AMENDED IN SENATE JUNE 13, 2013

AMENDED IN SENATE JUNE 12, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL No. 77

Introduced by Committee on Budget (Blumenfield (Chair), Bloom, Bonilla, *Campos,* Chesbro, Daly, Dickinson, Gordon, Jones-Sawyer, Mitchell, Mullin, Muratsuchi, Nazarian, ~~Rendon,~~ *Skinner,* Stone, and Ting)

January 10, 2013

An act to amend Section 1352 of, to add Section 2850.5 to, and to repeal Section 712.5 of, the Fish and Game Code, to amend Sections 927.9, 11549.3, and 51018 of~~, and to add Section 1304 to,~~ the Government Code, to amend Sections 25178.1, 25189.3, 25205.4, 25205.7, 25205.12, 25205.14, 25205.18, 25205.19, 25205.21, 25247, and 44299.91 of, to amend and repeal Sections 25174.1, 25174.2, 25174.6, 25174.7, and 25205.15 of, to amend, repeal, and add Sections 25160, 25174, 25175, 25205.2, 25205.3, 25205.5, 25205.5.1, 25205.16, 25205.22, 25207.12, and 25250.24 of, to add Section 25205.5.2 to, and to repeal Sections 25174.11, 25205.9, and 25205.20 of, the Health and Safety Code, to amend Section 12211 of the Public Contract Code, to amend Sections 4785, 5018.1, 5080.18, 5096.650, 14538, 14539, 14549.5, 14553, 14572, 14591, 25751, 26052, 26055, 26060, 26062, 26063, 35600, 35605, 35625, 42977, 48704, 71300, 71301, 71302, 71303, 71304, and 71305 of, to add Sections 25711.5 and 25711.7 to, and to repeal Sections 4124 and 4515 of, the Public Resources Code, to amend Sections 309.5, 2851, and 5900 of, and to add Sections 318, 740.5, 854.5, and 2120 to, the Public Utilities Code, to amend Sections 43053, 43101, 43152, 43152.7, and 43152.10 of, to amend and repeal Sections 43002.3, 43051, and 43151 of, to amend, repeal, and add

Sections 43012 and 43152.15 of, and to repeal Sections 43005.5, 43055, 43152.11, and 43152.16 of, the Revenue and Taxation Code, to add Section 104.22 to the Streets and Highways Code, to amend Section 85200 of, and to add Section 10001.7 to, the Water Code, and to repeal Section 34 of Chapter 718 of the Statutes of 2010, relating to public resources, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

AB 77, as amended, Committee on Budget. Budget Act of 2013: public resources.

(1) Existing law requires that any moneys appropriated from the Public Resources Account in the Cigarette and Tobacco Products Surtax Fund for programs to protect, restore, enhance, or maintain waterfowl habitat be transferred to the Department of Fish and Wildlife for expenditure for those same purposes.

Existing law requires that any moneys appropriated to the Department of Fish and Wildlife from the California Environmental License Plate Fund in an amount not to exceed the amount transferred to the Department of Fish and Wildlife pursuant to the above provisions be transferred to the Department of Parks and Recreation for expenditure for exclusive trust purposes that include, among other things, the acquisition, preservation, restoration, or any combination thereof, of natural areas or ecological reserves.

This bill would repeal these provisions.

(2) The Wildlife Conservation Law of 1947 authorizes the Wildlife Conservation Board to, among other things, authorize the Department of Fish and Wildlife to lease, sell, exchange, or otherwise transfer any real property, interest in real property, or option acquired by or held under the jurisdiction of the board or the department. The law also authorizes the board to authorize the department to lease degraded potential wildlife habitat real property to nonprofit organizations, local governmental agencies, or state and federal agencies if specified conditions are met. The law requires proceeds from specified transactions, including leases, entered into pursuant to these provisions to be deposited into the Wildlife Restoration Fund, except as provided.

This bill would require any moneys received in the Wildlife Restoration Fund from leases pursuant to these provisions to be expended, upon appropriation, by the Department of Fish and Wildlife

for the purposes of managing, maintaining, restoring, or operating lands owned and managed by the department.

(3) The California Prompt Payment Act dictates that a state agency that fails to make a timely payment for goods or services acquired pursuant to a contract with a specified business or organization is subject to a late payment penalty. The act requires state agencies, on an annual basis within 90 calendar days following the end of each fiscal year, to provide the Director of General Services with a report on late payment penalties that were paid by the agency during the preceding fiscal year.

This bill would exclude the Department of Forestry and Fire Protection from the above-described reporting requirements.

~~(4) Existing law provides for the appointment of Members of the Legislature to various state boards, commissions, and similar multimember bodies.~~

~~This bill would authorize a Member of the Legislature appointed to a state board, commission, or similar multimember body within the Natural Resources Agency to designate an alternate to serve on the board, commission, or body in the Member's absence.~~

~~(5)~~

(4) Existing law creates the Office of Information Security in the Department of Technology, to ensure the confidentiality, integrity, and availability of state systems and applications, and to promote and protect consumer privacy to ensure the trust of the residents of the state. The office is under the direction of a director. Existing law authorizes the office to conduct, or require to be conducted, independent security assessments of any state agency, department, or office, the cost of which is required to be funded by the state agency, department, or office being assessed.

This bill would prohibit the office from requiring an independent security assessment of the Department of Forestry and Fire Protection.

~~(6)~~

(5) Existing law requires the State Fire Marshal to issue a report identifying pipeline leak incident rate trends, reviewing current regulatory effectiveness with regard to pipeline safety, and recommending any necessary changes to the Legislature. Existing law requires a pipeline operator, within 30 days of a pipeline rupture, explosion, or fire, to file a report with the State Fire Marshal.

This bill would delete these requirements.

~~(7)~~

(6) Existing law requires a generator of hazardous waste to complete, sign, and provide to certain persons a manifest containing specific information under certain circumstances when hazardous waste is to be transported and, with certain exceptions, imposes a fee on the use of the hazardous waste manifest.

This bill would, on and after January 1, 2014, eliminate the fee on the use of the manifest.

~~(8)~~

(7) Existing law requires the State Board of Equalization to provide to the Legislature quarterly reports on various hazardous waste fees collected.

This bill would make conforming changes with regard to those reports.

~~(9)~~

(8) Existing law requires the Department of Toxic Substances Control (DTSC) to suspend the permit of a facility for nonpayment of facility fees if the State Board of Equalization certifies in writing specified facts.

This bill would additionally authorize DTSC to certify in writing those facts.

~~(10)~~

(9) Existing law exempts from the hazardous waste facility fee a treatment facility engaged in treatment to accomplish a removal or remedial action or a corrective action in accordance with an order issued by the United States Environmental Protection Agency.

This bill would, on and after January 1, 2014, exempt from the hazardous waste facility fee a treatment facility engaged in removal or remedial actions pursuant to a removal action work plan or a remedial action plan that meets specific requirements and is authorized to operate by DTSC.

~~(11)~~

(10) Existing law establishes a base rate for the 1997 reporting period for a hazardous waste facility fee at $19,761 and requires for each reporting period thereafter that the State Board of Equalization adjust the base rate annually to reflect changes in the cost of living during the prior fiscal year.

This bill would, instead, establish the base rate for the 2013 reporting period for that fee at $30,005, and would require the State Board of Equalization to adjust the base rate and other specified rates related to hazardous waste annually to reflect increases or decreases in the cost of living during the prior fiscal year.

