harm to human

health and safety or to the environment, the department or the authorized unified program agency shall inform the facility owner or operator or the generator of that determination and shall set a reasonable time period in which to accomplish that further investigation.

(2) In determining if a schedule is acceptable for investigation or remediation of any facility or generator subject to this section, the department may require more expeditious action if the department determines that hazardous constituents are mobile and are likely moving toward, or have entered, a source of drinking water, as defined by the State Water Resources Control Board, or determines that more expeditious action is otherwise necessary to protect human health or safety or the environment. To the extent that the department determines that the hazardous constituents are relatively immobile, or that more expeditious action is otherwise not necessary to protect public health or safety or the environment, the department may allow a longer schedule to allow the facility or generator to accumulate a remediation fund, or other financial assurance mechanism, prior to taking corrective action.

(3) If a facility owner or operator or the generator is conducting further investigation to determine the nature or extent of a release pursuant to, and in compliance with, an order issued by a California regional water quality control board or other state or federal environmental enforcement agency, the department or the authorized unified program agency shall deem that investigation adequate for the purposes of determining the nature and extent of the release or releases that the order addressed, as the investigation pertains to the jurisdiction of the ordering agency.

(f) The department shall develop a checklist to be used by facility owners or operators and generators in conducting a phase I environmental assessment. The development and publication of the checklist is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The department shall hold at least one public workshop concerning the development of the checklist. The checklist shall not exceed the phase I requirements adopted by the American Society for Testing and Materials (ASTM) for due diligence for commercial real estate transactions. The department shall deem compliance with those ASTM standards, or compliance with the

checklist developed and published by the department, as meeting the phase I environmental assessment requirements of this section.

(g) A facility, or to the extent required by the regulations adopted by the department, a transportable treatment unit, operating pursuant to a permit-by-rule shall additionally comply with the remaining corrective action requirements specified in Section 67450.7 of Title 22 of the California Code of Regulations, in effect on January 1, 1992.

(h) A generator operating pursuant to a grant of conditional authorization pursuant to Section 25200.3 shall additionally comply with paragraph (3) of subdivision (c) of Section 25200.3.

(i) The department or the authorized unified program agency shall not require a phase I environmental assessment for those portions of a facility subject to a corrective action order issued pursuant to Section 25187, a cleanup and abatement order issued pursuant to Section 13304 of the Water Code, or a corrective action required under subsection (u) of Section 6924 of Title 42 of the United States Code or subsection (h) of Section 6928 of Title 42 of the United States Code.

SEC. 36. Section 25201.6 of the Health and Safety Code is amended to read:

25201.6. (a) For purposes of this section and Section 25205.2, the following terms have the following meaning:

(1) “Series A standardized permit” means a permit issued to a facility that meets one or more of the following conditions:

(A) The total influent volume of liquid hazardous waste treated is greater than 50,000 gallons per calendar month.

(B) The total volume of solid hazardous waste treated is greater than 100,000 pounds per calendar month.

(C) The total facility storage design capacity is greater than 500,000 gallons for liquid hazardous waste.

(D) The total facility storage design capacity is greater than 500 tons for solid hazardous waste.

(E) A volume of liquid or solid hazardous waste is stored at the facility for more than one calendar year.

(2) “Series B standardized permit” means a permit issued to a facility that does not store liquid or solid hazardous waste for a period of more than one calendar year, that does not exceed any of the upper volume limits specified in subparagraphs (A) to (D), inclusive, and that meets one or more of the following conditions:

(A) The total influent volume of liquid hazardous waste treated is greater than 5,000 gallons, but does not exceed 50,000 gallons, per calendar month.

(B) The total volume of solid hazardous waste treated is greater than 10,000 pounds, but does not exceed 100,000 pounds, per calendar month.

(C) The total facility storage design capacity is greater than 50,000 gallons, but does not exceed 500,000 gallons, for liquid hazardous waste.

(D) The total facility storage design capacity is greater than 100,000 pounds, but does not exceed 500 tons, for solid hazardous waste.

(3) “Series C standardized permit” means a permit issued to a facility that does not store liquid or solid hazardous waste for a period of more than one calendar year, that does not conduct thermal treatment of hazardous waste, with the exception of evaporation, and that either meets the requirements of paragraph (3) of subdivision (g) or meets all of the following conditions:

(A) The total influent volume of liquid hazardous waste treated does not exceed 5,000 gallons per calendar month.

(B) The total volume of solid hazardous waste treated does not exceed 10,000 pounds per calendar month.

(C) The total facility storage design capacity does not exceed 50,000 gallons for liquid hazardous waste.

(D) The total facility storage design capacity does not exceed 100,000 pounds for solid hazardous waste.

(b) The department shall adopt regulations specifying standardized hazardous waste facilities permit application forms that may be completed by a non-RCRA Series A, B, or C treatment, storage, or treatment and storage facility, in lieu of other hazardous waste facilities permit application procedures set forth in regulations. The department shall not issue permits under this section to specific classes of facilities unless the department finds that doing so will not create a competitive disadvantage to a member or members of that class that were in compliance with the permitting requirements which were in effect on September 1, 1992.

(c) The regulations adopted pursuant to subdivision (b) shall include all of the following:

(1) Require that the standardized permit notification be submitted to the department on or before October 1, 1993, for facilities existing on or before September 1, 1992, except for facilities specified in paragraphs (2) and (3) of subdivision (g). The standardized permit notification shall include, at a minimum, the information required for a Part A application as described in the regulations adopted by the department.

(2) Require that the standardized permit application be submitted to the department within six months of the submittal of the standardized permit notification. The standardized permit application shall require, at a minimum, that the following information be submitted to the department for review prior to the final permit determination:

(A) A description of the treatment and storage activities to be covered by the permit, including the type and volumes of waste, the treatment process, equipment description, and design capacity.

(B) A copy of the closure plan as required by paragraph (13) of subdivision (b) of Section 66270.14 of Title 22 of the California Code of Regulations.

(C) A description of the corrective action program, as required by Section 25200.10.

(D) Financial responsibility documents specified in paragraph (17) of subdivision (b) of Section 66270.14 of Title 22 of the California Code of Regulations.

(E) A copy of the topographical map as specified in paragraph (18) of subdivision (b) of Section 66270.14 of Title 22 of the California Code of Regulations.

(F) A description of the individual container, and tank and containment system, and of the engineer's certification, as specified in Sections 66270.15 and 66270.16 of Title 22 of the California Code of Regulations.

(G) Documentation of compliance, if applicable, with the requirements of Article 8.7 (commencing with Section 25199).

(3) Require that a facility operating pursuant to a standardized permit comply with the liability assurance requirements in Section 25200.1.

(4) Specify which of the remaining elements of the permit application, as described in subdivision (b) of Section 66270.14 of Title 22 of the California Code of Regulations, shall be the subject of a certification of compliance by the applicant.

(5) Establish a procedure for imposing an administrative penalty pursuant to Section 25187, in addition to any other penalties provided by this chapter, upon an owner or operator of a treatment or storage facility that is required to obtain a hazardous waste facilities permit and that meets the criteria for a Series A, B, or C permit listed in subdivision (a), who does not submit a standardized permit notification to the department on or before the submittal deadline specified in paragraph (1) or the submittal deadline specified in paragraph (2) or (3) of subdivision (g), whichever date is applicable, and who continues to operate the facility without obtaining a hazardous waste facilities permit or other grant of authorization from the department after the applicable deadline for submitting the notification to the department. In determining the amount of the administrative penalty to be assessed, the regulations shall require the amount to be based upon the economic benefit gained by that owner or operator as a result of failing to comply with this section.

(6) Require that a facility operating pursuant to a standardized permit comply, at a minimum, with the interim status facility operating requirements specified in the regulations adopted by the department, except that the regulations adopted pursuant to this section may specify financial assurance amounts necessary to adequately respond to damage claims at levels that are less than those required for interim status facilities if the department determines that lower financial assurance levels are appropriate.

(d) (1) Any regulations adopted pursuant to this section may be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) On and before January 1, 1995, the adoption of the regulations pursuant to paragraph (1) is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(e) The department may not grant a permit under this section unless the department has determined the adequacy of the material submitted with the application and has conducted an inspection of the facility and determined all of the following:

(1) The treatment process is an effective method of treating the waste, as described in the permit application.

(2) The corrective action plan is appropriate for the facility.

(3) The financial assurance is sufficient for the facility.

(f) (1) Interim status shall not be granted to a facility that does not submit a standardized permit notification on or before October 1, 1993, unless the facility is subject to paragraph (2) or (3) of subdivision (g).

(2) Interim status shall be revoked if the permit application is not submitted within six months of the permit notification.

(3) Interim status granted to any facility pursuant to this section and Sections 25200.5 and 25200.9 shall terminate upon a final permit determination or January 1, 1998, whichever date is earlier. This paragraph shall apply retroactively to facilities for which a final permit determination is made on or after September 30, 1995.

(4) A treatment, storage, or treatment and storage facility operating pursuant to interim status that applies for a permit pursuant to this section shall pay fees to the department in an amount equal to the fees established by subdivision (e) of Section 25205.4 for the same size and type of facility.

(g) (1) Except as provided in paragraphs (2), (3), and (4), a facility treating used oil or solvents, or that engages in incineration, thermal destruction, or any land disposal activity, is not eligible for a standardized permit pursuant to this section.

(2) (A) Notwithstanding paragraph (1), an offsite facility treating solvents is eligible for a standardized permit pursuant to this section if all of the following conditions are met:

(i) The facility exclusively treats solvent wastes, and is not required to obtain a permit pursuant to the federal act.

(ii) The solvent wastes that the facility treats are only the types of solvents generated from dry cleaning operations.

(iii) Ninety percent or more of the solvents that the facility receives are from dry cleaning operations.

(iv) Ninety percent or more of the solvents that the facility receives are recycled and sold by the facility, excluding recycling for energy recovery, provided that the facility does not produce more than 15,000 gallons per month of recycled solvents.

(B) A facility that is eligible for a standardized permit pursuant to this paragraph is also eligible for the fee exemption provided in subdivision (d) of Section 25205.12 for any year or reporting period prior to January 1, 1995, if the owner or operator complies

with the notification and application requirements of this section on or before March 1, 1995.

(C) A facility treating solvents pursuant to this paragraph shall clearly label all recycled solvents as recycled prior to subsequent sale or distribution.

(D) Notwithstanding that a facility eligible for a standardized permit pursuant to this paragraph meets the eligibility requirements for a Series C standardized permit specified in paragraph (3) of subdivision (a), the facility shall obtain and meet the requirements for a Series B standardized permit specified in paragraph (2) of subdivision (a).

(E) Notwithstanding any other provision of this chapter, for purposes of this paragraph, if the recycled material is to be used for dry cleaning, “recycled” means the removal of water and inhibitors from waste solvent and the production of dry cleaning solvent with an appropriate inhibitor for dry cleaning use. The removal of inhibitors is not required if all of the solvents received by the facility that are recycled for dry cleaning use are from dry cleaners.

(3) (A) Notwithstanding paragraph (1), an owner or operator with a surface impoundment used only to contain non-RCRA wastes generated onsite, that holds those wastes for not more than one 30-day period in any calendar year, and that meets the criteria specified in paragraphs (i) to (iii), inclusive, may submit a Series C standardized permit application to the department. A surface impoundment is eligible for operation under the Series C standardized permit tier if all of the following requirements are met:

(i) The waste and any residual materials are removed from the surface impoundment within 30 days of the date the waste was first placed into the surface impoundment.

(ii) The owner or operator has, and is in compliance with, current waste discharge requirements issued by the appropriate California regional water quality control board for the surface impoundment.

(iii) The owner or operator complies with all applicable groundwater monitoring requirements of the regulations adopted by the department pursuant to this chapter.

(B) A facility that is eligible for a standardized permit pursuant to this paragraph is also eligible for the fee exemption provided in subdivision (d) of Section 25205.12 for any year or reporting

period prior to January 1, 1996, if the owner or operator complies with the notification and application requirements of this section on or before March 1, 1996.

(4) For purposes of this subdivision, treating solvents and thermal destruction do not include the destruction of nonmetal constituents in a thermal treatment unit that is operated solely for the purpose of the recovery of precious metals, if that unit is operating pursuant to a standardized permit issued by the department and the unit is in compliance with the applicable requirements of Division 26 (commencing with Section 39000). This paragraph does not prohibit the department from specifying, in the standardized permit for such a unit, a maximum concentration of nonmetal constituents, if the department determines that this requirement is necessary for protection of human health or safety or the environment.

(h) Facilities operating pursuant to this section shall comply with Article 4 (commencing with Section 66270.40) of Chapter 20 of Division 4.5 of Title 22 of the California Code of Regulations.

(i) (1) The department shall require an owner or operator applying for a standardized permit to complete and file a phase I environmental assessment with the application. However, if a RCRA facility assessment has been performed by the department, the assessment shall be deemed to satisfy the requirement of this subdivision to complete and file a phase I environmental assessment, and the facility shall not be required to submit a phase I environmental assessment with its application.

(2) (A) For purposes of this subdivision, the phase I environmental assessment shall include a preliminary site assessment, as described in subdivision (a) of Section 25200.14, except that the phase I environmental assessment shall also include a certification, signed, except as provided in subparagraph (B), by the owner, and also by the operator if the operator is not the owner, of the facility and an independent professional engineer or geologist registered in the state, or environmental assessor.

(B) Notwithstanding subparagraph (A), the certification for a permanent household waste collection facility may be signed by any professional engineer or geologist registered in this state, or environmental assessor, including, but not limited to, such a person employed by the governmental entity, but if the facility owner is

not a governmental entity, the engineer, geologist, or assessor signing the certification shall not be employed by, or be an agent of, the facility owner.

(3) The certification specified in paragraph (2) shall state whether evidence of a release of hazardous waste or hazardous constituents has been found.

(4) If evidence of a release has been found, the facility shall complete a detailed site assessment to determine the nature and extent of any contamination resulting from the release and shall submit a corrective action plan to the department, within one year of submittal of the standardized permit application.

(j) The department shall establish an inspection program to identify, inspect, and bring into compliance any treatment, storage, or treatment and storage facility that is eligible for, and is required to obtain, a standardized hazardous waste facilities permit pursuant to this section, and that is operating without a permit or other grant of authorization from the department for that treatment or storage activity.

(k) A treatment, storage, or treatment and storage facility authorized to operate pursuant to a hazardous waste facilities permit issued pursuant to Section 25200, that meets the criteria listed in subdivision (a) for a standardized permit, may operate pursuant to a Series A, B, or C standardized permit by completing the appropriate permit modification procedure specified in the regulations for such a modification.

SEC. 37. Section 25202.5 of the Health and Safety Code is amended to read:

25202.5. (a) With respect to any hazardous waste facility permitted pursuant to Section 25200 or granted interim status pursuant to Section 25200.5, the department may do either of the following:

(1) Enter into an agreement with the owner of the hazardous waste facility that requires the execution and recording of a written instrument that imposes an easement, covenant, restriction, or servitude upon the present and future uses of all or part of the land on which the hazardous waste facility subject to the permit or grant of interim status is located and on all or part of any adjacent land held by, or for the beneficial use of, the owners of the land on which the hazardous waste facility subject to the permit or grant of interim status is located.

(2) Impose a requirement upon the owner of the hazardous waste facility, by permit modification, permit condition, or otherwise, that requires the execution and recording of a written instrument that imposes an easement, covenant, restriction, or servitude upon the present and future uses of all or part of the land on which the hazardous waste facility subject to the permit or grant of interim status is located and on all or part of any adjacent land held by, or for the beneficial use of, the owners of the land on which the hazardous waste facility subject to the permit or grant of interim status is located.

(b) (1) The easement, covenant, restriction, or servitude imposed pursuant to subdivision (a) shall be no more restrictive than needed, as determined by the department, to protect the present or future public health and safety and shall not place any restriction on any land that limits the use, modification, or expansion of an existing industrial or manufacturing facility or complex. The instrument shall be executed by all of the owners of the land and by the director, shall particularly describe the real property affected by the instrument, and shall be recorded by the owner in the office of the county recorder in each county in which all, or a portion of, the land is located within 10 days of the date of execution. The easement, covenant, restriction, or servitude shall state that the land described in the instrument has been, or will be, the site of a hazardous waste facility or is adjacent to the site of such a facility, and may impose those use restrictions as the department deems necessary to protect the present or future public health. The restrictions may include restrictions upon activities on, over, or under the land, including, but not limited to, a prohibition against building, filling, grading, excavating, or mining without the written permission of the director.

(2) A certified copy of the recorded easement, covenant, restriction, or servitude shall be sent to the department upon recordation. Notwithstanding any other law, except as provided in Section 25202.6, an easement, covenant, restriction, or servitude executed pursuant to this section and recorded so as to provide constructive notice shall run with the land from the date of recordation and shall be binding upon all of the owners of the land, their heirs, successors, and assignees, and the agents, employees, and lessees of the owners, heirs, successors, and assignees. The easement, covenant, restriction, or servitude shall be enforceable

by the department pursuant to Article 8 (commencing with Section 25180).

(c) Except as provided in subdivisions (d) and (e), any land on which is located a hazardous waste disposal facility permitted pursuant to this chapter shall be surrounded by a minimum buffer zone of 2,000 feet between the facility and the outer boundary of the buffer zone. The department may impose an easement, covenant, restriction, or servitude, or any combination thereof, as appropriate, on the buffer zone pursuant to subdivision (a). If the department determines that a buffer zone of more than 2,000 feet is necessary to protect the present and future public health and safety, the department may increase the buffer zone by restricting the disposal of hazardous waste at that facility to land surrounded by a larger buffer zone.