~~(12)~~

(11) Existing law requires a person who disposes of hazardous waste to pay a disposal fee. Existing law assesses a hazardous waste generator fee with a base rate of $2,748.

This bill would revise and recast these provisions to eliminate the disposal fee, and instead the bill would assess, on and after January 1, 2014, a generation and handling fee of $31.52 per ton of hazardous waste generated, except as specified. The bill would require the State Board of Equalization to adjust the fee schedule to reflect changes in the cost of living during the prior fiscal year.

~~(13)~~

(12) Existing law provides a hazardous waste generator with a credit toward the generator fee if the generator pays an inspection fee to a Certified Unified Program Agency with jurisdiction over the facility or transfers hazardous materials offsite for recycling.

This bill would, on and after January 1, 2014, repeal those credits.

~~(14)~~

(13) Existing law provides a person who applies for, or requests, specified permits, variances, or waste classification determinations with the option of paying a flat fee or entering into a reimbursement agreement to reimburse DTSC for costs incurred in processing the application or response to the request.

This bill would eliminate the flat fee option. The bill would additionally require the reimbursement agreement to provide for the reimbursement of the costs incurred by DTSC in reviewing and overseeing corrective action.

~~(15)~~

(14) Existing law imposes an annual verification fee upon generators, transporters, and facility operators with more than 50 employees that possess a valid identification number issued by DTSC or the United States Environmental Protection Agency.

This bill would, on and after January 1, 2014, eliminate that fee.

~~(16)~~

(15) Existing law exempts from certain reimbursement requirements an application to modify a permit for a facility's allowable capacity for treatment or storage of hazardous waste. Existing law exempts, from fees assessed on used oil, used oil removed from a motor vehicle that is subsequently recycled by a permitted recycler.

This bill would eliminate those exemptions. Because a failure to pay this fee is a crime, this bill would impose a state-mandated local program.

~~(17)~~

(16) Existing law exempts from the hazardous waste generator fee a person transporting, importing, or receiving certain hazardous waste imported into the state.

This bill would, on and after January 1, 2014, eliminate this exemption. Because a failure to pay this fee is a crime, this bill would impose a state-mandated local program.

~~(18)~~

(17) This bill would make conforming changes and delete obsolete provisions pertaining to the state's hazardous waste programs.

~~(19)~~

(18) 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, statewide general election, authorizes the issuance of $19,925,000,000 of general obligation bonds for specified purposes, including schoolbus retrofit and replacement purposes. 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 state board and requires the state board to allocate these bond funds in specified ways, including funding to local air pollution control and air quality management districts.

This bill would require funds authorized by the State Air Resources Board during or subsequent to the 2013–14 fiscal year to be allocated to local air pollution control and air quality management districts by prioritizing to retrofit or replace the most polluting schoolbuses in small local air pollution control and air quality management districts first and then medium local air pollution control and air quality management districts as defined by the state board. The bill would require each allocation to provide sufficient funding for at least one project to be implemented pursuant to the Lower-Emission School Bus Program. The bill, if a local air pollution control or air quality management district has unspent funds within 6 months of the expenditure deadline, would require the local air pollution control or air quality management district to work with the state board to transfer those funds to an alternative local air pollution control or air quality management district with existing demand.

~~(20)~~

(19) Existing law requires a state agency to report annually to the Department of Resources Recycling and Recovery on its progress in meeting recycled product purchasing requirements and requires the Department of Resources Recycling and Recovery to provide this reported information to the Legislature in an agency-specific report.

This bill would exempt the Department of Forestry and Fire Protection from this reporting requirement and would delete the requirement that the Department of Resources Recycling and Recovery provide the report to the Legislature.

~~(21)~~

(20) Existing law requires the Department of Forestry and Fire Protection to submit an annual report to the Joint Legislative Budget Committee regarding emergency incidents.

This bill would delete this requirement and other obsolete reporting provisions.

~~(22)~~

(21) Existing law requires the State Board of Forestry and Fire Protection to submit a report to the Legislature on the actions taken by the board relating to forest practices, as provided. Existing law requires the Department of Forestry and Fire Protection to prepare reports for the board setting forth data as to the experiments conducted by the department, and existing law requires the board to make these reports available to the Legislature.

This bill would delete the requirements that the board provide these reports to the Legislature.

~~(23)~~

(22) Existing law authorizes the Department of Finance to delegate to the Department of Parks and Recreation the right to exercise the same authority granted to the Division of the State Architect and the Real Estate Services Division in the Department of General Services, to plan, design, construct, and administer contracts and professional services for legislatively approved capital outlay projects. This provision is repealed as of January 1, 2014.

This bill would extend the repeal date to January 1, 2019.

~~(24)~~

(23) Existing law authorizes the Department of Parks and Recreation to enter into contracts with natural persons, corporations, partnerships, and associations for the construction, maintenance, and operation of concessions within units of the state park system. Existing law requires

those concession contracts to contain certain specified provisions, including a provision that the maximum term shall be 10 years, except that a term of more than 10 years may be provided if the Director of Parks and Recreation determines that the longer term is necessary to allow the concessionaire to amortize improvements made by the concessionaire, to facilitate the full utilization of a structure that is scheduled by the department for replacement or redevelopment, or to serve the best interests of the state. Existing law prohibits, with certain exceptions, the term of a concession contract from exceeding 20 years without specific authorization by statute.

This bill would authorize the term to exceed 20 years for a concession agreement at Will Rogers State Beach executed prior to December 31, 1997, as provided, without specific authorization by statute upon approval by the director and pursuant to a determination by the director that the longer term is necessary to allow the concessionaire to amortize improvements made by the concessionaire that are anticipated to exceed $1,500,000 in capital improvements. The bill would prohibit the extension of the term from exceeding 15 years.

~~(25)~~

(24) Existing law, the California Clean Water, Clean Air, and Safe Neighborhood Parks, and Coastal Protection Act of 2002, approved by the voters as Proposition 40 at the March 5, 2002, statewide primary election, authorizes the issuance of bonds in the amount of $2,600,000,000, for the purpose of financing a program for the acquisition, development, restoration, protection, rehabilitation, stabilization, reconstruction, preservation, and interpretation of park, coastal, agricultural land, air, and historical resources, as specified.

Proposition 40 requires that a specified sum from the proceeds of bonds issued and sold under its provisions, which is available upon appropriation by the Legislature, be allocated to the State Air Resources Board for grants to air pollution control and air quality management districts pursuant to the Carl Moyer Memorial Air Quality Standards Attainment Program for projects that reduce air pollution that affects air quality in state and local park and recreation areas.

This bill would require that allocations of these funds to the Lower-Emission School Bus Program be prioritized to retrofit or replace the most polluting schoolbuses in small local air quality management districts first and then to medium local air quality management districts as defined by the state board. The bill would require that each allocation for this purpose provide enough funding for at least one project to be

implemented pursuant to the Lower-Emission School Bus Program. The bill, if a local air quality management district has unspent funds within 6 months of the expenditure deadline, would require the local air quality management district to work with the state board to transfer funds to an alternative local air quality management district with existing demand.

~~(26)~~

(25) Existing law, the California Beverage Container Recycling and Litter Reduction Act, requires a distributor to pay a redemption payment for every beverage container sold or offered for sale in the state to the Department of Resources Recycling and Recovery. The act requires that every convenience zone be served by at least one certified recycling center and the department is required to certify recycling centers and processors for purposes of the act. The Director of Resources Recycling and Recovery is required to adopt, by regulation, procedures for the certification of recycling centers and processors.

This bill would require the Department of Resources Recycling and Recovery to review whether an application for certification as a recycling center or processor, or renewal of a certification, is complete within 30 working days of receipt and if the department deems an application complete, the department would be required to approve or deny the application no later than 60 calendar days after the date when the application was deemed complete. The bill would also require, on and after January 1, 2014, an applicant for certification as a recycling center or processor, or for renewal of a certification, to complete a precertification training program and meet all other qualification requirements prescribed by the department, which would be authorized to include requiring the applicant to obtain a passing score on an examination administered by the department.

~~(27)~~

(26) Existing law specifies requirements for the reports, claims, and information required to be submitted to the Department of Resources Recycling and Recovery pursuant to the act.

This bill would instead require a person otherwise subject to these requirements to use the Division of Recycling Integrated Information System (DORIIS) or other system designated by the Department of Resources Recycling and Recovery for reporting, making, or claiming payments or providing other information for purposes of the act.

~~(28)~~

(27) Existing law requires certified recycling centers to accept any empty beverage container from a consumer or dropoff or collection program and pay the refund value, which can be based on weight. Existing law requires the department to review and calculate the commingled rates paid for beverage containers and postfilled containers paid to curbside recycling programs, collection programs, and recycling centers.

This bill would require, on and after September 1, 2013, a certified recycling center, for beverage containers redeemed by consumers, to pay the refund value based on the applicable segregated rate. The bill would delete recycling centers from those entities for which the department is required to calculate a commingled rate.

~~(29)~~

(28) Existing law provides that a violation of the act is an infraction. The act also provides that a person who, with intent to defraud, takes specified actions, is guilty of fraud, punishable as specified.

This bill would additionally provide that a person who violates a regulation adopted pursuant to the act is guilty of an infraction. The bill would instead specify that a person who, with intent to defraud, takes those actions knowingly is guilty of a crime, punishable as specified.

~~(30)~~

(29) Because a violation of the act is a crime, the bill would impose a state-mandated local program by creating new crimes with regard to the submission of information to the department, the payment of refund values, and the violation of a regulation.

~~(31)~~

(30) The California Constitution establishes the Public Utilities Commission, with jurisdiction over all public utilities, as defined. The Reliable Electric Service Investments Act required the Public Utilities Commission 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. Existing decisions of the Public Utilities Commission institute an Electric Program Investment Charge (EPIC) to fund renewable energy and research, development, and demonstration programs.

Existing law creates in the State Treasury the Electric Program Investment Charge Fund to be administered by the State Energy

Resources Conservation and Development Commission and requires moneys received by the Public Utilities Commission for those programs the Public Utilities Commission has determined should be administered by the State Energy Resources Conservation and Development Commission to be forwarded by the Public Utilities Commission to the State Energy Resources Conservation and Development Commission at least quarterly for deposit in the fund.

This bill would require the State Energy Resources Conservation and Development Commission, in administering moneys in the fund for research, development, and demonstration programs, to develop and administer the EPIC program for the purpose of awarding funds to projects that may lead to technological advancement and breakthroughs to overcome barriers that prevent the achievement of the state's statutory energy goals and that may result in a portfolio of projects that is strategically focused and sufficiently narrow to make advancement on the most significant technological challenges. The bill would require the State Energy Resources Conservation and Development Commission, no later than April 30 of each year, to prepare and submit to the Legislature an annual report regarding the EPIC program.

This bill would prohibit the Public Utilities Commission from requiring the collection of moneys pursuant to a specified decision and any amendments to that decision in an annual amount greater than the amount set forth in that decision of the Public Utilities Commission.

~~(32)~~

(31) Existing law establishes the Emerging Renewable Resources Account, a continuously appropriated account, within the Renewable Resource Trust Fund for specified purposes related to renewable energy.

This bill would additionally authorize the use of the moneys in the account for the purposes of funding the New Solar Homes Partnership. Because the bill would expand the purposes of a continuously appropriated account, the bill would make an appropriation.

~~(33)~~

(32) Existing law defines a PACE program as a program that is financed by a PACE bond. Existing law requires the California Alternative Energy and Advanced Transportation Financing Authority to develop and administer a PACE Reserve program to reduce the overall costs to property owners of a Property Assessed Clean Energy bond, or PACE bond, issued by an applicant that has established a Property Assessed Clean Energy program, or PACE program, by providing a reserve of no more than 10% of the initial amount of the

PACE bond. Existing law, in 2010, appropriates, until January 1, 2015, $50 million from the Renewable Resource Trust Fund for the above purpose.

This bill would additionally require the authority to develop and administer a PACE risk mitigation program for PACE loans to increase their acceptance in the marketplace and protect against the risk of default and foreclosure. The bill would additionally include a PACE loan program as a PACE program. Because this bill would expand the use of the moneys appropriated by existing law, this bill would make an appropriation.

~~(34)~~

(33) Existing law requires the Department of Fish and Wildlife to regulate the protection of marine plants and animals in marine protected areas, as defined.

Existing law establishes the Ocean Protection Council in state government, and prescribes the membership, terms of office, and functions and duties of the council.

This bill would require that, commencing on July 1, 2013, the Ocean Protection Council assume responsibility for the direction of policy of marine protected areas.

~~(35)~~

(34) Existing law requires that at the Ocean Protection Council's first meeting in a calendar year, the council elect a chair from among its voting members.

This bill would delete that requirement and would instead require that the Secretary of the Natural Resources Agency serve as the chairperson of the Ocean Protection Council, and that the Secretary for Environmental Protection serve as the vice chairperson of the council. The bill would require that the Assistant Secretary for Coastal Matters at the Natural Resources Agency be designated as the Deputy Secretary of the Natural Resources Agency for Ocean and Coastal Policy, and would require the deputy secretary to also serve as the executive director for the council.

~~(36)~~

(35) Existing law authorizes the Legislature to make appropriations directly to the State Coastal Conservancy for expenditures authorized by the council for specified purposes related to the regulation of coastal development and protection.

This bill would instead authorize the Legislature to make those appropriations directly to the Secretary of the Natural Resources Agency

for those expenditures authorized by the council for specified purposes related to the regulation of coastal development and protection. The bill would also require that any bond funds received by the State Coastal Conservancy, on or before July 1, 2013, authorized to fund Ocean Protection Council's programs be transferred to the Natural Resources Agency for use for those programs. The bill would provide for the transfer to the secretary of certain functions and duties of the State Coastal Conservancy with regard to the implementation of contracts and grants on behalf of the council.

~~(37)~~

(36) The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, requires a manufacturer of carpets sold in this state, individually or through a carpet stewardship organization, to submit a carpet stewardship plan to the department. A manufacturer or carpet stewardship organization submitting a carpet stewardship plan is required to pay the department an annual administrative fee, as determined by the department. The department is also required to identify the direct development or regulatory costs incurred by the department prior to the submittal of carpet stewardship plans and to establish a fee in an amount adequate to cover those costs, that is required to be paid in 3 equal payments by a carpet stewardship organization that submits a carpet stewardship plan. Existing law establishes the Carpet Stewardship Account in the Integrated Waste Management Fund and requires these fees to be deposited in that account, for expenditure by the department, upon appropriation by the Legislature, to cover the department's cost to implement the carpet stewardship program provisions.