(d) Subdivision (c) does not apply to a property that was actually and lawfully used for the disposal of hazardous waste on August 6, 1980.

(e) If the owner of a hazardous waste disposal facility proves to the satisfaction of the department that a buffer zone of less than 2,000 feet is sufficient to protect the present and future public health and safety, the department may allow the disposal of hazardous waste onto land surrounded by a buffer zone of less than 2,000 feet.

SEC. 38. Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20 of the Health and Safety Code is repealed.

SEC. 39. Article 11.1 (commencing with Section 25220) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 11.1. Institutional Control

25220. (a) The department shall notify the planning and building department of each city, county, or regional council of governments of any recorded land use restriction imposed within the jurisdiction of the local agency pursuant to the former Section 25229, 25230, or 25398.7, as those sections read prior to the effective date of this article, or Section 25202.5, 25221, or 25355.5. Upon receiving this notification, the planning and building department shall do both of the following:

(1) File all recorded land use restrictions in the property files of the city, county, or regional council of government.

(2) Require that a person requesting a land use that differs from those filed land use restrictions on the property apply to the department for a variance or a removal of the land use restrictions pursuant to Section 25223 or 25224.

(b) A planning and building department of a city, county, or regional council of governments may assess a property owner a reasonable fee to cover the costs of taking the actions required by subdivision (a). For purposes of this subdivision, “property owner” does not include a person who holds evidence of ownership solely to protect a security interest in the property, unless the person participates, or has a legal right to participate, in the management of the property.

(c) The department shall maintain a list of all recorded land use restrictions, including deed restrictions, recorded pursuant to the former Sections 25229, 25230, and 25398.7, as those sections read prior to the effective date of this article, and Sections 25202.5, 25221, and 25355.5. The list shall, at a minimum, provide the street address, or, if a street address is not available, an equivalent description of location for a rural location or the latitude and longitude of each property. The department shall update the list as new deed restrictions are recorded. The department shall make the list available to the public, upon request, and shall make the list available on the department’s Internet Web site. The list shall also be incorporated into the list of sites compiled pursuant to Section 65962.5 of the Government Code.

25221. A person may enter into an agreement with the department regarding his or her property, or a portion thereof, which provides for restricting specified uses of the property, as determined by all parties to the agreement. Except as otherwise provided in this article, the agreement is irrevocable and shall be recorded by the owner, pursuant to paragraph (1) of subdivision (a) of Section 25220, as a hazardous waste easement, covenant, restriction, or servitude, or any combination of those servitudes, as appropriate, upon the present and future uses of the land. That person shall bear all costs incurred in determining the specific land use restrictions for his or her property, or a portion of the property pursuant to this subdivision.

25222. Public notice of an agreement proposed to be entered into pursuant to Section 25221 shall be provided by the department at least 30 days before a hearing on, or execution of, the agreement. The notice shall be given by publication once in a newspaper of general circulation published and circulated in the locale or, if there is none, by posting the notice in at least three public places in the locale. In the case of a proposed agreement, the department shall also give notice to the city or county in whose jurisdiction the property is located. Public comment on the proposed agreement entered into pursuant to Section 25221 shall be submitted to the department in writing.

25223. (a) A person may apply to the department for a written variance from a land use restriction imposed by the department. An application shall contain sufficient evidence for the department to issue a notice for a hearing. The notice shall contain both of the following:

- (1) A statement of all of the following that apply:
 - (A) Land use restrictions have been imposed on the land.
 - (B) A hearing is pending on the land.

(2) A statement of who is applying for a variance, the proposed variance, and a statement of the reasons in support of the granting of a variance.

(b) The procedures for the conducting of the hearing specified in subdivision (a) are those set forth in former Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20. A person shall not make a subsequent application pursuant to this section within 18 months of a final decision on an application by the department. A person applying for a variance pursuant to this section shall pay the department for all costs incurred by the department relating to the application.

(c) The applicant shall have the burden of proving at the hearing that the variance will not cause or allow any of the following effects associated with hazardous waste or extremely hazardous waste:

- (1) The creation or increase of significant present or future hazards to public health.
- (2) A significant diminution of the ability to mitigate any significant potential or actual hazard to public health.
- (3) A long-term increase in the number of humans or animals exposed to significant hazards that affect the health, well-being, or safety of the public.

(d) If, upon the preponderance of the testimony taken, the director is of the opinion that the variance should be granted, the director shall issue and cause to be served his or her decision and findings of fact on the owner of the land, the legislative body of the city or county in whose jurisdiction the land is located, and upon any other persons who were permitted to intervene in the proceedings. The findings of fact shall include the exact nature of the proposed variance and the reasons in support of the granting of the variance.

(e) If the director is of the opinion that the variance should not be granted, the director shall issue and cause to be served his or her findings of fact in support of the denial on the parties specified in subdivision (d).

(f) The department shall record within 10 days any final decision made by the director pursuant to this section as provided in Section 25225.

(g) A decision of the director made after a hearing held pursuant to this section shall be reviewable pursuant to Section 1094.5 of the Code of Civil Procedure and shall be upheld if the court finds that it is supported by substantial evidence.

25224. (a) A person may apply to the department to remove a land use restriction imposed by the department on the grounds that the waste no longer creates a significant existing or potential hazard to present or future public health or safety. A person shall not make a subsequent application pursuant to this section within 12 months of a final decision on an application by the department. A person applying to the department pursuant to this section shall pay the department all costs incurred by the department relating to the application. An application shall contain sufficient evidence for the department to make a finding upon any or all of the following grounds:

(1) The hazardous waste that caused the land to be restricted or designated has since been removed or altered in a manner that precludes any significant existing or potential hazard to present or future public health.

(2) New scientific evidence is available since the restriction or designation of the land or the making of any previous application pursuant to this section, concerning either of the following:

(A) The nature of the hazardous waste that caused the land to be designated.

(B) The geology or other physical environmental characteristics of the designated land.

(b) An aggrieved person may appeal a determination of the department made pursuant to subdivision (a) by submitting a request for a hearing to the director. The request shall be mailed by certified mail not later than 30 days after the date of the mailing of the department's decision on the application.

(c) Upon receipt of a timely appeal, the director shall give notice of a hearing pursuant to the procedures set forth in this article.

(d) The department shall record within 10 days any new and final determination made by the department pursuant to this section as provided in Section 25225.

(e) A determination made by the department, after a hearing held pursuant to this section, shall be reviewable pursuant to Section 1094.5 of the Code of Civil Procedure and shall be upheld if the court finds that it is supported by substantial evidence.

(f) Whenever there is a final determination pursuant to this section removing a land use restriction, the easement, covenant, restriction, or servitude imposed on the land created by Section 25221 or 25355.5 or the former Section 25222.1 or 25230 shall automatically terminate. The department shall record or cause to be recorded within 10 days a termination of the easement, covenant, restriction, or servitude, which shall particularly describe the real property subject to the easement, covenant, restriction, or servitude and shall be indexed by the recorder in the grantee index in the name of the record title owner of the real property subject to the easement, covenant, restriction, or servitude and in the grantor index in the name of the department.

25225. The department shall record within 10 days any final written instrument made pursuant to Section 25221 or 25224 with the county recorder of the county in which the property is located. Any recordation made pursuant to this article or Section 25202.5 or 25355.5 shall include the street address, assessor's parcel number, or legal description of each parcel affected and the name of the owner thereof, and the recordation shall be recorded by the recorder in the grantor index in the name of the record title owner of the real property and in the grantee index in the name of the department.

25226. An assessor shall consider a restrictive easement, covenant, restriction, or servitude adopted pursuant to the former

Section 25230, as that section read prior to the effective date of this article, or Section 25202.5, 25221, or 25355.5 as an enforceable easement, covenant, restriction, or servitude subject to Section 402.1 of the Revenue and Taxation Code and shall appropriately reassess the land, those of which has been restricted, at the lien date following the adoption or imposition of the easement, covenant, restriction, or servitude.

SEC. 40. Section 25244.01 is added to the Health and Safety Code, to read:

25244.01. (a) Except as provided in subdivision (b), the department's duty to implement this article is contingent upon, and limited to, the availability of funding.

(b) Subdivision (a) does not apply to Section 25244.4.

SEC. 41. The heading of Article 11.9 (commencing with Section 25244.12) of Chapter 6.5 of Division 20 of the Health and Safety Code is amended to read:

Article 11.9. Pollution Prevention and Hazardous Waste Source
Reduction and Management Review Act

SEC. 42. Section 25244.12 of the Health and Safety Code is amended to read:

25244.12. This article shall be known and may be cited as the Pollution Prevention and Hazardous Waste Source Reduction and Management Review Act.

SEC. 43. Section 25244.13 of the Health and Safety Code is amended to read:

25244.13. The Legislature finds and declares as follows:

(a) Existing law requires the department and the State Water Resources Control Board to promote the reduction of generated hazardous waste. This policy, in combination with hazardous waste land disposal bans, requires the rapid development of new programs and incentives for achieving the goal of optimal minimization of the generation of hazardous wastes. Substantial improvements and additions to the state's hazardous waste reduction program are required to be made if these goals are to be achieved.

(b) Hazardous waste source reduction provides substantial benefits to the state's economy by maximizing use of materials, avoiding generation of waste materials, improving business efficiency, enhancing revenues of companies that provide products

and services in the state, increasing the economic competitiveness of businesses located in the state, and protecting the state's precious and valuable natural resources.

(c) It is the intent of the Legislature to expand the state's pollution prevention activities beyond those directly associated with source reduction evaluation reviews and plans. The expanded program, which is intended to accelerate pollution prevention, shall include programs to promote implementation of pollution prevention measures using education, outreach, and other effective voluntary techniques demonstrated in California or other states.

(d) It is the intent of the Legislature for the department to maximize the use of its available resources in implementing the pollution prevention program through cooperation with other entities, including, but not limited to, CUPAs, small business development corporations, business environmental assistance centers, and other regional and local government environmental programs. To the extent feasible, the department shall utilize cooperative programs with entities that routinely contact small business to expand its support of small business pollution prevention activities.

(e) It is the goal of this article to do all of the following:

(1) Reduce the generation of hazardous waste.
(2) Reduce the release into the environment of chemical contaminants that have adverse and serious health or environmental effects.

(3) Document hazardous waste management information and make that information available to state and local government.

(f) It is the intent of this article to promote the reduction of hazardous waste at its source, and wherever source reduction is not feasible or practicable, to encourage recycling. Where it is not feasible to reduce or recycle hazardous waste, the waste should be treated in an environmentally safe manner to minimize the present and future threat to health and the environment.

(g) It is the intent of the Legislature not to preclude the regulation of environmentally harmful releases to all media, including air, land, surface water, and groundwater, and to encourage and promote the reduction of these releases to air, land, surface water, and groundwater.

(h) It is the intent of the Legislature to encourage all state departments and agencies, especially the State Water Resources

Control Board, the California regional water quality control boards, the State Air Resources Board, the air pollution control districts, and the air quality management districts, to promote the reduction of environmentally harmful releases to all media.

SEC. 44. Section 25244.13.1 is added to the Health and Safety Code, to read:

25244.13.1. (a) The department's duties to implement this article are contingent upon, and limited to, the availability of funding.

(b) Subdivision (a) does not eliminate a requirement of this article that is imposed upon a generator.

SEC. 45. Section 25244.14 of the Health and Safety Code is amended to read:

25244.14. For purposes of this article, the following definitions apply:

(a) "Advisory committee" means the California Pollution Prevention Advisory Committee established pursuant to Section 25244.15.1.

(b) "Appropriate local agency" means a county, city, or regional association that has adopted a hazardous waste management plan pursuant to Article 3.5 (commencing with Section 25135).

(c) "Business" has the same meaning as defined in Section 25501.

(d) "Hazardous waste management approaches" means approaches, methods, and techniques of managing the generation and handling of hazardous waste, including source reduction, recycling, and the treatment of hazardous waste.

(e) "Hazardous waste management performance report" or "report" means the report required by subdivision (b) of Section 25244.20 to document and evaluate the results of hazardous waste management practices.

(f) "NAICS Code" means the identification number assigned to specific types of businesses by the North American Industry Classification System (NAICS) adopted by the United States Census Bureau.

(g) "Pollution prevention" means the reduction of chemical sources that have adverse impacts on public health and the environment, including, but not limited to, source reduction.

(h) "SIC Code" means the identification number assigned to specific types of businesses by the Standard Industrial

Classification (SIC) system established by the United States Department of Commerce.

(i) (1) “Source reduction” means one of the following:

(A) An action that causes a net reduction in the generation of hazardous waste.

(B) An action taken before the hazardous waste is generated that results in a lessening of the properties that cause it to be classified as a hazardous waste.

(2) “Source reduction” includes, but is not limited to, all of the following:

(A) “Input change,” which means a change in raw materials or feedstocks used in a production process or operation so as to reduce, avoid, or eliminate the generation of hazardous waste.

(B) “Operational improvement,” which means improved site management so as to reduce, avoid, or eliminate the generation of hazardous waste.

(C) “Production process change,” which means a change in a process, method, or technique that is used to produce a product or a desired result, including the return of materials or their components, for reuse within the existing processes or operations, so as to reduce, avoid, or eliminate the generation of hazardous waste.

(D) “Product reformulation,” which means changes in design, composition, or specifications of end products, including product substitution, so as to reduce, avoid, or eliminate the generation of hazardous waste.

(3) “Source reduction” does not include any of the following:

(A) Actions taken after a hazardous waste is generated.

(B) Actions that merely concentrate the constituents of a hazardous waste to reduce its volume or that dilute the hazardous waste to reduce its hazardous characteristics.

(C) Actions that merely shift hazardous wastes from one environmental medium to another environmental medium.

(D) Treatment.

(j) “Source reduction evaluation review and plan” or “review and plan” means a review conducted by the generator of the processes, operations, and procedures in use at a generator’s site, in accordance with the format established by the department pursuant to subdivision (a) of Section 25244.16, and that does both of the following:

(1) Determines any alternatives to, or modifications of, the generator's processes, operations, and procedures that may be implemented to reduce the amount of hazardous waste generated.

(2) Includes a plan to document and implement source reduction measures for the hazardous wastes specified in paragraph (1) that are technically feasible and economically practicable for the generator, including a reasonable implementation schedule.

(k) "Hazardous waste," "person," "recycle," and "treatment" have the same meanings as defined in Article 2 (commencing with Section 25110).

SEC. 46. Section 25244.15 of the Health and Safety Code is amended to read:

25244.15. (a) This article establishes a program for pollution prevention, including, but not limited to, hazardous waste source reduction.

(b) The department shall coordinate the activities of all state agencies with responsibilities and duties relating to hazardous waste and shall promote coordinated efforts to encourage the reduction of hazardous waste. Coordination between the program and other relevant state agencies and programs shall, to the fullest extent possible, include joint planning processes and joint research and studies.

(c) The department shall adopt regulations to carry out the requirements imposed upon generators pursuant to this article.

(d) (1) Except as provided in paragraph (3), Sections 25244.19, 25244.20, and 25244.21 apply only to generators who, by site, routinely generate, through ongoing processes and operations, more than 12,000 kilograms of hazardous waste in a calendar year, or more than 12 kilograms of extremely hazardous waste in a calendar year.

(2) The department shall adopt regulations to establish procedures for exempting generators from the requirements of this article where the department determines that no source reduction opportunities exist for the generator.

(3) Notwithstanding paragraph (1), Sections 25244.19, 25244.20, and 25244.21 do not apply to any generator whose hazardous waste generating activity consists solely of receiving offsite hazardous wastes and generating residuals from the processing of those hazardous wastes.

SEC. 47. Section 25244.15.1 of the Health and Safety Code is amended to read:

25244.15.1. (a) The California Pollution Prevention Advisory Committee is hereby created and consists of the following members:

(1) The Executive Director of the State Air Resources Board, as an ex officio member.

(2) The Executive Director of the State Water Resources Control Board, as an ex officio member.

(3) The Director of Toxic Substances Control, as an ex officio member.

(4) The Director of Resources Recycling and Recovery, as an ex officio member.

(5) The Chairperson of the California Environmental Policy Council established pursuant to Section 71017 of the Public Resources Code, as an ex officio member.

(6) The Director of Pesticide Regulation, as an ex officio member.

(7) Ten public members with experience in pollution prevention as appointed by the department. These public members shall include all of the following:

(A) Two representatives of local governments from different regions of the state.

(B) One representative of a publicly owned treatment works.

(C) Two representatives of industry.

(D) One representative of small business.

(E) One representative of organized labor.

(F) Two representatives of statewide environmental advocacy organizations.

(G) One representative of a statewide public health advocacy organization.

(8) The department may appoint up to two additional public members with experience in pollution prevention and detailed knowledge of one of the priority categories of businesses selected in accordance with Section 25244.17.1.

(b) The advisory committee shall select one member to serve as chairperson.

(c) The members of the advisory committee shall serve without compensation, but each member, other than officials of the state, upon request, shall be reimbursed for all reasonable expenses

incurred in the performance of his or her duties, as authorized by the department.

(d) When convened by the department, the advisory committee shall provide a public forum for discussion and deliberation on matters pertaining to the implementation of this chapter.

(e) The advisory committee's responsibilities shall include, but not be limited to, the following:

(1) Reviewing and providing consultation and guidance in the preparation of the work plan authorized by Section 25244.22.