This bill would instead require a carpet stewardship organization to pay these fees quarterly to the Department of Resources Recycling and Recovery and would make conforming changes regarding those requirements.

~~(38)~~

(37) The act requires a manufacturer of architectural paint or designated stewardship organization to submit to the Department of Resources Recycling and Recovery an architectural paint stewardship plan to develop and implement a recovery program to manage the end of life of postconsumer architectural paint. A stewardship organization is required to pay the department an annual administrative fee in the amount that is sufficient to cover the department's full costs of

administering and enforcing the program. The fee is required to be deposited in the Architectural Paint Stewardship Account in the Integrated Waste Management Fund, which may be expended by the department, upon appropriation by the Legislature, to cover the department's costs to implement the architectural paint stewardship program provisions.

This bill would require the stewardship organization to pay the fees quarterly and would require the Department of Resources Recycling and Recovery to impose the fees in an amount that includes any program development costs or regulatory costs incurred by the department prior to the submittal of the stewardship plans.

~~(39)~~

(38) Existing law establishes the Office of Education and the Environment in the Department of Resources Recycling and Recovery to implement the statewide environmental educational program and requires the office, in cooperation with the State Department of Education and the State Board of Education, to develop and implement a unified education strategy on the environment for elementary and secondary schools in the state. The Governor's Reorganization Plan No. 2 of 2012, which will become effective July 1, 2013, provides that CalRecycle is transferred from the Natural Resources Agency to the California Environmental Protection Agency.

This bill would make conforming changes with regard to the establishment of the office in the Department of Resources Recycling and Recovery.

~~(40)~~

(39) Existing law requires the Office of Education and the Environment to develop a model environmental curriculum incorporating certain environmental principles and to submit the model curriculum to the Curriculum Development and Supplemental Materials Commission for review, as prescribed.

This bill would instead require the model curriculum to be submitted to the Instructional Quality Commission for review.

~~(41)~~

(40) Existing law requires the State Department of Education to make the curriculum available electronically and requires the California Environmental Protection Agency to assume the costs associated with the printing of the approved model curriculum.

This bill would instead require Department of Resources Recycling and Recovery to make the curriculum available electronically and would

delete the requirement with regard to the assumption of those costs. The bill would require the department to coordinate with specified state agencies to facilitate use of the model environmental curriculum and would authorize the department and those state agencies to collaborate with other specified entities to implement the program.

~~(42)~~

(41) Existing law establishes the Environmental Education Account in the State Treasury and authorizes the California Environmental Protection Agency to expend the moneys in the account, upon appropriation by the Legislature, for purposes of the program.

This bill would instead authorize Department of Resources Recycling and Recovery to expend the funds in the account.

~~(43)~~

(42) Existing law establishes the Division of Ratepayer Advocates within the Public Utilities Commission to represent the interests of public utility customers and subscribers, with the goal of obtaining the lowest possible rate for service consistent with reliable and safe service levels. Existing law requires the Director of the Division of Ratepayer Advocates to submit a budget to the Public Utilities Commission for final approval. Existing law authorizes the director of the division to appoint a lead attorney to represent the division and requires all attorneys assigned by the Public Utilities Commission to perform services for the division to report to and be directed by the lead attorney for the division.

This bill would rename the Division of Ratepayer Advocates the Office of Ratepayer Advocates and would require that the director of the office develop a budget for the office that would be submitted to the Department of Finance for final approval. The bill would require the lead attorney to obtain adequate legal personnel for the work to be conducted by the office from the Public Utilities Commission's attorney and requires the Public Utilities Commission's attorney to timely and appropriately fulfill all requests for legal personnel made by the lead attorney for the office, provided the office has sufficient moneys and positions in its budget for the services requested.

~~(44)~~

(43) Existing law establishes the Public Utilities Commission Utilities Reimbursement Account and authorizes the Public Utilities Commission to annually determine a fee to be paid by every public utility providing service directly to customers or subscribers and subject to the jurisdiction of the Public Utilities Commission, except for a railroad corporation. The Public Utilities Commission is required to establish the fee, with

the approval of the Department of Finance, to produce a total amount equal to that amount established in the authorized Public Utilities Commission budget for the same year, and an appropriate reserve to regulate public utilities, less specified sources of funding.

This bill would require the Public Utilities Commission to conduct a zero-based budget for all of its programs by January 10, 2015.

~~(45)~~

(44) Existing law authorizes certain public utilities, including electrical corporations and gas corporations, as defined, to propose research and development programs and authorizes the Public Utilities Commission to allow inclusion of expenses for research and development in rates. Existing law requires the Public Utilities Commission to consider specified guidelines in evaluating the research, development, and demonstration programs proposed by electrical corporations and gas corporations.

This bill would prohibit the Public Utilities Commission, in implementing the 21st Century Energy System Decision, as defined, from authorizing recovery from ratepayers of any expense for research and development projects that are not for purposes of cyber security and grid integration and would limit total funding for research and development projects for the purposes of cyber security and grid integration from exceeding $35,000,000. The bill would require that all cyber security and grid integration research and development projects be concluded by the 5th anniversary of their start date. The bill would prohibit the Public Utilities Commission from approving recovery from ratepayers of certain program management expenditures proposed in the 21st Century Energy System Decision proceeding. The bill would require the Public Utilities Commission to require the Lawrence Livermore National Laboratory, Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company to ensure that research parameters reflect a new contribution to cyber security and grid integration and that there not be a duplication of research being done by other private and governmental entities. The bill would require the participating electrical corporations to jointly report specified information to the Public Utilities Commission by December 1, 2013, and 60 days following conclusion of all research and development projects, and would require the Public Utilities Commission, upon determining that each report is sufficient, to report that information to the Legislature.

~~(46)~~

(45) Existing law requires the Public Utilities Commission, by January 10 of each year, to report to the Joint Legislative Budget Committee and appropriate fiscal and policy committees of the Legislature on all sources and amounts of funding and actual and proposed expenditures, including any costs to ratepayers, related to specified entities or programs established by the Public Utilities Commission by order, decision, motion, settlement, or other action, including, but not limited to, the California Clean Energy Fund, the California Emerging Technology Fund, and the Pacific Forest and Watershed Lands Stewardship Council, and any entities or programs, other than those expressly authorized by statute, that are established by the Public Utilities Commission under specified statutes.

This bill would prohibit the Public Utilities Commission, by order, decision, motion, settlement, or other action, from establishing a nonstate entity, as defined, with any moneys other than those moneys that would otherwise belong to the public utility's shareholders. The bill would prohibit the Public Utilities Commission from entering into a contract with any nonstate entity in which a person serves as an owner, director, or officer while serving as a commissioner. The bill would provide that any contract between the Public Utilities Commission and a nonstate entity is void and ceases to exist by operation of law if a person who was a commissioner at the time the contract was awarded, entered into, or extended, on or after January 1, 2014, becomes an owner, director, or officer of the nonstate entity while serving as a commissioner.

~~(47)~~

(46) The California Constitution provides that the Legislature may remove a commissioner of the Public Utilities Commission for incompetence, neglect of duty, or corruption, ⅔ of the membership of each house concurring.

This bill would provide that a commissioner who acts as an owner, director, or officer of a nonstate entity that was established after January 1, 2015, as a result of an order, decision, motion, settlement, or other action by the Public Utilities Commission in which the commissioner participated, neglects his or her duty and may be removed pursuant to the California Constitution.

~~(48)~~

(47) The Public Utilities Act provides for the imposition of fines and penalties by the Public Utilities Commission for various violations of the act and provides that any public utility that violates any provision of the California Constitution or the act, or that fails or neglects to

comply with any order, decision, decree, rule, direction, demand, or requirement of the Public Utilities Commission, where a penalty has not otherwise been provided, is subject to a penalty of not less than $500 and not more than $50,000 for each offense. The act authorizes the Public Utilities Commission to bring an action to recover fines and penalties imposed pursuant to the act in the superior court and requires that all fines and penalties recovered by the state in an action filed in the superior court, together with the costs of bringing the action, be paid into the State Treasury to the credit of the General Fund.

This bill would prohibit the Public Utilities Commission from distributing, expending, or encumbering any moneys received by the Public Utilities Commission as a result of any Public Utilities Commission proceeding or judicial action until the Public Utilities Commission provides the Director of Finance with written notification of the receipt of the moneys and the basis for these moneys being received by the Public Utilities Commission and the director provides not less than 60 days written notice to the Chairperson of the Joint Legislative Budget Committee and the chairs of the appropriate budget subcommittees of the Assembly and Senate of the receipt of the moneys and the basis for those moneys being received by the Public Utilities Commission.

~~(49)~~

(48) Decisions of the Public Utilities Commission adopted the California Solar Initiative. Existing law requires the Public Utilities Commission to undertake certain steps in implementing the California Solar Initiative. Existing law requires the Public Utilities Commission to ensure that the total cost of the California Solar Initiative over the duration of the program does not exceed $3,350,000,000, including $400,000,000 from the Emerging Renewable Resources Account within the Renewable Resource Trust Fund, for programs for the installation of solar energy systems, as defined, on new construction administered by the State Energy Resources Conservation and Development Commission, known as the New Solar Homes Partnership Program.

This bill would authorize the Public Utilities Commission, if it is notified by the State Energy Resources Conservation and Development Commission that funding available pursuant to the Emerging Renewable Resources Account for the New Solar Homes Partnership Program has been exhausted, to require an electrical corporation to continue administration of the program pursuant to the guidelines established for the program by the State Energy Resources Conservation and

Development Commission, until the funding limit of $400,000,000 has been reached. The bill would require the Public Utilities Commission, in consultation with the State Energy Resources Conservation and Development Commission, to supervise the administration of the continuation of the New Solar Homes Partnership Program by an electrical corporation. The bill would authorize an electrical corporation to elect to have a 3rd party administer the utility's continuation of the program.

~~(50)~~

(49) Existing law authorizes the Department of Transportation to acquire real property for state highway purposes. Existing law specifies various procedures to be followed by the department when it determines that real property acquired for state highway purposes is no longer necessary for those purposes, generally under terms and conditions established by the California Transportation Commission.

This bill would require the Department of Transportation to transfer certain real property it owns in the City of San Diego to the Department of Parks and Recreation for incorporation into the state park system. The bill would require the transfer to be completed within 90 days of the effective date of the bill. The bill would make various findings and declarations in that regard.

~~(51)~~

(50) Under existing law, the Department of Water Resources operates the State Water Project and exercises other functions relating to the state's water resources. Under the Federal Power Act, the Federal Energy Regulatory Commission, or FERC, is responsible for the relicensing of federally licensed hydroelectric power projects.

This bill would require the Director of Finance to notify the Joint Legislative Budget Committee of any hydroelectric power project relicensing proposal for the FERC that, if approved by the Department of Water Resources, would obligate the General Fund in the current or future years. This bill would authorize the department to approve that relicensing proposal not less than 30 days after the director notifies the committee.

~~(52)~~

(51) Existing law, the Sacramento-San Joaquin Delta Reform Act of 2009, establishes the Delta Stewardship Council, consisting of 7 voting members. Existing law prohibits a member of the council from serving 2 consecutive terms, but permits a member to be reappointed after a period of 2 years following the end of his or her term.

This bill would eliminate the above-described prohibition.

~~(53)~~

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

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

~~(54)~~

(53) This bill would reappropriate to the Coachella Valley Mountains Conservancy the balance of a specified appropriation made in the Budget Act of 2010, the moneys to be available for capital outlay or local assistance until June 30, 2016.

~~(55)~~

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

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. Section 712.5 of the Fish and Game Code is repealed.

SEC. 2. Section 1352 of the Fish and Game Code is amended to read:

1352. (a) The money in the Wildlife Restoration Fund, as provided for by Section 19632 of the Business and Professions Code, is available for expenditure under any provision of this chapter.

(b) All federal moneys made available for projects authorized by the board shall be deposited in the Wildlife Restoration Fund. Any unexpended balances of the federal moneys remaining on or after June 30, 1979, in any other fund shall be transferred to the Wildlife Restoration Fund.

(c) Any moneys received in the Wildlife Restoration Fund from leases authorized pursuant to paragraph (2) or (3) of subdivision (c) of Section 1348 shall be expended, upon appropriation, by the department for the purposes of managing, maintaining, restoring, or operating lands owned and managed by the department.

SEC. 3. Section 2850.5 is added to the Fish and Game Code, to read:

2850.5. Notwithstanding any other law and consistent with the authority granted under Section 2860, commencing on July 1, 2013, the Ocean Protection Council shall assume responsibility for the direction of policy of marine protected areas (MPAs).

SEC. 4. Section 927.9 of the Government Code is amended to read:

927.9. (a) Except as provided in subdivision (c), on an annual basis, within 90 calendar days following the end of each fiscal year, state agencies shall provide the Director of General Services with a report on late payment penalties that were paid by the state agency in accordance with this chapter during the preceding fiscal year.

(b) The report shall separately identify the total number and dollar amount of late payment penalties paid to small businesses, other businesses, and refunds or other payments to individuals. State agencies may, at their own initiative, provide the director with other relevant performance measures. The director shall prepare a report separately listing the number and total dollar amount of all late payment penalties paid to small businesses, other businesses, and refunds and other payments to individuals by each state agency during the preceding fiscal year, together with other relevant performance measures, and shall make the information available to the public.

(c) The reporting requirements of subdivisions (a) and (b) are not applicable to the Department of Forestry and Fire Protection.

~~SEC. 5. Section 1304 is added to the Government Code, to read:~~

~~1304. (a) A Member of the Legislature appointed to a state board, commission, or similar multimember body within the Natural Resources Agency may designate an alternate to serve on the board, commission, or body in the Member's absence.~~

~~(b) An alternate designated pursuant to this section shall exercise all of the rights, privileges, and powers that are available to the Member with respect to serving on the board, commission, or body within the Natural Resources Agency. The alternate designated pursuant to this section may not vote and shall adhere to the same rules of conduct as a voting member.~~

~~(c) An alternate designated pursuant to this section shall serve on the board, commission, or body within the Natural Resources~~

~~Agency only during the period for which the Member may serve on the board, commission, or body.~~

~~SEC. 6.~~

SEC. 5. Section 11549.3 of the Government Code is amended to read:

11549.3. (a) The director shall establish an information security program. The program responsibilities include, but are not limited to, all of the following:

(1) The creation, updating, and publishing of information security and privacy policies, standards, and procedures for state agencies in the State Administrative Manual.