(2) Evaluating the performance and progress of the department's pollution prevention program.

(3) Making recommendations to the department concerning program activities and funding priorities, and legislative changes, if needed.

(4) Making recommendations to the department concerning strategies to more effectively align its pollution prevention program with the goals of the department's green chemistry program, including the implementation of Article 14 (commencing with Section 25251).

SEC. 48. Section 25244.16 of the Health and Safety Code is amended to read:

25244.16. The department shall do both of the following:

(a) Adopt a format to be used by generators for completing the review and plan required by Section 25244.19, and the report required by Section 25244.20. The format shall include at least all of the factors the generator is required to include in the review and plan and the report. The department may include any other factor determined by the department to be necessary to carry out this article. The adoption of a format pursuant to this subdivision is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Establish a data and information system to be used by the department for processing and evaluating the source reduction and other hazardous waste management information submitted by generators pursuant to Section 25244.18. In establishing the data and information system, the department shall do all of the following:

(1) Establish methods and procedures for appropriately processing or managing hazardous waste source reduction and management information.

(2) Use the data management expertise, resources, and forms of already established environmental protection programs, to the extent practicable.

(3) Establish computerized data retrieval and data processing systems, including safeguards to protect trade secrets designated pursuant to Section 25244.23.

(4) Identify additional data and information needs of the program.

SEC. 49. Section 25244.17 of the Health and Safety Code is amended to read:

25244.17. The department may establish a technical and research assistance program to assist businesses in identifying and applying methods of pollution prevention. The program shall emphasize assistance to smaller businesses that have inadequate technical and financial resources for obtaining information, assessing pollution prevention methods, and developing and applying pollution prevention techniques. The program be carried out by the department pursuant to this section may include, but is not limited to, each of the following:

(a) Programs by private or public consultants, including onsite consultation at sites or locations where hazardous waste is generated, to aid those generators requiring assistance in developing and implementing the review and plan, the plan summary, the report, and the report summary required by this article.

(b) Seminars, workshops, training programs, and other similar activities to assist businesses to evaluate pollution prevention alternatives and to identify opportunities for pollution prevention.

(c) Assembling, cataloging, and disseminating information about pollution prevention methods, available consultant services, and regulatory requirements.

(d) The identification of a range of generic and specified technical pollution prevention solutions that can be applied by particular types of businesses.

SEC. 50. Section 25244.17.1 of the Health and Safety Code is amended to read:

25244.17.1. The department may establish a technical assistance and outreach program to promote implementation of model pollution prevention measures in priority business categories.

(a) In the work plan described in Section 25244.22, the department may, in consultation with the advisory committee, identify priority categories of businesses by SIC or NAICS Code. At least one selected category of businesses shall be a category that consists primarily of small businesses. At least one selected category of businesses shall be a category that consists primarily of businesses affected by an action taken by the department pursuant to Article 14 (commencing with Section 25251).

(b) For each selected priority business category, the department may implement a cooperative pollution prevention technical assistance and outreach program that includes the following elements:

(1) Effective pollution prevention measures for each business category.

(2) The most effective technical assistance and outreach methods to promote implementation of the pollution prevention measures identified in paragraph (1).

(3) Appropriate measures for evaluating the effectiveness of the technical assistance and outreach measures, including quantitative measures when feasible.

SEC. 51. Section 25244.17.2 of the Health and Safety Code is amended to read:

25244.17.2. (a) (1) The department may provide pollution prevention training and resources to CUPAs, small business development corporations, business environmental assistance centers, and other regional and local government environmental programs so that they can provide technical assistance to businesses in identifying and applying methods of pollution prevention.

(2) The activities conducted pursuant to paragraph (1) shall emphasize activities necessary to implement Sections 25244.17 and 25244.17.1.

(b) As part of implementing the program authorized by this section, the department may develop a California Green Business Program that provides support and assistance to programs operated by local governments to meet the requirement of subdivision (c) and that would voluntarily certify small businesses that adopt environmentally preferable business practices, including, but not limited to, increased energy efficiency, reduced greenhouse gas emissions, promotion of water conservation, and reduced waste

generation. The department's California Green Business Program may do any or all of the following:

(1) Assist the network of statewide local government programs in implementing guidelines and structures that establish and promote a level of consistency among green business programs across the state.

(2) Support, through staffing and contracts, the development and maintenance of a statewide database to register small businesses granted green business certification, or its equivalent, pursuant to a local government program, and track measurable pollution reductions and cost savings.

(3) Solicit participation of additional local programs and facilitate the startup of new local programs.

(4) Develop technical guidance on pollution prevention measures, conduct industry studies and pilot projects, and provide policy coordination for the participating local programs.

(5) Collaborate with relevant state agencies that operate small business efficiency and economic development programs, including, but not limited to, the Department of Resources Recycling and Recovery, the Public Utilities Commission, the State Energy Resources Conservation and Development Commission, the State Air Resources Board, and the Department of Water Resources.

(c) The department may provide support and assistance to a local government program to enable the program to meet all of the following requirements:

(1) The program will be operated by a local government or its designee.

(2) The program will adopt industry-specific standards for green business certification, or its equivalent, in consultation with the other participants in the California Green Business Program.

(3) The program will grant a small business that voluntarily applies to the program a green business certification or its equivalent, only upon a determination by the program operator or designee that the business is a small business, as determined by the program, and complies with the industry-specific standards for green business certification adopted pursuant to paragraph (2).

(4) The program will grant a green business certification, or its equivalent, to small businesses, as determined by the program, in accordance with all of the following requirements:

(A) Before the program grants green business certification or its equivalent, the program conducts an evaluation to verify compliance with the appropriate green business certification standards adopted pursuant to paragraph (2).

(B) A green business certification or its equivalent is granted only to an individual location of a small business.

(C) A green business certification or its equivalent is granted to an individual small business only for a limited time period, and, after the elapse of that time period, the small business is required to reapply for that certification.

(D) Compliance with applicable federal, state, and local environmental laws and regulations is required as a condition of receiving a green business certification or its equivalent.

(d) The department may determine, in consultation with the advisory committee, the most effective methods to promote implementation of pollution prevention education programs by CUPAs, small business development corporations, business environmental assistance centers, and other regional and local government environmental programs. Program elements may include, but are not limited to, all of the following:

(1) Sponsoring workshops, conferences, technology fairs, and other training events.

(2) Sponsoring regional training groups, such as the regional hazardous waste reduction committees.

(3) Developing and distributing educational materials, such as short descriptions of successful pollution prevention projects and materials explaining how pollution prevention has been used by businesses to achieve compliance with environmental laws enforced by local governments.

(4) Developing site review checklists, training manuals, and technical resource manuals and using those resources to train CUPAs, small business development corporations, business environmental assistance centers, and other regional and local government environmental programs.

(5) Preparing and distributing resource lists such as lists of vendors, consultants, or providers of financial assistance for pollution prevention projects.

(6) Serving as an information clearinghouse to support telephone and onsite consultants with local governments.

SEC. 52. Section 25244.18 of the Health and Safety Code is amended to read:

25244.18. (a) The department or the unified program agency may request from any generator, and the generator shall provide within 30 days from the date of the request, a copy of the generator's review and plan or report conducted and completed pursuant to Section 25244.19 or 25244.20. The department or the unified program agency may evaluate any of those documents submitted to the department or the unified program agency to determine whether it satisfies the requirements of this article.

(b) (1) If the department or the unified program agency determines that a generator has not completed the review and plan in the manner required by Section 25244.19, or the report in the manner required by Section 25244.20, the department or the unified program agency shall provide the generator with a notice of noncompliance, specifying the deficiencies in the review and plan or report identified by the department. If the department or the unified program agency finds that the review and plan does not comply with Section 25244.19, the department or the unified program agency shall consider the review and plan to be incomplete. A generator shall file a revised review and plan or report correcting the deficiencies identified by the department or the unified program agency within 60 days from the date of the receipt of the notice. The department or the unified program agency may grant, in response to a written request from the generator, an extension of the 60-day deadline, for cause, except that the department or the unified program agency shall not grant that extension for more than an additional 60 days.

(2) If a generator fails to submit a revised review and plan or report complying with the requirements of this article within the required period, or if the department or unified program agency determines that a generator has failed to implement the measures included in the generator's review and plan for reducing the generator's hazardous waste, in accordance with Section 25244.19, the department or the unified program agency may impose civil penalties pursuant to Section 25187, in an amount not to exceed one thousand dollars (\$1,000) for each day the violation of this article continues, notwithstanding Section 25189.2, seek an order directing compliance pursuant to Section 25181, or enter into a consent agreement or a compliance schedule with the generator.

(c) If a generator fails to implement a measure specified in the review and plan pursuant to paragraph (5) of subdivision (b) of Section 25244.19, the generator shall not be deemed to be in violation of Section 25244.19 for not implementing the selected measure if the generator does both of the following:

(1) The generator finds that, upon further analysis or as a result of unexpected consequences, the selected measure is not technically feasible or economically practicable, or if the selected approach has resulted in any of the following:

(A) An increase in the generation of hazardous waste.

(B) An increase in the release of hazardous chemical contaminants to other media.

(C) Adverse impacts on product quality.

(D) A significant increase in the risk of an adverse impact to human health or the environment.

(2) The generator revises the review and plan to comply with the requirements of Section 25244.19.

(d) When taking enforcement action pursuant to this article, the department or the unified program agency shall not judge the appropriateness of any decisions or proposed measures contained in a review and plan or report, but shall only determine whether the review and plan or report is complete, prepared, and implemented in accordance with this article.

(e) In addition to the unified program agency, an appropriate local agency that has jurisdiction over a generator's site may request from the generator, and the generator shall provide within 30 days from the date of that request, a copy of the generator's current review and plan and report.

(f) In carrying out this article, the department shall not disseminate information determined to be a trade secret pursuant to Section 25244.23.

SEC. 53. Section 25244.19 of the Health and Safety Code is amended to read:

25244.19. (a) On or before September 1, 1991, and every four years thereafter, each generator shall conduct a source reduction evaluation review and plan pursuant to subdivision (b).

(b) Except as provided in subdivision (c), the source reduction evaluation review and plan required by subdivision (a) shall be conducted and completed for each site pursuant to the format

adopted pursuant to subdivision (a) of Section 25244.16 and shall include, at a minimum, all of the following:

(1) The name and location of the site.

(2) The SIC Code of the site.

(3) Identification of all routinely generated hazardous waste streams that annually weigh 600 kilograms or more and that result from ongoing processes or operations and exceed 5 percent of the total yearly weight of hazardous waste generated at the site, or, for extremely hazardous waste, that annually weigh 0.6 kilograms or more and exceed 5 percent of the total yearly weight of extremely hazardous waste generated at the site. For purposes of this paragraph, a hazardous waste stream identified pursuant to this paragraph shall also meet one of the following criteria:

(A) It is a hazardous waste stream processed in a wastewater treatment unit that discharges to a publicly owned treatment works or under a national pollutant discharge elimination system (NPDES) permit, as specified in the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1251 and following).

(B) It is a hazardous waste stream that is not processed in a wastewater treatment unit and its weight exceeds 5 percent of the weight of the total yearly volume at the site, less the weight of any hazardous waste stream identified in subparagraph (A).

(4) For each hazardous waste stream identified in paragraph (3), the review and plan shall include all of the following information:

(A) An estimate of the quantity of hazardous waste generated.

(B) An evaluation of source reduction approaches available to the generator that are potentially viable. The evaluation shall consider at least all of the following source reduction approaches:

(i) Input change.

(ii) Operational improvement.

(iii) Production process change.

(iv) Product reformulation.

(5) A specification of, and a rationale for, the technically feasible and economically practicable source reduction measures that will be taken by the generator with respect to each hazardous waste stream identified in paragraph (3). The review and plan shall fully document any statement explaining the generator's rationale for rejecting any available source reduction approach identified in paragraph (4).

(6) An evaluation, and, to the extent practicable, a quantification, of the effects of the chosen source reduction method on emissions and discharges to air, water, or land.

(7) A timetable for making reasonable and measurable progress towards implementation of the selected source reduction measures specified in paragraph (5).

(8) Certification pursuant to subdivision (d).

(9) A generator subject to this article shall include in its source reduction evaluation review and plan four-year numerical goals for reducing the generation of hazardous waste streams through the approaches provided for in subparagraph (B) of paragraph (4), based upon its best estimate of what is achievable in that four-year period.

(10) A summary progress report that briefly summarizes and, to the extent practicable, quantifies, in a manner that is understandable to the general public, the results of implementing the source reduction methods identified in the generator's review and plan for each waste stream addressed by the previous plan over the previous four years. The report shall also include an estimate of the amount of reduction that the generator anticipates will be achieved by the implementation of source reduction methods during the period between the preparation of the review and plan and the preparation of the generator's next review and plan.

(c) If a generator owns or operates multiple sites with similar processes, operations, and waste streams, the generator may prepare a single multisite review and plan addressing all of these sites.

(d) Every review and plan conducted pursuant to this section shall be submitted by the generator for review and certification by an engineer who is registered as a professional engineer pursuant to Section 6762 of the Business and Professions Code and who has demonstrated expertise in hazardous waste management, by an individual who is responsible for the processes and operations of the site, or by an environmental assessor who has demonstrated expertise in hazardous waste management. The engineer, individual, or environmental assessor shall certify the review and plan only if the review and plan meet all of the following requirements:

(1) The review and plan addresses each hazardous waste stream identified pursuant to paragraph (3) of subdivision (b).

(2) The review and plan addresses the source reduction approaches specified in subparagraph (B) of paragraph (4) of subdivision (b).

(3) The review and plan clearly sets forth the measures to be taken with respect to each hazardous waste stream for which source reduction has been found to be technically feasible and economically practicable, with timetables for making reasonable and measurable progress, and properly documents the rationale for rejecting available source reduction measures.

(4) The review and plan does not merely shift hazardous waste from one environmental medium to another environmental medium by increasing emissions or discharges to air, water, or land.

(e) At the time a review and plan is submitted to the department or the unified program agency, the generator shall certify that the generator has implemented, is implementing, or will be implementing, the source reduction measures identified in the review and plan in accordance with the implementation schedule contained in the review and plan. A generator may determine not to implement a measure selected in paragraph (5) of subdivision (b) only if the generator determines, upon conducting further analysis or due to unexpected circumstances, that the selected measure is not technically feasible or economically practicable, or if attempts to implement that measure reveal that the measure would result in, or has resulted in, any of the following:

(1) An increase in the generation of hazardous waste.

(2) An increase in the release of hazardous chemicals to other environmental media.

(3) Adverse impacts on product quality.

(4) A significant increase in the risk of an adverse impact to human health or the environment.

(f) If the generator elects not to implement the review and plan, including, but not limited to, a selected measure pursuant to subdivision (e), the generator shall amend its review and plan to reflect that election and include in the review and plan proper documentation identifying the rationale for that election.

SEC. 54. Section 25244.20 of the Health and Safety Code is amended to read:

25244.20. (a) On or before September 1, 1991, and every four years thereafter, each generator shall prepare a hazardous waste

management performance report documenting hazardous waste management approaches implemented by the generator.

(b) Except as provided in subdivision (d), the hazardous waste management performance report required by subdivision (a) shall be prepared for each site in accordance with the format adopted pursuant to subdivision (a) of Section 25244.16 and shall include all of the following:

(1) The name and location of the site.

(2) The SIC Code for the site.

(3) All of the following information for each waste stream identified pursuant to paragraph (3) of subdivision (b) of Section 25244.19:

(A) An estimate of the quantity of hazardous waste generated and the quantity of hazardous waste managed, both onsite and offsite, during the current reporting year and the baseline year, as specified in subdivision (c).

(B) An abstract for each source reduction, recycling, or treatment technology implemented from the baseline year through the current reporting year, if the reporting year is different from the baseline year.

(C) A description of factors during the current reporting year that have affected hazardous waste generation and onsite and offsite hazardous waste management since the baseline year, including, but not limited to, any of the following:

(i) Changes in business activity.

(ii) Changes in waste classification.

(iii) Natural phenomena.

(iv) Other factors that have affected either the quantity of hazardous waste generated or onsite and offsite hazardous waste management requirements.

(4) The certification of the report pursuant to subdivision (e).

(c) For purposes of subdivision (b), the following definitions apply:

(1) The current reporting year is the calendar year immediately preceding the year in which the report is to be prepared.

(2) The baseline year is either of the following, whichever is applicable:

(A) For the initial report, the baseline year is the calendar year selected by the generator for which substantial hazardous waste

generation, or onsite or offsite management, data is available prior to 1991.

(B) For all subsequent reports, the baseline year is the current reporting year of the immediately preceding report.

(d) If a generator owns or operates multiple sites with similar processes, operations, and waste streams, the generator may prepare a single multisite report addressing all of these sites.

(e) Every report completed pursuant to this section shall be submitted by the generator for review and certification by an engineer who is registered as a professional engineer pursuant to Section 6762 of the Business and Professions Code and who has demonstrated expertise in hazardous waste management, by an individual who is responsible for the processes and operations of the site, or by an environmental assessor who has demonstrated expertise in hazardous waste management. The engineer, individual, or environmental assessor shall certify the report only if the report identifies factors that affect the generation and onsite and offsite management of hazardous wastes and summarizes the effect of those factors on the generation and onsite and offsite management of hazardous wastes.