(2) The creation, issuance, and maintenance of policies, standards, and procedures directing state agencies to effectively manage security and risk for all of the following:

(A) Information technology, which includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications, requisite system controls, simulation, electronic commerce, and all related interactions between people and machines.

(B) Information that is identified as mission critical, confidential, sensitive, or personal, as defined and published by the Office of Information Security.

(3) The creation, issuance, and maintenance of policies, standards, and procedures directing state agencies for the collection, tracking, and reporting of information regarding security and privacy incidents.

(4) The creation, issuance, and maintenance of policies, standards, and procedures directing state agencies in the development, maintenance, testing, and filing of each agency's disaster recovery plan.

(5) Coordination of the activities of agency information security officers, for purposes of integrating statewide security initiatives and ensuring compliance with information security and privacy policies and standards.

(6) Promotion and enhancement of the state agencies' risk management and privacy programs through education, awareness, collaboration, and consultation.

(7) Representing the state before the federal government, other state agencies, local government entities, and private industry on issues that have statewide impact on information security and privacy.

(b) An information security officer appointed pursuant to Section 11546.1 shall implement the policies and procedures issued by the Office of Information Security, including, but not limited to, performing all of the following duties:

(1) Comply with the information security and privacy policies, standards, and procedures issued pursuant to this chapter by the Office of Information Security.

(2) Comply with filing requirements and incident notification by providing timely information and reports as required by policy or directives of the office.

(c) (1) Except as provided in paragraph (2), the office may conduct, or require to be conducted, independent security assessments of any state agency, department, or office, the cost of which shall be funded by the state agency, department, or office being assessed.

(2) The office shall not conduct, or require to be conducted, independent security assessments of the Department of Forestry and Fire Prevention.

(d) The office may require an audit of information security to ensure program compliance, the cost of which shall be funded by the state agency, department, or office being audited.

(e) The office shall report to the Department of Technology any state agency found to be noncompliant with information security program requirements.

~~SEC. 7.~~

SEC. 6. Section 51018 of the Government Code is amended to read:

51018. (a) Every rupture, explosion, or fire involving a pipeline, including a pipeline system otherwise exempted by subdivision (a) of Section 51010.5, and including a pipeline undergoing testing, shall be immediately reported by the pipeline operator to the fire department having fire suppression responsibilities and to the California Emergency Management Agency.

(b) (1) The Office of Emergency Services shall immediately notify the State Fire Marshal of the incident, who shall immediately

dispatch State Fire Marshal employees to the scene. The State Fire Marshal or the employees, upon arrival, shall provide technical expertise and advise the operator and all public agencies on activities needed to mitigate the hazard.

(2) For purposes of this subdivision, the Legislature does not intend to hinder or disrupt the workings of the "incident commander system," but does intend to establish a recognized element of expertise and direction for the incident command to consult and acknowledge as an authority on the subject of pipeline incident mitigation. Furthermore, it is expected that the State Fire Marshal will recognize the expertise of the pipeline operator and any other emergency agency personnel who may be familiar with the particular location of the incident and respect their knowledgeable input regarding the mitigation of the incident.

(c) For purposes of this section, "rupture" includes every unintentional liquid leak, including any leak that occurs during hydrostatic testing, except that a crude oil leak of less than five barrels from a pipeline or flow line in a rural area, or any crude oil or petroleum product leak in any in-plant piping system of less than five barrels, when no fire, explosion, or bodily injury results or no waterway is contaminated thereby, does not constitute a rupture for purposes of the reporting requirements of subdivision (a).

(d) This section does not preempt any other applicable federal or state reporting requirement.

(e) Except as otherwise provided in this section and Section 8589.7, a notification made pursuant to this section shall satisfy any immediate notification requirement contained in any permit issued by a permitting agency.

(f) This section does not apply to pipeline ruptures involving nonreportable crude oil spills under Section 3233 of the Public Resources Code, unless the spill involves a fire or explosion.

~~SEC. 8.~~

SEC. 7. Section 25160 of the Health and Safety Code is amended to read:

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

(1) "Manifest" means a shipping document originated and signed by a generator of hazardous waste that contains all of the

information required by the department and that complies with all applicable federal and state regulations.

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

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

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

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

(b) (1) Except as provided in Section 25160.2 or 25160.8, or as otherwise authorized by a variance issued by the department, a person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, shall complete a manifest prior to the time the waste is transported or offered for transportation, and shall designate on that manifest the facility to which the waste is to be shipped for the handling, treatment, storage, disposal, or combination thereof. The manifest shall be completed as required by the department. The generator shall provide the manifest to the person who will transport the hazardous waste, who is the driver, if the hazardous waste will be transported by vehicle, or the person designated by the railroad corporation or vessel operator, if the hazardous waste will be transported by rail or vessel.

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

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

(C) A manifest shall only be used for the purposes specified in this chapter, including, but not limited to, identifying materials

that the person completing the manifest reasonably believes are hazardous waste.

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

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

(2) Except as provided in Section 25160.2 or 25160.8 or as otherwise authorized by a variance issued by the department, a person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, outside of the state, shall complete, whether or not the waste is determined to be hazardous by the importing country or state, a manifest in accordance with the following conditions:

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

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

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

(3) Within 30 days from the date of transport, or submission for transport, of hazardous waste out of state, each generator of that hazardous waste shall submit to the department a legible copy of each manifest used. The copy submitted to the department shall contain the signatures of the generator, all transporters, excepting intermediate rail transporters, and the out-of-state facility operator. If within 35 days from the date of the initial shipment, or for

exports by water to foreign countries 60 days after the initial shipment, the generator has not received a copy of the manifest signed by all transporters and the facility operator, the generator shall contact the owner or operator of the designated facility to determine the status of the hazardous waste and to request that the owner or operator immediately provide a signed copy of the manifest to the generator. Except as provided otherwise in paragraph (2) of subdivision (h) of Section 25123.3, if within 45 days from the date of the initial shipment or, for exports by water to foreign countries, 90 days from the date of the initial shipment, the generator has not received a copy of the signed manifest from the facility owner or operator, the generator shall submit an exception report to the department.

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

(5) (A) Notwithstanding any other provision of this section, except as provided in subparagraph (B), the generator copy of the manifest is not required to be submitted to the department for any waste transported in compliance with the consolidated manifest procedures in Section 25160.2 or with the procedures specified in Section 25160.8, or when the transporter is operating pursuant to a variance issued by the department pursuant to Section 25143 authorizing the use of a consolidated manifest for waste not listed in Section 25160.2, if the generator, transporter, and facility are all identified as the same company on the hazardous waste manifest. If multiple identification numbers are used by a single company, all of the company's identification numbers shall be included in its annual transporter registration application, if those numbers will be used with the consolidated manifest procedure. Nothing in this paragraph affects the obligation of a facility operator to submit to the department a copy of a manifest pursuant to this section.

(B) If the waste subject to subparagraph (A) is transported out of state, the generator shall either ensure that the facility operator

submits to the department a copy of the manifest or the generator shall submit a copy to the department that contains the signatures of the generator, all transporters, excepting intermediate rail transporters, and the out-of-state facility operator pursuant to paragraph (3).

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

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

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

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

(3) A person who transports hazardous waste shall transfer a copy of the manifest to the facility operator at the time of delivery,

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

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

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

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

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

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

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

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

(f) A generator, transporter, or facility operator may comply with the requirements of Sections 66262.40, 66263.22, 66264.71, and 66265.71 of Title 22 of the California Code of Regulations by storing manifest information electronically. A generator, transporter, or facility operator who stores manifest information electronically shall use the standardized electronic format and protocol for the exchange of electronic data established by the Secretary for Environmental Protection pursuant to Part 2 (commencing with Section 71050) of Division 34 of the Public Resources Code and the stored information shall include all the information required to be retained by the department, including all signatures required by this section.