SEC. 55. Section 25244.21 of the Health and Safety Code is amended to read:

25244.21. (a) Every generator shall retain the original of the current review and plan and report, shall maintain a copy of the current review and plan and report at each site, or, for a multisite review and plan or report, at a central location, and upon request, shall make it available to any authorized representative of the department or the unified program agency conducting an inspection pursuant to Section 25185. If a generator fails, within five days, to make available to the inspector the review and plan or report, the department, the unified program agency, or any authorized representative of the department, or of the unified program agency, conducting an inspection pursuant to Section 25185, shall, if appropriate, impose a civil penalty pursuant to Section 25187, in an amount not to exceed one thousand dollars (\$1,000) for each day the violation of this article continues, notwithstanding Section 25189.2.

(b) If a generator fails to respond to a request for a copy of its review and plan or report made by the department or a unified program agency pursuant to subdivision (a) of Section 25244.18,

or by a local agency pursuant to subdivision (e) of Section 25244.18, within 30 days from the date of the request, the department or unified program agency shall, if appropriate, assess a civil penalty pursuant to Section 25187, in an amount not to exceed one thousand dollars (\$1,000) for each day the violation of this article continues, notwithstanding Section 25189.2.

(c) (1) A person may request the department to certify that a generator is in compliance with this article by having the department certify that the generator has properly completed the review and plan and report required pursuant to Sections 25244.19 and 25244.20. The department shall respond within 60 days to a request for certification. Upon receiving a request for certification, the department shall request from the generator, who is the subject of the request, a copy of the generator's review and plan and report, pursuant to subdivision (a) of Section 25244.18, if the department does not have these documents. The department shall forward a copy of the review and plan and report to the person requesting certification, within 10 days from the date that the department receives the request for certification or receives the review and plan and report, whichever is later. The department shall protect trade secrets in accordance with Section 25244.23 in a review and plan or report, requested to be released pursuant to this subdivision.

(2) This subdivision does not prohibit any person from directly requesting from a generator a copy of the review and plan or report. Solely for the purposes of responding to a request pursuant to this subdivision, the department shall deem the review and plan or report to be a public record subject to Section 25152.5, and shall act in compliance with that section.

SEC. 56. Section 25244.22 of the Health and Safety Code is amended to read:

25244.22. (a) The department may, on a periodic basis, prepare and make available for public review a draft work plan for the department's operations and activities in carrying out this article. The department shall prepare the work plan in consultation with the advisory committee and with other interested parties, including local government, industry, labor, health, and environmental organizations. The department shall hold a public meeting of the advisory committee to discuss the draft work plan before finalizing the work plan. This work plan shall include an outline of the department's proposed operations and activities under this article.

The department shall use the data summary analysis prepared pursuant to subdivision (b) to develop criteria for the selection of targets for pollution prevention efforts. When identifying activities for inclusion in the work plan, the department shall consider potential benefits to human health and the environment, available resources, feasibility of applying pollution prevention techniques, and availability of related resources from other entities, such as other states, the federal government, local governments, and other organizations.

(b) The department may periodically prepare, and make available to the public on its Internet Web site, a summary analysis of readily available data on the state's hazardous waste generation and management patterns. The analysis may include information from various data sources including hazardous waste manifests, biennial generator reports, and United States Environmental Protection Agency Toxics Release Inventory reports. The department shall estimate the quantities of hazardous waste generated in the state, by hazardous waste stream, the amounts of hazardous waste generated in the state by industry SIC or NAICS Code, and the amounts of hazardous waste state generators sent offsite for management, by management method.

SEC. 57. Section 25244.23 of the Health and Safety Code is amended to read:

25244.23. (a) (1) The department shall adopt regulations to ensure that trade secrets designated by a generator in all or a portion of the review and plan or the report required by this article are utilized by the director, the department, the unified program agency, or the appropriate local agency only in connection with the responsibilities of the department pursuant to this article, and that those trade secrets are not otherwise disseminated by the director, the department, the unified program agency, or any authorized representative of the department, or the appropriate local agency, without the consent of the generator.

(2) Any information subject to this section shall be made available to governmental agencies for use in making studies and for use in judicial review or enforcement proceedings involving the person furnishing the information.

(3) As provided by Section 25159.5, the regulations adopted pursuant to this subdivision shall conform with the corresponding trade secret regulations adopted by the Environmental Protection

Agency pursuant to the federal act, except that the regulations adopted by the department may be more stringent or more extensive than the federal trade secret regulations.

(4) “Trade secrets,” as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information that is not patented, that is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value, and that gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(b) The department, the unified program agency, and the appropriate local agency shall protect from disclosure any trade secret designated by the generator pursuant to this section. The department shall make available information concerning pollution prevention approaches that have proved successful, and that do not constitute a trade secret, when carrying out subdivision (c) of Section 25244.17.

(c) This section does not permit a generator to refuse to disclose the information required pursuant to this article to the department, the unified program agency, or the appropriate local agency, an officer or employee of the department, the unified program agency, or the appropriate local agency, in connection with the official duties of that officer or employee under this article.

(d) Any officer or employee of the department, the unified program agency, or the appropriate local agency, or any other person, who, because of his or her employment or official position, has possession of, or has access to, confidential information, and who, knowing that disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any manner to any person not entitled to receive it, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail not exceeding six months, by a fine not exceeding one thousand dollars (\$1,000), or by both the fine and imprisonment.

SEC. 58. Section 25244.24 of the Health and Safety Code is repealed.

SEC. 59. Section 25269.2 of the Health and Safety Code is amended to read:

25269.2. (a) The department shall comply with this chapter when recovering oversight costs for corrective action pursuant to Chapter 6.5 (commencing with Section 25100), for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300), and for response actions pursuant to former Chapter 6.85 (commencing with Section 25396).

(b) The department shall develop a concise statement of its cost recovery policies and billing procedures, including dispute resolution procedures and availability of program guidance and policies, and distribute the statement to all responsible parties.

SEC. 60. Section 25299.50.3 of the Health and Safety Code is amended to read:

25299.50.3. (a) For purposes of this section, “school district” means a school district as defined in Section 80 of the Education Code, or a county office of education.

(b) The School District Account is hereby created in the Underground Storage Tank Cleanup Fund, for expenditure by the board to pay a claim filed by a district that is a school district and has a priority based on paragraph (2), (3), or (4) of subdivision (b) of Section 25299.52. Notwithstanding Section 25299.52, in the 2009–10, 2010–11, and 2011–12 fiscal years, the board shall pay a claim filed by a district that is a school district and has a priority based on paragraph (4) of subdivision (b) of Section 25299.52 only from funds appropriated from the School District Account.

(c) (1) The sum of ten million dollars (\$10,000,000) per year shall be transferred, in the 2009–10, 2010–11, and 2011–12 fiscal years, from the Underground Storage Tank Cleanup Fund to the School District Account, for expenditure, upon appropriation by the Legislature, for the payment of claims filed by a district that is a school district with a priority based on paragraph (2), (3), or (4) of subdivision (b) of Section 25299.52. The ten million dollars (\$10,000,000) shall be transferred to the School District Account prior to allocating the remaining available funds to each priority ranking in paragraphs (1), (2), (3), and (4) of subdivision (b) of Section 25299.52.

(2) The board shall consult with the Department of Toxic Substances Control in allocating the funds transferred to the School District Account.

(3) The board shall pay claims from a school district with a priority based on paragraph (4) of subdivision (b) of Section

25299.52 from the School District Account in the order of the date of the filing of the claim application to the Underground Storage Tank Cleanup Fund. In each of the fiscal years identified in subdivision (b), if the board estimates that money will be available in the School District Account after the board has allocated funding for all submitted claims from school districts with a priority based on paragraph (4) of subdivision (b) of Section 25299.52, School District Account funds may be used to fund school district claims with a priority based on paragraph (2) or (3) of subdivision (b) of Section 25299.52.

(d) Funds in the School District Account that are not expended in a fiscal year shall remain in the School District Account. Funds remaining in the School District Account on January 1, 2016, shall be transferred to the Underground Storage Tank Cleanup Fund.

(e) The board shall include information on the expenditure of the funds transferred to the School District Account, as well as the amount of all claims filed by districts that are school districts and the amount of reimbursements made to districts that are school districts from the Underground Storage Tank Cleanup Fund, in its annual report, and shall, in consultation with the Department of Toxic Substances Control, estimate the amount of funds needed to reimburse anticipated future claims by districts that are school districts. The board shall provide a copy of this report to the State Allocation Board and the State Department of Education.

(f) This section does not affect the priority of a district that is a school district and has a priority based on paragraph (2) or (3) of subdivision (b) of Section 25299.52.

(g) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 61. Section 25299.81 of the Health and Safety Code is amended to read:

25299.81. (a) Except as provided in subdivisions (b) and (c), this chapter shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2016, deletes or extends that date.

(b) Notwithstanding subdivision (a), Article 1 (commencing with Section 25299.10), Article 2 (commencing with Section 25299.11), and Article 4 (commencing with Section 25299.36) shall not be repealed and shall remain in effect on January 1, 2016.

(c) The repeal of certain portions of this chapter does not terminate any of the following rights, obligations, or authorities, or any provision necessary to carry out these rights and obligations:

(1) The filing and payment of claims against the fund, including the costs specified in subdivisions (c), (e), and (h) of Section 25299.51, claims filed under Section 25299.50.3, and claims for commingled plumes, as specified in Article 11 (commencing with Section 25299.90), until the moneys in the fund are exhausted. Upon exhaustion of the fund, any remaining claims shall be invalid.

(2) The repayment of loans, outstanding as of January 1, 2016, due and payable to the board.

(3) The recovery of moneys reimbursed to a claimant to which the claimant is not entitled, or the resolution of any cost recovery action.

(4) The collection of unpaid fees that are imposed pursuant to Article 5 (commencing with Section 25299.40), as that article read on December 31, 2015, or have become due before January 1, 2016, including any interest or penalties that accrue before, on, or after January 1, 2016, associated with those unpaid fees.

(5) (A) The filing of an application for funds from, and the making of payments from, the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund pursuant to Section 25299.50.2, any action for the recovery of moneys paid pursuant to Section 25299.50.2 to which the recipient is not entitled, and the resolution of that cost recovery action.

(B) Upon liquidation of funds in the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund, the obligation to make a payment from the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund is terminated.

(6) (A) The payment of loans and grants, consistent with the terms of agreements that were effective prior to January 1, 2016, from the Underground Storage Tank Cleanup Fund, pursuant to this chapter or the Petroleum Underground Storage Tank Financing Account pursuant to Chapter 6.76 (commencing with Section 25299.100). Upon exhaustion of the Underground Storage Tank Cleanup Fund, any remaining claims for payment of grants or loans shall be invalid.

(B) The amount of money disbursed for grants and loans pursuant to Chapter 6.76 (commencing with Section 25299.100) shall not exceed the sum of following:

(i) The amount that reverts to the Underground Storage Tank Cleanup Fund pursuant to Section 25299.111.

(ii) Amounts recovered through the repayment of loans granted pursuant to Chapter 6.76 (commencing with Section 25299.100).

(iii) The resolution of any cost recovery action filed prior to January 1, 2016, or the initiation of an action or other collection process to recover defaulted loan moneys due to the board or to recover money paid to a grant or loan recipient pursuant to Chapter 6.76 (commencing with Section 25299.100) to which the recipient is not entitled.

(d) The board shall continuously post and update on its Internet Web site, but at a minimum, annually on or before September 30, information that describes the status of the fund and shall make recommendations, when appropriate, to improve the efficiency of the program.

SEC. 62. Section 25356.2 of the Health and Safety Code is repealed.

SEC. 63. Section 25356.3 of the Health and Safety Code is repealed.

SEC. 64. Section 25356.4 of the Health and Safety Code is repealed.

SEC. 65. Section 25356.5 of the Health and Safety Code is repealed.

SEC. 66. Section 25356.6 of the Health and Safety Code is repealed.

SEC. 67. Section 25356.7 of the Health and Safety Code is repealed.

SEC. 68. Section 25356.8 of the Health and Safety Code is repealed.

SEC. 69. Section 25356.9 of the Health and Safety Code is repealed.

SEC. 70. Section 25356.10 of the Health and Safety Code is repealed.

SEC. 71. Article 6.5 (commencing with Section 25369) of Chapter 6.8 of Division 20 of the Health and Safety Code is repealed.

SEC. 72. Section 25390.7 of the Health and Safety Code is amended to read:

25390.7. A claim for reimbursement under paragraph (1) of subdivision (c) of Section 25390.3 shall not be filed for any of the following:

(a) Sites listed on the National Priorities List pursuant to the federal act (42 U.S.C. Sec. 9605(a)(8)(B)).

(b) Sites remediated pursuant to former Chapter 6.85 (commencing with Section 25396).

(c) Sites, or portions of sites, for which the potentially responsible party has agreed to take all response action required by the department or the regional board at the site, and that agreement is embodied in a written, enforceable settlement agreement, including, but not limited to, a judicial consent decree, entered into prior to January 1, 1999.

(d) Sites, or portions of sites, that have been fully remediated for which the department or the regional board has determined that the response action is complete prior to January 1, 1999. The department or the regional board shall not include operation and maintenance activities in determining whether the response action is complete under this section.

SEC. 73. Article 8 (commencing with Section 25395.1) of Chapter 6.8 of Division 20 of the Health and Safety Code is repealed.

SEC. 74. Section 25395.30 of the Health and Safety Code is amended to read:

25395.30. The following persons are not eligible to apply for a loan under this article:

(a) A person who has been convicted of a felony or misdemeanor involving the regulation of hazardous materials, including, but not limited to, a conviction of a felony or misdemeanor under former Section 25395.13.

(b) A person who has been convicted of a felony or misdemeanor involving moral turpitude, including, but not limited to, the crimes of fraud, bribery, the falsification of records, perjury, forgery, conspiracy, profiteering, or money laundering.

(c) A person who is in violation of an administrative order or agreement issued by or entered into with any federal, state, or local agency that requires response action at a site or a judicial order or consent decree that requires response action at a site.

(d) A person who knowingly made a false statement regarding a material fact or knowingly failed to disclose a material fact in

connection with an application submitted to the secretary under this article.

SEC. 75. Section 25395.99 of the Health and Safety Code is amended to read:

25395.99. (a) A response plan may require the use of a land use control that imposes appropriate conditions, restrictions, and obligations on land use or activities, if, after completion of the removal and remedial actions specified in the response plan, hazardous materials remain at the site at a level that is not suitable for the unrestricted use of the site.

(b) Except as provided in subdivision (c), if the agency approves a response plan that requires the use of a land use control, the land use control shall be executed by the landowner and recorded by the landowner in the office of the county recorder in each county in which all, or a portion of, the land is located within 10 days of the date of execution.

(c) An agency shall not issue a certificate of completion to a person who submits a response plan that is approved by the agency and that requires the use of a land use control, until the agency receives a certified copy of the recorded land use control. If the site that requires the land use control does not have an owner, or the agency determines the owner is incapable of executing a land use control in accordance with this section, the agency may record in the county records a “Notice of Land Use Restriction” that has the same effect as any other land use control executed pursuant to this section, and that is subject to the variance and termination procedures specified in subdivision (f).

(d) Notwithstanding any other provision of law, a land use control that is executed pursuant to this section and that is recorded so as to provide constructive notice shall run with the land from the date of recordation, is binding upon all of the owners of the land, and their heirs, successors and assignees, and the agents, employees, or lessees of the owners, heirs, successors and assignees, and is enforceable pursuant to Article 8 (commencing with Section 25180) of Chapter 6.5.

(e) Notwithstanding any other provision of law, a land use control executed pursuant to this section is subject to Section 57012.

(f) A land use control imposed pursuant to this section is subject to the variance and removal procedures specified in Sections 25223 and 25224.

SEC. 76. Section 25395.119 of the Health and Safety Code is amended to read:

25395.119. (a) Using existing resources or when funds become available, the Secretary for Environmental Protection shall designate a brownfields ombudsperson whose responsibilities shall include, but are not limited to, all of the following:

(1) Assisting in the coordination of the brownfields activities of each office, board, and department within the California Environmental Protection Agency.

(2) Advocating and expanding the relationship between the California Environmental Protection Agency and local, state, and federal governmental entities' efforts pertaining to brownfields.

(3) Serving as the California Environmental Protection Agency's representative on committees, working groups, and other organizations pertaining to brownfields.

(4) Providing assistance in investigating complaints from the public, and helping to resolve and coordinate the resolution of those complaints relating to the brownfields activities of each office, board, and department within the California Environmental Protection Agency.

(5) Facilitating and advocating that the issue of environmental justice for communities most impacted, including low-income and racial minority populations, is considered in brownfields activities of each office, board, and department within the California Environmental Protection Agency.

(b) The brownfield ombudsperson is not authorized to make or reverse a decision of an office, board, or department within the California Environmental Protection Agency.

SEC. 77. Chapter 6.85 (commencing with Section 25396) of Division 20 of the Health and Safety Code is repealed.

SEC. 78. Chapter 6.86 (commencing with Section 25396) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 6.86. EXPEDITED REMEDIATION

25396. The requirements of the former California Expedited Remedial Action Reform Act of 1994 (former Chapter 6.85

(commencing with Section 25396) of Division 20) continue to apply to sites selected before the effective date of this chapter for participation in the pilot program established by that act.

SEC. 79. Chapter 6.10 (commencing with Section 25401) of Division 20 of the Health and Safety Code is repealed.

SEC. 80. Section 25404 of the Health and Safety Code is amended to read:

25404. (a) For purposes of this chapter, the following terms shall have the following meanings:

(1) (A) “Certified Unified Program Agency” or “CUPA” means the agency certified by the secretary to implement the unified program specified in this chapter within a jurisdiction.

(B) “Participating Agency” or “PA” means a state or local agency that has a written agreement with the CUPA pursuant to subdivision (d) of Section 25404.3, and is approved by the secretary, to implement or enforce one or more of the unified program elements specified in subdivision (c), in accordance with Sections 25404.1 and 25404.2.

(C) “Unified Program Agency” or “UPA” means the CUPA, or its participating agencies to the extent each PA has been designated by the CUPA, pursuant to a written agreement, to implement or enforce a particular unified program element specified in subdivision (c). The UPAs have the responsibility and authority to implement and enforce the requirements listed in subdivision (c), and the regulations adopted to implement the requirements listed in subdivision (c), to the extent provided by Chapter 6.5 (commencing with Section 25100), Chapter 6.67 (commencing with Section 25270), Chapter 6.7 (commencing with Section 25280), Chapter 6.95 (commencing with Section 25500), and Sections 25404.1 and 25404.2. After a CUPA has been certified by the secretary, the unified program agencies and the state agencies carrying out responsibilities under this chapter shall be the only agencies authorized to enforce the requirements listed in subdivision (c) within the jurisdiction of the CUPA.

(2) “Department” means the Department of Toxic Substances Control.

(3) “Minor violation” means the failure of a person to comply with a requirement or condition of an applicable law, regulation, permit, information request, order, variance, or other requirement, whether procedural or substantive, of the unified program that the

UPA is authorized to implement or enforce pursuant to this chapter, and that does not otherwise include any of the following:

(A) A violation that results in injury to persons or property, or that presents a significant threat to human health or the environment.

(B) A knowing, willful, or intentional violation.

(C) A violation that is a chronic violation, or that is committed by a recalcitrant violator. In determining whether a violation is chronic or a violator is recalcitrant, the UPA shall consider whether there is evidence indicating that the violator has engaged in a pattern of neglect or disregard with respect to applicable regulatory requirements.

(D) A violation that results in an emergency response from a public safety agency.

(E) A violation that enables the violator to benefit economically from the noncompliance, either by reduced costs or competitive advantage.

(F) A class I violation as provided in Section 25117.6.

(G) A class II violation committed by a chronic or a recalcitrant violator, as provided in Section 25117.6.

(H) A violation that hinders the ability of the UPA to determine compliance with any other applicable local, state, or federal rule, regulation, information request, order, variance, permit, or other requirement.

(4) “Secretary” means the Secretary for Environmental Protection.

(5) “Unified program facility” means all contiguous land and structures, other appurtenances, and improvements on the land that are subject to the requirements listed in subdivision (c).

(6) “Unified program facility permit” means a permit issued pursuant to this chapter. For the purposes of this chapter, a unified program facility permit encompasses the permitting requirements of Section 25284, and permit or authorization requirements under a local ordinance or regulation relating to the generation or handling of hazardous waste or hazardous materials, but does not encompass the permitting requirements of a local ordinance that incorporates provisions of the California Fire Code or the California Building Code.

(b) The secretary shall adopt implementing regulations and implement a unified hazardous waste and hazardous materials

management regulatory program, which shall be known as the unified program, after holding an appropriate number of public hearings throughout the state. The unified program shall be developed in close consultation with the director, the Secretary of California Emergency Management, the State Fire Marshal, the executive officers and chairpersons of the State Water Resources Control Board and the California regional water quality control boards, the local health officers, local fire services, and other appropriate officers of interested local agencies, and affected businesses and interested members of the public, including environmental organizations.

(c) The unified program shall consolidate the administration of the following requirements and, to the maximum extent feasible within statutory constraints, shall ensure the coordination and consistency of any regulations adopted pursuant to those requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the requirements of Chapter 6.5 (commencing with Section 25100), and the regulations adopted by the department pursuant thereto, that are applicable to all of the following:

(i) Hazardous waste generators, persons operating pursuant to a permit-by-rule, conditional authorization, or conditional exemption, pursuant to Chapter 6.5 (commencing with Section 25100) or the regulations adopted by the department.

(ii) Persons managing perchlorate materials.

(iii) Persons subject to Article 10.1 (commencing with Section 25211) of Chapter 6.5.

(iv) Persons operating a collection location that has been established under an architectural paint stewardship plan approved by the Department of Resources Recycling and Recovery pursuant to the architectural paint recovery program established pursuant to Chapter 5 (commencing with Section 48700) of Part 7 of Division 30 of the Public Resources Code.

(v) On and before December 31, 2019, a transfer facility, as described in paragraph (3) of subdivision (a) of Section 25123.3, that is operated by a door-to-door household hazardous waste collection program or household hazardous waste residential pickup service, as defined in subdivision (c) of Section 25218.1. On and after January 1, 2020, the unified program shall not include a

transfer facility operated by a door-to-door household hazardous waste collection program.

(B) The unified program shall not include the requirements of paragraph (3) of subdivision (c) of Section 25200.3, the requirements of Sections 25200.10 and 25200.14, and the authority to issue an order under Sections 25187 and 25187.1, with regard to those portions of a unified program facility that are subject to one of the following:

(i) A corrective action order issued by the department pursuant to Section 25187.

(ii) An order issued by the department pursuant to Chapter 6.8 (commencing with Section 25300) or former Chapter 6.85 (commencing with Section 25396).

(iii) A remedial action plan approved pursuant to Chapter 6.8 (commencing with Section 25300) or former Chapter 6.85 (commencing with Section 25396).

(iv) A cleanup and abatement order issued by a California regional water quality control board pursuant to Section 13304 of the Water Code, to the extent that the cleanup and abatement order addresses the requirements of the applicable section or sections listed in this subparagraph.

(v) Corrective action required under subsection (u) of Section 6924 of Title 42 of the United States Code or subsection (h) of Section 6928 of Title 42 of the United States Code.

(vi) An environmental assessment pursuant to Section 25200.14 or a corrective action pursuant to Section 25200.10 or paragraph (3) of subdivision (c) of Section 25200.3, that is being overseen by the department.

(C) The unified program shall not include the requirements of Chapter 6.5 (commencing with Section 25100), and the regulations adopted by the department pursuant thereto, applicable to persons operating transportable treatment units, except that any required notice regarding transportable treatment units shall also be provided to the CUPAs.

(2) The requirements of Chapter 6.67 (commencing with Section 25270) concerning aboveground storage tanks.

(3) (A) Except as provided in subparagraphs (B) and (C), the requirements of Chapter 6.7 (commencing with Section 25280) concerning underground storage tanks and the requirements of any underground storage tank ordinance adopted by a city or county.

(B) The unified program shall not include the responsibilities assigned to the State Water Resources Control Board pursuant to Section 25297.1.

(C) The unified program shall not include the corrective action requirements of Sections 25296.10 to 25296.40, inclusive.

(4) The requirements of Article 1 (commencing with Section 25500) of Chapter 6.95 concerning hazardous material release response plans and inventories.

(5) The requirements of Article 2 (commencing with Section 25531) of Chapter 6.95, concerning the accidental release prevention program.

(6) The requirements of Sections 2701.5.1 and 2701.5.2 of the California Fire Code, as adopted by the State Fire Marshal pursuant to Section 13143.9 concerning hazardous material management plans and inventories.

(d) To the maximum extent feasible within statutory constraints, the secretary shall consolidate, coordinate, and make consistent these requirements of the unified program with other requirements imposed by other federal, state, regional, or local agencies upon facilities regulated by the unified program.

(e) (1) The secretary shall establish standards applicable to CUPAs, participating agencies, state agencies, and businesses specifying the data to be collected and submitted by unified program agencies in administering the programs listed in subdivision (c). Those standards shall incorporate any standard developed under Section 25503.3.

(2) (A) No later than January 1, 2010, the secretary shall establish a statewide information management system capable of receiving all data collected by the unified program agencies and reported by regulated businesses pursuant to this subdivision and Section 25504.1, in a manner that is most cost efficient and effective for both the regulated businesses and state and local agencies. The secretary shall prescribe an XML or other compatible Web-based format for the transfer of data from CUPAs and regulated businesses and make all nonconfidential data available on the Internet.

(B) The secretary shall establish milestones to measure the implementation of the statewide information management system and shall provide periodic status updates to interested parties.

(3) (A) (i) Except as provided in subparagraph (B), in addition to any other funding that becomes available, the secretary shall increase the oversight surcharge provided for in subdivision (b) of Section 25404.5 by an amount necessary to meet the requirements of this subdivision for a period of three years, to establish the statewide information management system, consistent with paragraph (2). The increase in the oversight surcharge shall not exceed twenty-five dollars (\$25) in any one year of the three-year period. The secretary shall thereafter maintain the statewide information management system, funded by the assessment the secretary is authorized to impose pursuant to Section 25404.5.

(ii) No less than 75 percent of the additional funding raised pursuant to clause (i) shall be provided to CUPAs and PAs through grant funds or statewide contract services, in the amounts determined by the secretary to assist these local agencies in meeting these information management system requirements.

(B) A facility that is owned or operated by the federal government and that is subject to the unified program shall pay the surcharge required by this paragraph to the extent authorized by federal law.

(C) The secretary, or one or more of the boards, departments, or offices within the California Environmental Protection Agency, shall seek available federal funding for purposes of implementing this subdivision.

(4) No later than three years after the statewide information management system is established, each CUPA, PA, and regulated business shall report program data electronically. The secretary shall work with the CUPAs to develop a phased in schedule for the electronic collection and submittal of information to be included in the statewide information management system, giving first priority to information relating to those chemicals determined by the secretary to be of greatest concern. The secretary, in making this determination shall consult with the CUPAs, the California Emergency Management Agency, the State Fire Marshal, and the boards, departments, and offices within the California Environmental Protection Agency. The information initially included in the statewide information management system shall include, but is not limited to, the hazardous materials inventory

information required to be submitted pursuant to Section 25504.1 for perchlorate materials.

(5) The secretary, in collaboration with the CUPAs, shall provide technical assistance to regulated businesses to comply with the electronic reporting requirements and may expend funds identified in clause (i) of subparagraph (A) of paragraph (3) for that purpose.

SEC. 81. Chapter 6.98 (commencing with Section 25570) of Division 20 of the Health and Safety Code is repealed.

SEC. 82. Section 44299.91 of the Health and Safety Code is amended to read:

44299.91. Of the funds appropriated pursuant to Item 3900-001-6053 of Section 2.00 of the Budget Act of 2007, the State Air Resources Board shall allocate the funds in accordance with all of the following:

(a) All schoolbuses in operation in the state of model year 1976 or earlier shall be replaced.

(b) (1) The funds remaining after the allocation made pursuant to subdivision (a) shall be apportioned to local air quality management districts and air pollution control districts based on the number of schoolbuses of model years 1977 to 1986, inclusive, that are in operation within each district.

(2) Each district shall determine the percentage of its allocation to spend between replacement of schoolbuses of model years 1977 to 1986, inclusive, and retrofit of schoolbuses of any model year. Of the funds spent by a district for replacement of schoolbuses pursuant to this paragraph, a district shall replace the oldest schoolbuses of model years 1977 to 1986, inclusive, within the district. Of the funds spent by a district for retrofit of schoolbuses pursuant to this paragraph, a district shall retrofit the most polluting schoolbuses within the district.

(c) All schoolbuses replaced pursuant to this section shall be scrapped.

(d) These funds shall be administered by either the California Energy Commission or the local air district.

(e) If a local air district's funds, including accrued interest, are not committed by an executed contract as reported to the State Air Resources Board on or before June 30, 2012, then those funds shall be transferred, on or before January 1, 2013, to another local air district that demonstrates an ability to expend the funds by January 1, 2014. In implementing this section, the State Air

Resources Board in consultation with the local air districts shall, by September 30, 2012, establish a list of potential recipient local air districts, prioritizing local air districts with the most polluting school buses and the greatest need for school bus funding.

(f) Each allocation made pursuant to this section to a local air district shall provide enough funding for at least one project to be implemented pursuant to the Lower-Emission School Bus Program adopted by the State Air Resources Board. In the event a local air district has unspent funds as of January 1, 2014, the local air district shall work with the State Air Resources Board to transfer the unspent funds to an alternative local air district with existing demand.

(g) Funds made available pursuant to this chapter to a local air district shall be expended by June 30, 2014.

(h) All funds not expended by a local air district by June 30, 2014, shall be returned to the State Air Resources Board.

SEC. 83. Section 44392 of the Health and Safety Code is amended to read:

44392. A facility operator subject to this chapter shall conduct an airborne toxic risk reduction audit and develop a plan which shall include at a minimum all of the following:

- (a) The name and location of the facility.
- (b) The SIC code for the facility.
- (c) The chemical name and the generic classification of the chemical.
- (d) An evaluation of the ATRRM's available to the operator.
- (e) The specification of, and rationale for, the ATRRMs that will be implemented by the operator. The audit and plan shall document the rationale for rejecting ATRRMs that are identified as infeasible or too costly.
- (f) A schedule for implementing the ATRRMs. The schedule shall meet the time requirements of subdivision (a) of Section 44391 or the time period for implementing the plan set by the district pursuant to subdivision (b) or (c) of Section 44391, whichever is applicable.
- (g) The audit and plan shall be reviewed and certified as meeting this chapter by an engineer who is registered as a professional engineer pursuant to Section 6762 of the Business and Professions Code, by an individual who is responsible for the processes and operations of the site, or by an environmental assessor.

SEC. 84. Section 57009 of the Health and Safety Code is repealed.

SEC. 85. Section 58004.5 of the Health and Safety Code is repealed.

SEC. 86. Section 106615 of the Health and Safety Code is amended to read:

106615. The words and phrases defined in this section shall have the following meaning, unless the context clearly indicates otherwise:

(a) “Department” means the State Department of Public Health Services.

(b) “Committee” means the Environmental Health Specialist Registration Committee.

(c) “Registered environmental health specialist” means an environmental health professional educated and trained within the field of environmental health who is registered in accordance with the provisions of this article.

(d) “Environmental health specialist trainee” means a person who possesses (1) a minimum of a bachelor’s degree, including 30 semester units of basic sciences, from a department approved educational institution or an educational institution of collegiate grade listed in the directory of accredited institutions of postsecondary education compiled by the American Council on Education, but who has not completed the specific coursework and experience requirements in the field of environmental health as required by Section 106660 for registration, and (2) who is engaged in an approved environmental health training plan.

(e) “Scope of practice in environmental health” means the practice of environmental health by registered environmental health specialists in the public and private sector within the meaning of this article and includes, but is not limited to, organization, management, education, enforcement, consultation, and emergency response for the purpose of prevention of environmental health hazards and the promotion and protection of the public health and the environment in the following areas: food protection; housing; institutional environmental health; land use; community noise control; recreational swimming areas and waters; electromagnetic radiation control; solid, liquid, and hazardous materials management; underground storage tank control; onsite septic systems; vector control; drinking water quality; water sanitation;

emergency preparedness; and milk and dairy sanitation pursuant to Section 33113 of the Food and Agricultural Code. Activities of registered environmental health specialists shall be regulated by the department upon the recommendation of the committee.

(f) “Certificate of registration” means a signed document issued by the department as evidence of registration and qualification to practice as a registered environmental health specialist under this article. The certificate shall bear the designation “registered environmental health specialist” and shall show the name of the person, date of issue, registration number, and seal.

(g) “Experience requirement” means on-the-job training and experience, as stated in this article, that all environmental health specialist trainees shall complete prior to obtaining eligibility for the environmental health specialist examination.

(h) “Approved environmental health training plan” means a training program in an organization that plans to utilize environmental health specialist trainees and has on file with the department a copy of its training plan that conforms with the requirements of Section 106665, and that has been approved by the committee.

(i) “Director” means the director.

SEC. 87. Section 3258 of the Public Resources Code is amended to read:

3258. (a) The division shall not make expenditures pursuant to this article that exceed the following sum in any one fiscal year:

(1) Two million dollars (\$2,000,000) commencing on July 1, 2008, for the 2008–09 fiscal year, and continuing for six fiscal years thereafter.

(2) One million dollars (\$1,000,000), commencing with the 2015–16 fiscal year.

(b) On October 1, 2011, the department shall report to the Legislature on the number of orphan wells remaining, the estimated costs of abandoning those orphan wells, and a timeline for future orphan well abandonment with a specific schedule of goals.

SEC. 88. It is the intent of the Legislature that the Department of Parks and Recreation take all of the following actions to ensure that units of the state park system are operated as economically and efficiently as possible:

(a) To the extent consistent with state law, the department should undergo a reclassification of its personnel by adding nonpeace

officer status position classifications to allow for a concurrent pathway for nonpeace officer status personnel, and reduce the overall number of peace officers functioning in nonpeace officer positions.

(b) The department should maximize revenue generation activities that are consistent with the mission of the department and each park district and unit within the control of the department. All such revenue generation activities should be viewed as complementary to the public investment in the department that provides significant public recreational opportunities and that protects significant historical, cultural, and natural resources. The purpose of the revenue generation program is to allow the department to creatively focus on new revenue sources that are consistent with the respective missions and purposes of each of its units.

(c) The department should provide each park district with a direct financial incentive to generate revenues consistent with sound fiscal practices and the respective missions and purposes of the park units in each district. The revenues could be generated through the collection of entrance and parking fees and other projects and activities that may assist each district in building additional program capacity or maintaining or expanding visitor services and amenities that are consistent with the respective missions and purposes of the department or its units.