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

(h) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 9.~~

SEC. 8. Section 25160 is added to the Health and Safety Code, to read:

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

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

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

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

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

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

(b) (1) Except as provided in Section 25160.2 or 25160.8, or as otherwise authorized by a variance issued by the department, a person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, shall complete a manifest prior to the time the waste is transported or offered for transportation, and shall designate on that manifest the facility to which the waste is to be shipped for the handling, treatment, storage, disposal, or combination thereof. The manifest shall be completed as required by the department. The generator shall provide the manifest to the person who will transport the hazardous waste, who is the driver, if the hazardous waste will be transported by vehicle, or the person designated by the railroad corporation or vessel operator, if the hazardous waste will be transported by rail or vessel.

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

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

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

(D) Within 30 days from the date of transport, or submission for transport, of hazardous waste, each generator of that hazardous

waste shall submit to the department a legible copy of each manifest used. The copy submitted to the department shall contain the signatures of the generator and the transporter.

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

(2) Except as provided in Section 25160.2 or 25160.8 or as otherwise authorized by a variance issued by the department, a person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, outside of the state, shall complete, whether or not the waste is determined to be hazardous by the importing country or state, a manifest in accordance with the following conditions:

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

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

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

(3) Within 30 days from the date of transport, or submission for transport, of hazardous waste out of state, each generator of that hazardous waste shall submit to the department a legible copy of each manifest used. The copy submitted to the department shall contain the signatures of the generator, all transporters, excepting intermediate rail transporters, and the out-of-state facility operator. If within 35 days from the date of the initial shipment, or for exports by water to foreign countries 60 days after the initial shipment, the generator has not received a copy of the manifest signed by all transporters and the facility operator, the generator shall contact the owner or operator of the designated facility to

determine the status of the hazardous waste and to request that the owner or operator immediately provide a signed copy of the manifest to the generator. Except as provided otherwise in paragraph (2) of subdivision (h) of Section 25123.3, if within 45 days from the date of the initial shipment or, for exports by water to foreign countries, 90 days from the date of the initial shipment, the generator has not received a copy of the signed manifest from the facility owner or operator, the generator shall submit an exception report to the department.

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

(5) (A) Notwithstanding any other provision of this section, except as provided in subparagraph (B), the generator copy of the manifest is not required to be submitted to the department for any waste transported in compliance with the consolidated manifest procedures in Section 25160.2 or with the procedures specified in Section 25160.8, or when the transporter is operating pursuant to a variance issued by the department pursuant to Section 25143 authorizing the use of a consolidated manifest for waste not listed in Section 25160.2, if the generator, transporter, and facility are all identified as the same company on the hazardous waste manifest. If multiple identification numbers are used by a single company, all of the company's identification numbers shall be included in its annual transporter registration application, if those numbers will be used with the consolidated manifest procedure. Nothing in this paragraph affects the obligation of a facility operator to submit to the department a copy of a manifest pursuant to this section.

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

transporters, and the out-of-state facility operator pursuant to paragraph (3).

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

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

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

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

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

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

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

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

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

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

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

(B) The facility operator is in compliance with the regulations adopted by the department specifying the conditions and procedures

applicable to the receipt of hazardous waste under these circumstances.

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

(f) A generator, transporter, or facility operator may comply with the requirements of Sections 66262.40, 66263.22, 66264.71, and 66265.71 of Title 22 of the California Code of Regulations by storing manifest information electronically. A generator, transporter, or facility operator who stores manifest information electronically shall use the standardized electronic format and protocol for the exchange of electronic data established by the Secretary for Environmental Protection pursuant to Part 2 (commencing with Section 71050) of Division 34 of the Public Resources Code and the stored information shall include all the information required to be retained by the department, including all signatures required by this section.

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

(h) This section shall become operative on January 1, 2014, and shall apply to the fees due for the 2014 reporting period and thereafter, including the prepayments due during the reporting period and the final reconciliation fee due and payable following the reporting period.

~~SEC. 10.~~

SEC. 9. 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, 25205.14, 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.

(*l*) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 11.~~

SEC. 10. Section 25174 is added to the Health and Safety Code, 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 25205.2, 25205.5, and 25205.14.

(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.

(*l*) This section shall become operative on January 1, 2014.

~~SEC. 12.~~

SEC. 11. Section 25174.1 of the Health and Safety Code is amended to read:

25174.1. (a) A person who disposes of hazardous waste in this state shall pay a fee for the disposal of hazardous waste to land, based on the type of waste placed in a disposal site, in accordance with this section and Section 25174.6.

(b) "Disposal fee" means the fee imposed by this section.

(c) For purposes of this section, "dispose" and "disposal" include "disposal," as defined in Section 25113, including, but not limited to, "land treatment," as defined in subdivision (n) of Section 25205.1.

(d) An operator of an authorized hazardous waste facility, at which hazardous wastes are disposed, shall collect a fee from any person submitting hazardous waste for disposal and shall transmit the fees to the State Board of Equalization for the disposal of those wastes. The operator shall be considered the taxpayer for purposes of Section 43151 of the Revenue and Taxation Code. The facility

operator is not required to collect and transmit the fee for a hazardous waste if the operator maintains written evidence that the hazardous waste is eligible for the exemption provided by Section 25174.7 or otherwise exempted from the fees pursuant to this chapter. The written evidence may be provided by the operator or by the person submitting the hazardous waste for disposal, and shall be maintained by the operator at the facility for a minimum of three years from the date that the waste is submitted for disposal. If the operator submits the hazardous waste for disposal, the operator shall pay the same fee as would any other person.

(e) Notwithstanding subdivision (d), the disposal facility shall not be liable for the underpayment of any disposal fees for hazardous waste submitted for disposal by a person other than the operator, if the person submitting the hazardous waste to the disposal facility has done either of the following:

(1) Mischaracterized the hazardous waste.

(2) Misrepresented any exemptions pursuant to Section 25174.7 or any other exemption from the disposal fee provided pursuant to this chapter.

(f) (1) Any additional payment of disposal fees that are due to the State Board of Equalization as a result of a mischaracterization of a hazardous waste, a misrepresentation of an exemption, or any other error, shall be the responsibility of the person making the mischaracterization, misrepresentation, or error.

(2) In the event of a dispute regarding the responsibility for a mischaracterization, misrepresentation, or other error, for which additional payment of disposal fees are due, the State Board of Equalization shall assign responsibility for payment of the fee to that person, or those persons, it determines responsible for the mischaracterization, misrepresentation, or other error, provided that the person, or persons, has the right to a public hearing and comment, and the procedural and substantive rights of appeal pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(3) Any generator, transporter, or owner or operator of a disposal facility shall report to the department and the State Board of Equalization any information regarding the mischaracterization, misrepresentation, or error, which could affect the disposal fee, within 30 days of that information first becoming known to that person.

(g) The State Board of Equalization shall deposit the fees collected pursuant to this section in the Hazardous Waste Control Account, for expenditure by the department, upon appropriation by the Legislature.