(d) The department should have an incentive to increase the funds it may have available for expenditure to improve the department's own revenue generation capabilities, and supplement the General Fund support of the department. Moneys received from the revenue generation activities authorized under Section 5010.7 of the Public Resources Code should be divided between the department and individual park districts.

SEC. 89. Section 5010.6 is added to the Public Resources Code, to read:

5010.6. (a) For purposes of this section, "subaccount" means the State Parks Revenue Incentive Subaccount created pursuant to this section.

(b) The State Parks Revenue Incentive Subaccount is hereby created within the State Parks and Recreation Fund and the Controller shall annually transfer fifteen million three hundred

forty thousand dollars (\$15,340,000) from the State Parks and Recreation Fund to the subaccount.

(c) Notwithstanding Section 13340 of the Government Code, the funds in the subaccount are hereby continuously appropriated to the department to create incentives for projects that are consistent with the mission of the department and that generate revenue, except the department shall not expend from the subaccount more than eleven million dollars (\$11,000,000) annually pursuant to Section 5003.

(d) The Office of State Audits and Evaluations shall review the activities funded from the subaccount pursuant to subdivision (c) to ensure appropriate internal controls are in place. The department shall reimburse the Office of State Audits and Evaluations from the subaccount for any costs related to the review.

(e) The revenue generated from projects funded by the subaccount shall be deposited in the subaccount and are continuously appropriated for expenditure by the department in accordance with the following:

(1) At least 50 percent of the revenue generated shall be expended in the district of the department that earned that revenue, as an incentive for revenue generation.

(2) The remaining revenue may be expended by the department pursuant to subdivision (c), including, but not limited to, for expenditure pursuant to Section 5003.

(f) The funds in the subaccount shall be available for encumbrance and expenditure until June 30, 2014, and for liquidation until June 30, 2016.

(g) This section shall become inoperative on June 30, 2016, and, as of January 1, 2017, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2017, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 90. Section 5010.6.5 is added to the Public Resources Code, to read:

5010.6.5. On July 1, 2016, the Controller shall transfer any unexpended funds remaining in the State Parks Revenue Incentive Subaccount created pursuant to Section 5010.6 to the State Parks and Recreation Fund.

SEC. 91. Section 5010.7 is added to the Public Resources Code, to read:

5010.7. (a) The department shall develop a revenue generation program as an essential component of a long-term sustainable park funding strategy. On or before October 1, 2012, the department shall assign a two-year revenue generation target to each district under the control of the department. The revenue target may be amended annually for subsequent years, beginning in the 2015–16 fiscal year. The department shall develop guidelines for districts to report the use of funds generated by the revenue generation program, and shall post information and copies of the reports on its Internet Web site.

(b) All revenues generated by the revenue generation program developed pursuant to subdivision (a) shall be deposited into the California State Park Enterprise Fund, which is hereby created in the State Treasury as a working capital fund, and the revenues shall be available to the department upon appropriation by the Legislature, for expenditure for those purposes specified in this section.

(c) Moneys appropriated to the department pursuant to subdivision (b) and Section 5010.6 shall be expended as follows:

(1) (A) The department shall allocate 40 percent of the total amount of revenues generated by a park district to that district if the amount of revenues generated exceeds the targeted revenue amount prescribed in the revenue generation program. The revenues to be allocated to a park district that fails to achieve the revenue target shall remain in the fund.

(B) With the approval of the director, each district shall use the funds it receives from the department from the revenue generation program to improve the parks in that district through revenue generation programs and projects and other activities that will assist in the district's revenue generation activities, and the programs, projects, and other activities shall be consistent with the mission and purpose of each unit and with the plan developed for the unit pursuant to subdivision (a) of Section 5002.2.

(2) The department shall use 40 percent of the funds generated from the revenue generation activities of the department for the following purposes:

(A) To fund the capital costs of construction and installation of new revenue and fee collection equipment and technologies and other physical upgrades to existing state park system lands and facilities.

(B) For costs of restoration and rehabilitation of the state park system and its natural, historical, and visitor-serving resources that enhance visitation and are designed to create opportunities to increase revenues.

(C) For costs to the department to implement the action plan required to be developed by the department pursuant to Section 5019.92 of the Public Resources Code.

(d) (1) The department shall establish a revolving loan program and prepare guidelines establishing a process for districts to apply for funds that exceed the amount of funds provided to the districts pursuant to paragraph (1) of subdivision (c). It is the intent of the Legislature that the revolving loan program fund only those projects that will contribute to the success of the department's revenue generation program and the continual growth of the fund over time. Districts may apply for funds for capital projects, personnel, and operations that are consistent with this subdivision, including the costs of preparing an application. The department shall provide an annual accounting to the Department of Finance and the relevant legislative committees of the use of those funds.

(2) The guidelines prepared pursuant to paragraph (1) shall require that applications for funding include all of the following:

(A) A clear description of the proposed use of funds, including maps and other drawings, as applicable.

(B) A market analysis demonstrating demand for the project or service.

(C) The projected life-span of the project, which must be at least 20 years for a proposed capital project.

(D) A projection of revenues, including the specific assumptions for annual income, fees, occupancy rates, pricing, and other relevant criteria upon which the projection is based.

(E) A projection of costs, including, but not limited to, design, planning, construction, operation, staff, maintenance, marketing, and information technology.

(F) The timeframe for implementation, including all necessary reviews and permitting.

(G) The projected net return on investment of the life of the project.

(H) Provisions providing for mandatory reporting on the project by districts to the department.

(e) The department shall rank all of the proposals and award loans for projects or other activities to districts based on the following criteria, as well as other considerations that the department considers relevant:

(1) Return on investment.

(2) Length of time for implementation.

(3) Length of time for the project debt to be retired.

(4) Percentage of total project costs paid by the district or by a source of matching funds.

(5) Annual operating costs.

(f) The funds generated by the revenue generation program shall not be used by the department to expand the park system, unless there is significant revenue generation potential from such an expansion.

(g) Moneys received by the department from private contributions and other public funding sources may also be deposited into the California State Park Enterprise Fund for use for the purposes of paragraph (3) of subdivision (c) and subdivision (d).

(h) The department shall provide all relevant information on its Internet Web site concerning how the working capital funds are spent, including the guidelines and the department's ranking criteria for each funded loan agreement.

(i) A project agreement shall be negotiated between the department and a park unit and the total amount of requested project costs shall be allocated to the district as soon as is feasible when the agreement is finalized.

(j) The department may recoup its costs for implementing and administering the working capital from the fund.

SEC. 92. Section 5096.255 of the Public Resources Code is amended to read:

5096.255. Bonds in the total amount of three hundred sixty-eight million nine hundred thousand dollars (\$368,900,000), or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds shall, when sold, be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged

for the punctual payment of both principal and interest on the bonds as the principal and interest become due and payable.

SEC. 93. Section 5930 of the Public Resources Code is amended to read:

5930. Bonds in the total amount of seven hundred sixty-eight million six hundred seventy thousand dollars (\$768,670,000), or so much thereof as is necessary, may be issued and sold to be used for carrying out the purposes expressed in this division and in Chapter 7.5 (commencing with Section 2700) of Division 3 of the Fish and Game Code and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. A sum, not to exceed seven hundred twenty-six million dollars (\$726,000,000) of the bond proceeds, shall be deposited in the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 for the purposes of this division, and a sum, not to exceed fifty million dollars (\$50,000,000) of bond proceeds, shall be deposited in the Wildlife and Natural Areas Conservation Fund for the purposes of the Wildlife and Natural Areas Conservation Program (Chapter 7.5 (commencing with Section 2700) of Division 3 of the Fish and Game Code). The bonds shall, when sold, be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest as they become due and payable.

SEC. 94. Section 14574 of the Public Resources Code, as amended by Section 262 of Chapter 296 of the Statutes of 2011, is amended to read:

14574. (a) (1) A distributor of beverage containers shall pay to the department the redemption payment for every beverage container, other than a refillable beverage container, sold or transferred to a dealer, less 1.5 percent for the distributor's administrative costs.

(2) The payment made by a distributor shall be made not later than the last day of the month following the sale. The distributor shall make the payment in the form and manner that the department prescribes.

(b) (1) Notwithstanding subdivision (a), if a distributor displays a pattern of operation in compliance with this division and the regulations adopted pursuant to this division, to the satisfaction of

the department, the distributor may make a single annual payment of redemption payments, if the distributor's projected redemption payment for a calendar year totals less than seventy-five thousand dollars (\$75,000).

(2) An annual redemption payment made pursuant to this subdivision is due and payable on or before February 1 for every beverage container sold or transferred by the distributor to a dealer in the previous calendar year.

(3) A distributor shall notify the department of its intent to make an annual redemption payment pursuant to this subdivision on or before January 31 of the calendar year for which the payment will be due.

(c) This section shall become effective on July 1, 2012.

SEC. 95. Section 21155.1 of the Public Resources Code is amended to read:

21155.1. If the legislative body finds, after conducting a public hearing, that a transit priority project meets all of the requirements of subdivisions (a) and (b) and one of the requirements of subdivision (c), the transit priority project is declared to be a sustainable communities project and shall be exempt from this division.

(a) The transit priority project complies with all of the following environmental criteria:

(1) The transit priority project and other projects approved prior to the approval of the transit priority project but not yet built can be adequately served by existing utilities, and the transit priority project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.

(2) (A) The site of the transit priority project does not contain wetlands or riparian areas and does not have significant value as a wildlife habitat, and the transit priority project does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), or the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and the project does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete.

(B) For the purposes of this paragraph, “wetlands” has the same meaning as in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(C) For the purposes of this paragraph:

(i) “Riparian areas” means those areas transitional between terrestrial and aquatic ecosystems and that are distinguished by gradients in biophysical conditions, ecological processes, and biota. A riparian area is an area through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. A riparian area includes those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems. A riparian area is adjacent to perennial, intermittent, and ephemeral streams, lakes, and estuarine-marine shorelines.

(ii) “Wildlife habitat” means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.

(iii) Habitat of “significant value” includes wildlife habitat of national, statewide, regional, or local importance; habitat for species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531, et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code); habitat identified as candidate, fully protected, sensitive, or species of special status by local, state, or federal agencies; or habitat essential to the movement of resident or migratory wildlife.

(3) The site of the transit priority project is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.

(4) The site of the transit priority project is subject to a preliminary endangerment assessment prepared by an environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.

(A) If a release of a hazardous substance is found to exist on the site, the release shall be removed or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(B) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(5) The transit priority project does not have a significant effect on historical resources pursuant to Section 21084.1.

(6) The transit priority project site is not subject to any of the following:

(A) A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.

(B) An unusually high risk of fire or explosion from materials stored or used on nearby properties.

(C) Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.

(D) Seismic risk as a result of being within a delineated earthquake fault zone, as determined pursuant to Section 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone.

(E) Landslide hazard, flood plain, flood way, or restriction zone, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.

(7) The transit priority project site is not located on developed open space.

(A) For the purposes of this paragraph, “developed open space” means land that meets all of the following criteria:

(i) Is publicly owned, or financed in whole or in part by public funds.

(ii) Is generally open to, and available for use by, the public.

(iii) Is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ballfields, enclosed child play areas, and picnic facilities.

(B) For the purposes of this paragraph, “developed open space” includes land that has been designated for acquisition by a public agency for developed open space, but does not include lands

acquired with public funds dedicated to the acquisition of land for housing purposes.

(8) The buildings in the transit priority project are 15 percent more energy efficient than required by Chapter 6 of Title 24 of the California Code of Regulations and the buildings and landscaping are designed to achieve 25 percent less water usage than the average household use in the region.

(b) The transit priority project meets all of the following land use criteria:

(1) The site of the transit priority project is not more than eight acres in total area.

(2) The transit priority project does not contain more than 200 residential units.

(3) The transit priority project does not result in any net loss in the number of affordable housing units within the project area.

(4) The transit priority project does not include any single level building that exceeds 75,000 square feet.

(5) Any applicable mitigation measures or performance standards or criteria set forth in the prior environmental impact reports, and adopted in findings, have been or will be incorporated into the transit priority project.

(6) The transit priority project is determined not to conflict with nearby operating industrial uses.

(7) The transit priority project is located within one-half mile of a rail transit station or a ferry terminal included in a regional transportation plan or within one-quarter mile of a high-quality transit corridor included in a regional transportation plan.

(c) The transit priority project meets at least one of the following three criteria:

(1) The transit priority project meets both of the following:

(A) At least 20 percent of the housing will be sold to families of moderate income, or not less than 10 percent of the housing will be rented to families of low income, or not less than 5 percent of the housing is rented to families of very low income.

(B) The transit priority project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code,

respectively, for the period required by the applicable financing. Rental units shall be affordable for at least 55 years. Ownership units shall be subject to resale restrictions or equity sharing requirements for at least 30 years.

(2) The transit priority project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to paragraph (1).

(3) The transit priority project provides public open space equal to or greater than five acres per 1,000 residents of the project.

SEC. 96. Section 21159.21 of the Public Resources Code is amended to read:

21159.21. A housing project qualifies for an exemption from this division pursuant to Section 21159.22, 21159.23, or 21159.24 if it meets the criteria in the applicable section and all of the following criteria:

(a) The project is consistent with any applicable general plan, specific plan, and local coastal program, including any mitigation measures required by a plan or program, as that plan or program existed on the date that the application was deemed complete and with any applicable zoning ordinance, as that zoning ordinance existed on the date that the application was deemed complete, except that a project shall not be deemed to be inconsistent with the zoning designation for the site if that zoning designation is inconsistent with the general plan only because the project site has not been rezoned to conform with a more recently adopted general plan.

(b) Community-level environmental review has been adopted or certified.

(c) The project and other projects approved prior to the approval of the project can be adequately served by existing utilities, and the project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.

(d) The site of the project does not contain wetlands, does not have any value as a wildlife habitat, and the project does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or by the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3

of the Fish and Game Code), and the project does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete. For the purposes of this subdivision, “wetlands” has the same meaning as in Section 328.3 of Title 33 of the Code of Federal Regulations and “wildlife habitat” means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.

(e) The site of the project is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.

(f) The site of the project is subject to a preliminary endangerment assessment prepared by an environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.

(1) If a release of a hazardous substance is found to exist on the site, the release shall be removed, or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(2) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(g) The project does not have a significant effect on historical resources pursuant to Section 21084.1.

(h) The project site is not subject to any of the following:

(1) A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.

(2) An unusually high risk of fire or explosion from materials stored or used on nearby properties.

(3) Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.

(4) Within a delineated earthquake fault zone, as determined pursuant to Section 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the applicable general plan or

zoning ordinance contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone.

(5) Landslide hazard, flood plain, flood way, or restriction zone, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.

(i) (1) The project site is not located on developed open space.

(2) For the purposes of this subdivision, “developed open space” means land that meets all of the following criteria:

(A) Is publicly owned, or financed in whole or in part by public funds.

(B) Is generally open to, and available for use by, the public.

(C) Is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ballfields, enclosed child play areas, and picnic facilities.

(3) For the purposes of this subdivision, “developed open space” includes land that has been designated for acquisition by a public agency for developed open space, but does not include lands acquired by public funds dedicated to the acquisition of land for housing purposes.

(j) The project site is not located within the boundaries of a state conservancy.

SEC. 97. Chapter 8.1 (commencing with Section 25710) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 8.1. ELECTRIC PROGRAM INVESTMENT CHARGE FUND

25710. For the purposes of this chapter, the following terms have the following meanings:

(a) “Electric Program Investment Charge” means the surcharge instituted by the Public Utilities Commission pursuant to Decision 11-12-035 or any subsequent decisions to collect funds for renewable energy programs and research, development, and demonstration programs.

(b) “Fund” means the portion of the Electric Program Investment Charge Fund created by Section 25711.

25711. For the purposes of implementing this chapter, the Electric Program Investment Charge Fund is hereby created in the State Treasury.

(a) The commission shall administer the fund.

(b) At least quarterly, moneys received by the Public Utilities Commission pursuant to the Electric Program Investment Charge for those programs the Public Utilities Commission has determined should be administered by the Energy Commission shall be forwarded by the Public Utilities Commission to the commission for deposit in the fund.

(c) The Controller shall, as directed by the commission, disburse moneys in the fund for purposes of this chapter.

(d) The commission may use moneys in the fund for the administration of this chapter, as authorized by the Public Utilities Commission and appropriated by the Legislature in the annual Budget Act.

25712. This chapter does not authorize the levy of a charge or any increase in the amount collected pursuant to any existing charge, nor does it add to, or detract from, any existing authority of the Public Utilities Commission to levy or increase charges.

SEC. 98. Section 25740.5 of the Public Resources Code is amended to read:

25740.5. Notwithstanding any other law, moneys collected for renewable energy pursuant to Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code shall be transferred to the Renewable Resource Trust Fund. Moneys collected between January 1, 2007, and January 1, 2012, shall be used for the purposes specified in this chapter.

SEC. 99. Section 25742 of the Public Resources Code is repealed.

SEC. 100. Section 25743 of the Public Resources Code is repealed.

SEC. 101. Section 25744 of the Public Resources Code is repealed.

SEC. 102. Section 25744.5 of the Public Resources Code is amended to read:

25744.5. The commission shall allocate and use funding available for emerging renewable technologies pursuant to Section 25751 to fund photovoltaic and solar thermal electric technologies in accordance with eligibility criteria and conditions established pursuant to Chapter 8.8 (commencing with Section 25780).

SEC. 103. Section 25746 of the Public Resources Code is amended to read:

25746. If the commission provides funding for a regional accounting system to verify compliance with the renewables portfolio standard by retail sellers, pursuant to subdivision (b) of Section 399.25 of the Public Utilities Code, the commission shall recover all costs from user fees.

SEC. 104. Section 25748 of the Public Resources Code is repealed.

SEC. 105. Section 25751 of the Public Resources Code is amended to read:

25751. (a) The Renewable Resource Trust Fund is hereby created in the State Treasury.

(b) The Emerging Renewable Resources Account is hereby established within the Renewable Resources Trust Fund. Notwithstanding Section 13340 of the Government Code, the moneys in the account are hereby continuously appropriated to the commission without regard to fiscal years for the following purposes:

(1) To close out the award of incentives for emerging technologies in accordance with former Section 25744, as this law existed prior to the enactment of the Budget Act of 2012, for which applications had been approved before the enactment of the Budget Act of 2012.

(2) To close out consumer education activities in accordance with former Section 25746, as this law existed prior to the enactment of the Budget Act of 2012.

(c) The Controller shall provide to the commission funds pursuant to the continuous appropriation in, and for purposes specified in, subdivision (b).

(d) The Controller shall provide to the commission moneys from the fund sufficient to satisfy all contract and grant awards that were made by the commission pursuant to former Sections 25744 and 25746, and Chapter 8.8 (commencing with Section 25780), as these laws existed prior to the enactment of the Budget Act of 2012.

SEC. 106. Section 32605 of the Public Resources Code is amended to read:

32605. The board shall consist of 13 voting members and seven nonvoting members, as follows:

(a) The 13 voting members of the board shall consist of all of the following:

(1) One member of the Board of Supervisors of the County of Los Angeles, or his or her designee, who represents the area or a portion thereof contained within the territory of the conservancy, appointed by the Governor.

(2) Two members of the board of directors of the San Gabriel Valley Council of Governments, one of whom shall be a mayor or city council member of a city bordering along the San Gabriel River, and one of whom shall be a mayor or city council member of a city bordering the San Gabriel Mountains area. One member shall be appointed by a majority of the membership of that board of directors, and one member shall be appointed by the Senate Committee on Rules from a list of two or more potential members submitted by the board of directors. If the San Gabriel Valley Council of Governments fails to provide to the Senate Committee on Rules a list of two or more potential members, at least 30 days prior to the date a current member's term of office expires, the Senate Committee on Rules may appoint a mayor or city council member of a city bordering along the San Gabriel River or the San Gabriel Mountains, or a member of the public who resides within the territory of the conservancy.

(3) Two members of the board of directors of the Gateway Cities Council of Governments, one of whom shall be the mayor of the City of Long Beach or a city council member of the City of Long Beach appointed by the mayor, and one of whom shall be appointed by the Speaker of the Assembly from a list of two or more potential members submitted by the executive committee of the board of directors of the Gateway Cities Council of Governments. The executive committee shall submit lists of potential members to the Speaker of the Assembly until an acceptable member is appointed.

(4) Two members of the Orange County Division of the League of California Cities, both of whom shall be a mayor or city council member of a city bordering along the San Gabriel River or a tributary thereof. One member shall be appointed by a majority of the membership of the city selection committee of Orange County, and one member shall be appointed by the Governor from a list of two or more potential members submitted by the city selection committee.

(5) One member shall be a representative of a member of the San Gabriel Valley Water Association appointed by a majority of

the membership of the board of directors of the San Gabriel Valley Water Association.

(6) One member shall be a representative of the Central Basin Water Association appointed by a majority of the membership of the board of directors of the Central Basin Water Association.

(7) One member shall be a resident of Los Angeles County appointed by the Governor from a list of potential members submitted by local, state, and national environmental organizations that operate within the County of Los Angeles and within the territory of the conservancy and that have participated in planning for river restoration or open space, or both, or river preservation.

(8) The Secretary of the Natural Resources Agency, or his or her designee.

(9) The Secretary for Environmental Protection, or his or her designee.

(10) The Director of Finance, or his or her designee.

(b) The seven ex officio, nonvoting members shall consist of the following officers or an employee of each agency designated annually by that officer to represent the office or agency:

(1) The District Engineer of the United States Army Corps of Engineers.

(2) The Regional Forester for the Pacific Southwest Region of the United States Forest Service.

(3) The Director of the Los Angeles County Department of Public Works.

(4) The Director of the Orange County Public Facility and Resource Department.

(5) A member of the San Gabriel River Watermaster, appointed by a majority of the members of the San Gabriel River Watermaster.

(6) The Director of Parks and Recreation.

(7) The Executive Officer of the Wildlife Conservation Board.

SEC. 107. Section 42474 of the Public Resources Code is amended to read:

42474. (a) Civil liability in an amount of up to two thousand five hundred dollars (\$2,500) per offense may be administratively imposed by the Department of Resources Recycling and Recovery for each sale of a covered electronic device for which a covered electronic waste recycling fee has not been paid pursuant to Section 42464.

(b) A civil penalty in an amount of up to five thousand dollars (\$5,000) per offense may be imposed by a superior court for each sale of a covered electronic device for which a covered electronic waste recycling fee has not been paid pursuant to Section 42464.

(c) Civil liability in an amount of up to twenty-five thousand dollars (\$25,000) may be administratively imposed by the board against manufacturers for failure to comply with this chapter, except as otherwise provided in subdivision (a).

(d) Civil liability in an amount of up to twenty-five thousand dollars (\$25,000) per violation may be administratively imposed by the Department of Resources Recycling and Recovery against a person, including an authorized collector or covered electronic waste recycler, that makes a false statement or representation in any document filed, submitted, maintained, or used for purposes of compliance with this chapter and associated regulations.

(e) (1) The Department of Resources Recycling and Recovery may revoke the approval or deny the renewal application of an authorized collector or covered electronic waste recycler that makes a false statement or representation in a document filed, submitted, maintained, or used for purposes of compliance with this chapter and the regulations adopted pursuant to this chapter.

(2) In addition to the authority specified in paragraph (1), the Department of Resources Recycling and Recovery may deny an application for approval or renewal from an authorized collector or covered electronic waste recycler that, or an individual identified in the application who, has a history demonstrating a pattern of operation in conflict with the requirements of this chapter and the regulations adopted pursuant to this chapter.

(3) A person challenging a revocation, denial of application renewal, or application denial under this chapter, or an approved covered electronic waste recycler challenging the denial or adjustment of an electronic waste recovery payment or electronic waste recycling payment, shall first exhaust all administrative remedies by filing with the Department of Resources Recycling and Recovery a timely administrative appeal, in accordance with the regulations adopted to implement this chapter.

SEC. 108. Section 42649.2 of the Public Resources Code is amended to read:

42649.2. (a) On and after July 1, 2012, a business that generates four cubic yards or more of commercial solid waste per

week or is a multifamily residential dwelling of five units or more shall arrange for recycling services, consistent with state or local laws or requirements, including a local ordinance or agreement, applicable to the collection, handling, or recycling of solid waste, to the extent that these services are offered and reasonably available from a local service provider.

(b) A commercial waste generator shall take at least one of the following actions:

(1) Source separate recyclable materials from solid waste and subscribe to a basic level of recycling service that includes collection, self-hauling, or other arrangements for the pickup of the recyclable materials.

(2) Subscribe to a recycling service that may include mixed waste processing that yields diversion results comparable to source separation.

(c) A property owner of a multifamily residential dwelling may require tenants to source separate their recyclable materials to aid in compliance with this section.

SEC. 109. Section 71300 of the Public Resources Code is amended to read:

71300. (a) For purposes of this part “office” means the Office of Education and the Environment of the Department of Resources Recycling and Recovery, as established pursuant to this section.

(b) (1) The Office of Education and the Environment previously established in the California Environmental Protection Agency is hereby established in the Department of Resources Recycling and Recovery. The office shall dedicate its effort to implementing the statewide environmental educational program prescribed pursuant to this part. The office, through staffing and resources, shall give a high priority to implementing the statewide environmental education program.

(2) Any reference to the California Environmental Protection Agency in regard to this program shall be deemed a reference to the Department of Resource Recycling and Recovery.

(c) The office, under the direction of the Department of Resources Recycling and Recovery, in cooperation with the State Department of Education and the State Board of Education, shall develop and implement a unified education strategy on the environment for elementary and secondary schools in the state.

The office shall develop a unified education strategy to do all of the following:

- (1) Coordinate instructional resources and strategies for providing active pupil participation with onsite conservation efforts.
- (2) Promote service-learning opportunities between schools and local communities.
- (3) Assess the impact to participating pupils of the unified education strategy on pupil achievement and resource conservation.
- (d) The State Department of Education and the State Board of Education shall develop and implement to the extent feasible, a teacher training and implementation plan, to guide the implementation of the unified education strategy, for the education of pupils, faculty, and administrators on the importance of integrating environmental concepts and programs in schools throughout the state. The strategy shall project the phased implementation of elementary, middle, and high school programs.
- (e) In implementing this part, the office may hold public meetings to receive and respond to comments from affected state agencies, stakeholders, and the public regarding the development of resources and materials pursuant to this part.
- (f) In implementing this part, the office shall coordinate with other agencies and groups with expertise in education and the environment, including, but not limited to, the California Environmental Education Interagency Network.
- (g) Any instructional materials developed pursuant to this part shall be subject to the requirements of Chapter 1 (commencing with Section 60000) of Part 33 of Division 4 of Title 2 of the Education Code, including, but not limited to, reviews for legal and social compliance before the materials may be used in elementary or secondary public schools.

SEC. 110. Section 748.5 is added to the Public Utilities Code, to read:

748.5. (a) Except as provided in subdivision (c), the commission shall require revenues, including any accrued interest, received by an electrical corporation as a result of the direct allocation of greenhouse gas allowances to electric utilities pursuant to subdivision (b) of Section 95890 of Title 17 of the California Code of Regulations to be credited directly to the residential, small business, and emissions-intensive trade-exposed retail customers of the electrical corporation.

(b) Not later than January 1, 2013, the commission shall require the adoption and implementation of a customer outreach plan for each electrical corporation, including, but not limited to, such measures as notices in bills and through media outlets, for purposes of obtaining the maximum feasible public awareness of the crediting of greenhouse gas allowance revenues. Costs associated with the implementation of this plan are subject to recovery in rates pursuant to Section 454.

(c) The commission may allocate up to 15 percent of the revenues, including any accrued interest, received by an electrical corporation as a result of the direct allocation of greenhouse gas allowances to electrical distribution utilities pursuant to subdivision (b) of Section 95890 of Title 17 of the California Code of Regulations, for clean energy and energy efficiency projects established pursuant to statute that are administered by the electrical corporation and that are not otherwise funded by another funding source.

SEC. 111. Section 2851 of the Public Utilities Code is amended to read:

2851. (a) In implementing the California Solar Initiative, the commission shall do all of the following:

(1) The commission shall authorize the award of monetary incentives for up to the first megawatt of alternating current generated by solar energy systems that meet the eligibility criteria established by the State Energy Resources Conservation and Development Commission pursuant to Chapter 8.8 (commencing with Section 25780) of Division 15 of the Public Resources Code. The commission shall determine the eligibility of a solar energy system, as defined in Section 25781 of the Public Resources Code, to receive monetary incentives until the time the State Energy Resources Conservation and Development Commission establishes eligibility criteria pursuant to Section 25782. Monetary incentives shall not be awarded for solar energy systems that do not meet the eligibility criteria. The incentive level authorized by the commission shall decline each year following implementation of the California Solar Initiative, at a rate of no less than an average of 7 percent per year, and shall be zero as of December 31, 2016. The commission shall adopt and publish a schedule of declining incentive levels no less than 30 days in advance of the first decline in incentive levels. The commission may develop incentives based

upon the output of electricity from the system, provided those incentives are consistent with the declining incentive levels of this paragraph and the incentives apply to only the first megawatt of electricity generated by the system.

(2) The commission shall adopt a performance-based incentive program so that by January 1, 2008, 100 percent of incentives for solar energy systems of 100 kilowatts or greater and at least 50 percent of incentives for solar energy systems of 30 kilowatts or greater are earned based on the actual electrical output of the solar energy systems. The commission shall encourage, and may require, performance-based incentives for solar energy systems of less than 30 kilowatts. Performance-based incentives shall decline at a rate of no less than an average of 7 percent per year. In developing the performance-based incentives, the commission may:

(A) Apply performance-based incentives only to customer classes designated by the commission.

(B) Design the performance-based incentives so that customers may receive a higher level of incentives than under incentives based on installed electrical capacity.

(C) Develop financing options that help offset the installation costs of the solar energy system, provided that this financing is ultimately repaid in full by the consumer or through the application of the performance-based rebates.

(3) By January 1, 2008, the commission, in consultation with the State Energy Resources Conservation and Development Commission, shall require reasonable and cost-effective energy efficiency improvements in existing buildings as a condition of providing incentives for eligible solar energy systems, with appropriate exemptions or limitations to accommodate the limited financial resources of low-income residential housing.

(4) Notwithstanding subdivision (g) of Section 2827, the commission may develop a time-variant tariff that creates the maximum incentive for ratepayers to install solar energy systems so that the system's peak electricity production coincides with California's peak electricity demands and that ensures that ratepayers receive due value for their contribution to the purchase of solar energy systems and customers with solar energy systems continue to have an incentive to use electricity efficiently. In developing the time-variant tariff, the commission may exclude customers participating in the tariff from the rate cap for residential

customers for existing baseline quantities or usage by those customers of up to 130 percent of existing baseline quantities, as required by Section 80110 of the Water Code. Nothing in this paragraph authorizes the commission to require time-variant pricing for ratepayers without a solar energy system.

(b) Notwithstanding subdivision (a), in implementing the California Solar Initiative, the commission may authorize the award of monetary incentives for solar thermal and solar water heating devices, in a total amount up to one hundred million eight hundred thousand dollars (\$100,800,000).

(c) (1) In implementing the California Solar Initiative, the commission shall not allocate more than fifty million dollars (\$50,000,000) to research, development, and demonstration that explores solar technologies and other distributed generation technologies that employ or could employ solar energy for generation or storage of electricity or to offset natural gas usage. Any program that allocates additional moneys to research, development, and demonstration shall be developed in collaboration with the Energy Commission to ensure there is no duplication of efforts, and adopted by the commission through a rulemaking or other appropriate public proceeding. Any grant awarded by the commission for research, development, and demonstration shall be approved by the full commission at a public meeting. This subdivision does not prohibit the commission from continuing to allocate moneys to research, development, and demonstration pursuant to the self-generation incentive program for distributed generation resources originally established pursuant to Chapter 329 of the Statutes of 2000, as modified pursuant to Section 379.6.

(2) The Legislature finds and declares that a program that provides a stable source of monetary incentives for eligible solar energy systems will encourage private investment sufficient to make solar technologies cost effective.

(3) On or before June 30, 2009, and by June 30th of every year thereafter, the commission shall submit to the Legislature an assessment of the success of the California Solar Initiative program. That assessment shall include the number of residential and commercial sites that have installed solar thermal devices for which an award was made pursuant to subdivision (b) and the dollar value of the award, the number of residential and commercial sites that

have installed solar energy systems, the electrical generating capacity of the installed solar energy systems, the cost of the program, total electrical system benefits, including the effect on electrical service rates, environmental benefits, how the program affects the operation and reliability of the electrical grid, how the program has affected peak demand for electricity, the progress made toward reaching the goals of the program, whether the program is on schedule to meet the program goals, and recommendations for improving the program to meet its goals. If the commission allocates additional moneys to research, development, and demonstration that explores solar technologies and other distributed generation technologies pursuant to paragraph (1), the commission shall include in the assessment submitted to the Legislature, a description of the program, a summary of each award made or project funded pursuant to the program, including the intended purposes to be achieved by the particular award or project, and the results of each award or project.

(d) (1) The commission shall not impose any charge upon the consumption of natural gas, or upon natural gas ratepayers, to fund the California Solar Initiative.

(2) Notwithstanding any other provision of law, any charge imposed to fund the program adopted and implemented pursuant to this section shall be imposed upon all customers not participating in the California Alternate Rates for Energy (CARE) or family electric rate assistance (FERA) programs, including those residential customers subject to the rate cap required by Section 80110 of the Water Code for existing baseline quantities or usage up to 130 percent of existing baseline quantities of electricity.

(3) The costs of the program adopted and implemented pursuant to this section may not be recovered from customers participating in the California Alternate Rates for Energy or CARE program established pursuant to Section 739.1, except to the extent that program costs are recovered out of the nonbypassable system benefits charge authorized pursuant to Section 399.8.

(e) In implementing the California Solar Initiative, the commission shall ensure that the total cost over the duration of the program does not exceed three billion five hundred fifty million eight hundred thousand dollars (\$3,550,800,000). The financial components of the California Solar Initiative shall consist of the following:

(1) Programs under the supervision of the commission funded by charges collected from customers of San Diego Gas and Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company. The total cost over the duration of these programs shall not exceed two billion three hundred sixty-six million eight hundred thousand dollars (\$2,366,800,000) and includes moneys collected directly into a tracking account for support of the California Solar Initiative.

(2) Programs adopted, implemented, and financed in the amount of seven hundred eighty-four million dollars (\$784,000,000), by charges collected by local publicly owned electric utilities pursuant to Section 387.5. Nothing in this subdivision shall give the commission power and jurisdiction with respect to a local publicly owned electric utility or its customers.

(3) Programs for the installation of solar energy systems on new construction, administered by the State Energy Resources Conservation and Development Commission, and funded by charges in the amount of four hundred million dollars (\$400,000,000), collected from customers of San Diego Gas and Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company.

(4) The changes made to this subdivision by the act adding this paragraph do not authorize the levy of a charge or any increase in the amount collected pursuant to any existing charge, nor do the changes add to, or detract from, the commission's existing authority to levy or increase charges.

SEC. 112. Section 5155 of the Vehicle Code is amended to read:

5155. The design criteria for a specialized license plate are as follows:

(a) Except as provided in Section 5161, the license plate for a passenger vehicle, commercial vehicle, or trailer shall provide a space not larger than two inches by three inches to the left of the numerical series and a space not larger than five-eighths of an inch in height below the numerical series for a distinctive design, decal, or descriptive message as authorized by this article. The license plates shall be issued in sequential numerical order or, pursuant to Section 5103, in a combination of numbers or letters.

(b) Specialized license plates authorized under this article may be issued for use on a motorcycle. That license plate shall contain

a five-digit configuration issued in sequential numerical order or, pursuant to Section 5103, in a combination of numbers or letters. There shall be a space to the left of the numerical series for a distinctive design or decal and the characters shall contrast sharply with the uniform background color. A motorcycle plate containing a full plate graphic design is not authorized.

(c) Specialized license plates may be issued as environmental license plates, as defined in Section 5103.

SEC. 113. Section 5161 is added to the Vehicle Code, to read:

5161. (a) The department, in consultation with the Department of Parks and Recreation, shall design and make available for issuance pursuant to this article special state parks environmental design license plates as described in this section. Notwithstanding Section 5155, the special state parks environmental design license plates shall bear a full-plate graphic design that the department determines, in consultation with the Department of the California Highway Patrol, does not obscure the readability of the license plate depicting a California redwood tree design as an iconic feature of California's state park system, as approved by the Department of Parks and Recreation. The Department of Parks and Recreation may accept and use donated artwork from California artists for purposes of this requirement. Any person described in Section 5101 may, upon payment of the additional fees set forth in subdivision (b), apply for and be issued a set of special state parks environmental design license plates. The special state parks environmental design license plates may be issued as environmental license plates, as defined in Section 5103.

(b) In addition to the regular fees for an original registration or renewal of registration, the following additional fees shall be paid for the issuance, renewal, or transfer of the special state parks environmental design license plates authorized pursuant to this section:

- (1) For the original issuance of the plates, fifty dollars (\$50).
- (2) For a renewal of registration with the plates, forty dollars (\$40).
- (3) For transfer of the plates to another vehicle, fifteen dollars (\$15).
- (4) For each substitute replacement plate, thirty-five dollars (\$35).

(5) In addition, for the issuance of environmental license plates, as defined in Section 5103, with a full-plate graphic design described in subdivision (a), the additional fees prescribed in Sections 5106 and 5108. The additional fees prescribed in Sections 5106 and 5108 shall be deposited in the Environmental License Plate Fund.

(c) Except as provided in paragraph (5) of subdivision (b), and after deducting its administrative costs under this section, the department shall deposit the additional revenue derived from the issuance, renewal, transfer, and substitution of special environmental design license plates in the California State Parks Account, which is hereby created in the Specialized License Plate Fund. Upon appropriation by the Legislature, the money in the account shall be allocated by the Controller to the Department of Parks and Recreation for expenditure for the exclusive trust purposes of preservation and restoration of California state parks.

(d) The Department of Parks and Recreation shall collect and hold applications for the special state parks environmental license plates described in this section. The department shall not be required to make the special state parks environmental license plates available for issuance pursuant to this section until the Department of Parks and Recreation has submitted not less than 7,500 applications for the plates to the department.

SEC. 114. Section 147.5 is added to the Water Code, to read:

147.5. At least 60 days prior to the final approval of the renewal or extension of a long-term water supply contract between the department and a state water project contractor, the department shall present at an informational hearing before the Legislature the details of the terms and conditions of the contract and how they serve as a template for the remaining long-term water supply contracts. This presentation shall be made to the Joint Legislative Budget Committee and relevant policy and fiscal committees of both houses, as determined by the Speaker of the Assembly and the Senate Committee on Rules. The department shall submit a copy of one long-term contract to the Joint Legislative Budget Committee no less than 30 days prior to the scheduled hearing.

SEC. 115. Section 175.5 of the Water Code is amended to read:

175.5. (a) A member of the board shall not participate in any board action pursuant to Article 2 (commencing with Section 13320) of Chapter 5 of Division 7 in which the board member has

a disqualifying financial interest in the decision within the meaning of Section 87103 of the Government Code.

(b) A board member shall not participate in any proceeding before any regional board as a consultant or in any other capacity on behalf of any waste discharger.

(c) Upon the request of any person, or on the Attorney General's own initiative, the Attorney General may file a complaint in the superior court for the county in which the board has its principal office alleging that a board member has knowingly violated this section and the facts upon which the allegation is based and asking that the member be removed from office. Further proceedings shall be in accordance as near as may be with rules governing civil actions. If after trial the court finds that the board member has knowingly violated this section it shall pronounce judgment that the member be removed from office.

SEC. 116. Section 11913.1 is added to the Water Code, to read:

11913.1. (a) It is the intent of the Legislature to appropriate funds sufficient to cover the costs incurred by the department for recreation and fish and wildlife enhancement specified pursuant to Section 11912, subject to legislative review and approval.

(b) The Davis-Dolwig Account is hereby created in the California Water Resources Development Bond Fund, created pursuant to Section 12935.

(c) On July 1, 2012, and every July 1 thereafter, the Controller shall transfer seven million five hundred thousand dollars (\$7,500,000) from the General Fund portion of the Harbors and Watercraft Revolving Fund, created pursuant to Section 85 of the Harbors and Navigation Code, to the Davis-Dolwig Account. Notwithstanding Section 13340 of the Government Code, for the purposes of this chapter, seven million five hundred thousand dollars (\$7,500,000) is continuously appropriated, without regard to fiscal years, from the Davis-Dolwig Account to the department for the costs of State Water Resources Development System, as described in Section 12931, facility operations, maintenance, and capital costs attributable to recreation and fish and wildlife enhancement as provided for in Section 11914. This subdivision shall be eligible for future adjustment by the Legislature in accordance with an appropriate water and power utility cost index, submitted by the department and approved by the Legislature by statute, that reflects changes in costs incurred or likely to be

incurred by the department for operation, maintenance and capital costs of the State Water Resources Development System.

(d) (1) On July 1, 2012, and every July 1 thereafter, the Controller shall transfer two million five hundred thousand dollars (\$2,500,000) from the General Fund portion of the Harbors and Watercraft Revolving Fund to the Davis-Dolwig Account. Notwithstanding Section 13340 of the Government Code, two million five hundred thousand dollars (\$2,500,000) is continuously appropriated, without regard to fiscal years, from the Davis-Dolwig Account to the department for the payment of State Water Resources Development System recreation and fish and wildlife enhancement costs incurred pursuant to this chapter on or before December 31, 2011.

(2) This subdivision shall be inoperative when the Director of Finance certifies that all costs described in paragraph (1) have been paid.

(e) The department shall provide details of the balance and expenditures of the Davis-Dolwig Account as part of the annual Governor's budget process.

(f) Any cost for recreation and fish and wildlife enhancement incurred in connection with the State Water Resources Development System that exceeds the funding provided pursuant to subdivision (c) may be provided upon further appropriation by the Legislature, pursuant to subdivision (c) of Section 75050 of the Public Resources Code.

(g) The funds made available to the department pursuant to subdivisions (c) and (f) shall fulfill the legislative intent of this chapter to provide funds for fish and wildlife enhancements and recreation.

(h) Any obligation incurred on or after July 1, 2012, for recreation and fish and wildlife enhancements separate from available funding in the Davis-Dolwig Account and any additional funding that may be appropriated by the Legislature for this purpose shall be reimbursed by the state only if approved by the Legislature by statute.

(i) Notwithstanding any other law, the Controller may use funds in the Davis-Dolwig Account for cashflow loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code.

(j) Notwithstanding subdivision (c), any amount in the Davis-Dolwig Account in excess of twenty million dollars (\$20,000,000) on June 30 of each year shall be transferred to the Harbors and Watercraft Revolving Fund.

SEC. 117. Section 13201 of the Water Code is amended to read:

13201. (a) There is a regional board for each of the regions described in Section 13200. Each board shall consist of seven members appointed by the Governor, each of whom shall represent, and act on behalf of, all the people and shall reside or have a principal place of business within the region.

(b) Except as specified in subdivision (c), each member shall be appointed on the basis of his or her demonstrated interest or proven ability in the field of water quality, including water pollution control, water resource management, water use, or water protection. The Governor shall consider appointments from the public and nonpublic sectors. In regard to appointments from the nonpublic sector, the Governor shall consider including members from key economic sectors in a given region, such as agriculture, industry, commercial activities, forestry, and fisheries.

(c) At least one member shall be appointed as a public member who is not required to meet the criteria established pursuant to subdivision (b).

(d) All persons appointed to a regional board shall be subject to Senate confirmation, but shall not be required to appear before any committee of the Senate for purposes of such confirmation unless specifically requested to appear by the Senate Committee on Rules.

(e) Insofar as practicable, appointments shall be made in such manner as to result in representation on the board from all parts of the region.

(f) Insofar as practicable, appointments shall be made in a manner as to result in representation on the board from diverse experiential backgrounds.

(g) Each member shall be appointed on the basis of his or her ability to attend substantially all meetings of the board and to actively discharge all duties and responsibilities of a member of the board.

(h) The reduction in the number of members of each regional board required by the act that added this subdivision shall be

achieved according to the ordinary expiration of the terms of incumbents and other vacancies. Notwithstanding Section 13202 the Governor shall not fill a vacancy on any regional board until the number of members serving on that regional board falls below seven members. When the numbers of members serving on the regional board falls below seven members, the Governor shall appoint or reappoint individuals pursuant to this section.

SEC. 118. Section 13202 of the Water Code is amended to read:

13202. (a) Each member of a regional board shall be appointed for a term of four years. Vacancies shall be immediately filled by the Governor for the unexpired portion of the terms in which they occur.

(b) The term of office for members of each regional board shall be staggered and shall expire in accordance with the following schedule:

(1) Two members on September 30, 2013, and every four years thereafter.

(2) Two members on September 30, 2014, and every four years thereafter.

(3) Two members on September 30, 2015, and every four years thereafter.

(4) One member on September 30, 2016, and every four years thereafter.

SEC. 119. Section 13207 of the Water Code is amended to read:

13207. (a) A member of a regional board shall not participate in any board action pursuant to Article 4 (commencing with Section 13260) of this chapter, or Article 1 (commencing with Section 13300) of Chapter 5, in which he or she has a disqualifying financial interest in the decision within the meaning of Section 87103 of the Government Code.

(b) A board member shall not participate in any proceeding before any regional board or the state board as a consultant or in any other capacity on behalf of any waste discharger.

(c) Upon the request of any person, or on the Attorney General's own initiative, the Attorney General may file a complaint in the superior court for the county in which the regional board has its principal office alleging that a board member has knowingly violated this section and the facts upon which the allegation is

based and asking that the member be removed from office. Further proceedings shall be in accordance as near as may be with rules governing civil actions. If after trial the court finds that the board member has knowingly violated this section it shall pronounce judgment that the member be removed from office.

SEC. 120. Section 13860 of the Water Code is amended to read:

13860. The committee is hereby empowered to create a debt or debts, liability or liabilities, of the State of California, in an aggregate amount of one hundred seventy-two million five hundred thousand dollars (\$172,500,000) in the manner provided in this chapter. This debt or debts, liability or liabilities, shall be created for the purpose of providing the fund to be used for the objects and works specified in Section 13861.

SEC. 121. Section 13388 of the Water Code is amended to read:

13388. (a) Notwithstanding any other provision of this division or Section 175, and except as provided in subdivision (b), a person shall not be a member of the state board or a regional board if that person receives, or has received during the previous two years, a significant portion of his or her income directly or indirectly from any person subject to waste discharge requirements or applicants for waste discharge requirements pursuant to this chapter.

(b) (1) A person shall not be disqualified from being a member of a regional board because that person receives, or has received during the previous two years, a significant portion of his or her income directly or indirectly from a person subject to waste discharge requirements, or an applicant for waste discharge requirements, that are issued pursuant to this chapter by the state board or regional board other than the regional board of which that person is a member.

(2) Paragraph (1) shall be implemented only if the United States Environmental Protection Agency either determines that no program approval is necessary for that implementation, or approves of a change in California's National Pollutant Discharge Elimination System program, to allow the state to administer the National Pollutant Discharge Elimination System permit program consistent with paragraph (1).

SEC. 122. Section 17645.40 of the 1992 School Facilities Bond Act (Section 34 of Chapter 552 of the Statutes of 1995) is amended to read:

17645.40. Bonds in the total amount of eight hundred ninety-eight million two hundred eleven thousand dollars (\$898,211,000), exclusive of refunding bonds, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the state, and the full faith and credit of the state is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

SEC. 123. Section 17660.40 of the 1990 School Facilities Bond Act (Section 34 of Chapter 552 of the Statutes of 1995) is amended to read:

17660.40. Bonds in the total amount of seven hundred ninety-seven million eight hundred seventy-five thousand dollars (\$797,875,000), exclusive of refunding bonds, or so much thereof as is necessary, may be issued and sold to provide funds to be used for carrying out the purposes expressed in this chapter and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds shall, when sold, be and constitute a valid and binding obligation of the state, and the full faith and credit of the state is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

SEC. 124. Section 17698.20 of the 1988 School Facilities Bond Act (Section 34 of Chapter 552 of the Statutes of 1995) is amended to read:

17698.20. For the purpose of creating a fund to provide aid to school districts of the state in accordance with the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter 12 (commencing with Section 17000) of Part 10 of Division 1 of Title 1 of the Education Code), the purposes authorized under Section 17698.96 of this act, and of all acts amendatory thereof and supplementary thereto, and to provide funds to repay any money

advanced or loaned to the State School Building Lease-Purchase Fund under any act of the Legislature, together with interest provided for in that act, and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code, the committee shall be and is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the state, in the aggregate amount of seven hundred ninety-seven million seven hundred forty-five thousand dollars (\$797,745,000), not including the amount of any refunding bonds issued in accordance with Section 17698.93 of this act, in the manner provided herein, but not in excess thereof.

SEC. 125. The sum of ten million dollars (\$10,000,000) shall be transferred from the unexpended balance of bond funds made available to the Department of Parks and Recreation pursuant to subdivision (a) of Section 75063 of the Public Resources Code, and the sum of three million dollars (\$3,000,000) shall be transferred from the unexpended balance of bond funds made available to the Department of Parks and Recreation pursuant to Section 5096.615 of the Public Resources Code, and these moneys shall be deposited into the California State Park Enterprise Fund established pursuant to subdivision (b) of Section 5010.7 of the Public Resources Code, and may be expended, upon appropriation by the Legislature, for the purposes of paragraph (2) of subdivision (c) and subdivision (d) of Section 5010.7 of the Public Resources Code.

SEC. 126. (a) It is the intent of the Legislature that the State Water Resources Control Board make loans to the Department of Parks and Recreation of up to ten million dollars (\$10,000,000) per year, each fiscal year until June 30, 2016, from the State Water Pollution Control Revolving Fund for eligible projects associated with water, wastewater, and septic systems, and other eligible water-related projects. Further, it is the intent of the Legislature the Department of Parks and Recreation comply with all requirements for loan eligibility and repayment.

(b) (1) The State Water Resources Control Board shall make any necessary changes to its policy for implementing the Clean Water State Revolving Fund for Construction of Wastewater Treatment Facilities to ensure that the funds described in subdivision (a) are available to the Department of Parks and Recreation within 12 months from the effective date of this section,

assuming all necessary applications and other loan requirements are met. Those changes shall include the determination that the Department of Parks and Recreation shall be the fund guarantor and responsible for repayment of the loans from the fund provided pursuant to subdivision (a).

(2) Any policies that are adopted or revised pursuant to this subdivision shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code.

SEC. 127. (a) The Controller shall transfer the sum of twenty-one million dollars (\$21,000,000) on July 1, 2012, to the Department of Parks and Recreation Fund from moneys in the Motor Vehicle Fuel Account in the State Transportation Fund that would otherwise be transferred into the Off-Highway Vehicle Trust Fund pursuant to Section 8352.6 of the Revenue and Taxation Code. Moneys received from off-highway vehicle registration fees shall not be impacted by this section.

(b) It is the intent of the Legislature that the Off-Highway Vehicle Trust Fund appropriations are not affected by the transfer in subdivision (a).

SEC. 128. The sum of one hundred thirty-nine thousand dollars (\$139,000) is hereby appropriated from the Public Utilities Reimbursement Account to the Office of Environmental Health Hazard Assessment for additional staffing to identify constituents of biomethane injected into a common carrier pipeline that are reasonably anticipated to be hazardous to human health and to determine inhalation standards for those identified constituents.

SEC. 129. The sum of one thousand dollars (\$1,000) for the State Parks and Recreation Fund is hereby appropriated to the Department of Parks and Recreation for administrative costs.

SEC. 130. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 131. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

Approved _____, 2012

Governor