(h) The operator of the facility that disposes of the hazardous waste to land shall provide to every person who submits hazardous waste for disposal at the facility a statement showing the amount of hazardous waste fees payable pursuant to this section.

(i) Any person who disposes of hazardous waste at any site that is not an authorized hazardous waste facility shall be responsible for payment of fees pursuant to this section and shall be the taxpayer for purposes of Section 43151 of the Revenue and Taxation Code.

(j) This section applies only to fees due for the 2013 and earlier reporting periods.

(k) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 13.~~

SEC. 12. Section 25174.2 of the Health and Safety Code is amended to read:

25174.2. (a) The base rate for the hazardous wastes specified in Section 25174.6 that are disposed of or submitted for disposal in the state is eighty-five dollars and twenty-four cents ($85.24) per ton for disposal of hazardous waste to land.

(b) The base rate specified in subdivision (a) is the base rate for the period of January 1, 1997, to December 31, 1997. Beginning with calendar year 1998, and for each year thereafter, the State Board of Equalization shall adjust the base rate 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 a successor agency.

(c) This section applies only to fees due for the 2013 and earlier reporting periods.

(d) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 14.~~

SEC. 13. Section 25174.6 of the Health and Safety Code is amended to read:

25174.6. (a) The fee provided pursuant to Section 25174.1 shall be determined as a percentage of the base rate, as adjusted by the State Board of Equalization, pursuant to Section 25174.2, or as otherwise provided by this section. The procedure for determining these fees is as follows:

(1) The following fees shall be paid for each ton, or fraction of a ton for up to the first 5,000 tons of the following hazardous wastes disposed of, or submitted for disposal, in the state at each specific offsite facility by each producer, or at each specific onsite facility, per month, if the hazardous wastes are not otherwise subject to the fee specified in paragraph (3) or (4) and are not otherwise exempt from the fees imposed pursuant to this article:

(A) For non-RCRA hazardous waste, excluding asbestos, generated in a remedial action, a removal action, or a corrective action taken pursuant to this chapter, Chapter 6.7 (commencing with Section 25280), Chapter 6.75 (commencing with Section 25299.10), or Chapter 6.8 (commencing with Section 25300), or generated in any other required or voluntary cleanup, removal, or remediation of a hazardous substance or non-RCRA hazardous waste, a fee of five dollars and seventy-two cents ($5.72) per ton.

(B) For all other non-RCRA hazardous waste, a fee of 16.31 percent of the base rate for each ton.

(2) Thirteen percent of the base rate for each ton, or fraction of a ton, shall be paid for up to the first 5,000 tons of hazardous waste disposed of, or submitted for disposal, in the state, at each specific offsite facility by each producer, or at each specific onsite facility, per month, which result from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and the overburden from the mining of uranium ore and that is not otherwise subject to the fee specified in paragraph (3) or (4).

(3) Two hundred percent of the base rate shall be paid for each ton, or fraction of a ton, of extremely hazardous waste disposed of, or submitted for disposal, in the state.

(4) Two hundred percent of the base rate shall be paid for each ton, or fraction of a ton, of restricted hazardous wastes listed in subdivision (b) of Section 25122.7 disposed of, or submitted for disposal, in the state.

(5) Forty and four-tenths percent of the base rate shall be paid for each ton, or fraction thereof, of hazardous waste disposed of,

or submitted for disposal, in the state that is not otherwise subject to the fees specified in paragraph (1), (2), (3), (4), or (6).

(6) Five percent of the base rate shall be paid for each ton, or fraction of a ton, of hazardous waste disposed of, or submitted for disposal, in the state that is a solid hazardous waste residue resulting from incineration or dechlorination. Fees shall not be imposed pursuant to this paragraph on a solid hazardous waste residue resulting from incineration or dechlorination that is disposed of, or submitted for disposal, outside of the state.

(7) Fifty percent of the fee that would otherwise be paid for each ton, or fraction of a ton, of hazardous waste disposed of in the state that is a solid hazardous waste residue resulting from treatment of a treatable waste by means of a designated treatment technology, as defined in Section 25179.2. Fees shall not be imposed pursuant to this paragraph on a solid hazardous waste residue resulting from treatment of a treatable waste by means of a designated treatment technology that is not a hazardous waste or that is disposed of, or submitted for disposal, outside of the state.

(b) The amount of fees payable to the State Board of Equalization pursuant to this section shall be calculated using the total wet weight, measured in tons or fractions of a ton, of the hazardous waste in the form in which the hazardous waste existed at the time of disposal, submission for disposal, or application to land using a land disposal method, as defined in Section 66260.10 of Title 22 of the California Code of Regulations, if all of the following apply:

(1) The weight of any nonhazardous reagents or treatment additives added to the waste, after it has been submitted for disposal, for purposes of rendering the waste less hazardous, shall not be included in those calculations.

(2) Except as provided by paragraph (7) of subdivision (a), any RCRA hazardous waste received, treated, and disposed at the disposal facility shall be subject to a disposal fee pursuant to this section as if it were a non-RCRA hazardous waste, if the waste, due to treatment, is no longer a RCRA hazardous waste at the time of disposal.

(c) All fees imposed by this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(d) This section applies only to fees due for the 2013 and earlier reporting periods.

(e) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 15.~~

SEC. 14. Section 25174.7 of the Health and Safety Code is amended to read:

25174.7. (a) The fees provided for in Sections 25174.1 and 25205.5 do not apply to any of the following:

(1) Hazardous wastes that result when a government agency, or its contractor, removes or remedies a release of hazardous waste in the state caused by another person.

(2) Hazardous wastes generated or disposed of by a public agency operating a household hazardous waste collection facility in the state pursuant to Article 10.8 (commencing with Section 25218), including, but not limited to, hazardous waste received from conditionally exempt small quantity commercial generators, authorized pursuant to Section 25218.3.

(3) Hazardous wastes generated or disposed of by local vector control agencies that have entered into a cooperative agreement pursuant to Section 116180 or by county agricultural commissioners, if the hazardous wastes result from their control or regulatory activities and if they comply with the requirements of this chapter and regulations adopted pursuant this chapter.

(4) Hazardous waste disposed of, or submitted for disposal or treatment, by any person, which is discovered and separated from solid waste as part of a load checking program.

(b) Notwithstanding paragraph (1) of subdivision (a), any person responsible for a release of hazardous waste, that has been removed or remedied by a government agency, or its contractor, shall pay the fee pursuant to Section 25174.1.

(c) Any person who acquires land for the sole purpose of owner-occupied single-family residential use, and who acquires that land without actual or constructive notice or knowledge that there is a tank containing hazardous waste on or under that property, is exempt from the fees imposed pursuant to Sections 25174.1 and 25205.5, in connection with the removal of the tank.

(d) This section applies only to fees due for the 2013 and earlier reporting periods.

(e) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 16.~~

SEC. 15. Section 25174.11 of the Health and Safety Code is repealed.

~~SEC. 17.~~

SEC. 16. Section 25175 of the Health and Safety Code is amended to read:

25175. (a) (1) The department shall prepare and adopt, by regulation, a list, and on or before January 1, 2002, and when appropriate thereafter, shall revise, by regulation, that list, of specified hazardous wastes that the department finds are economically and technologically feasible to recycle either onsite or at an offsite commercial hazardous waste recycling facility in the state, taking into consideration various factors that shall include, but are not limited to, the quantities of, concentrations of, and potential contaminants in, these hazardous wastes, the number and location of recycling facilities, and the proximity of these facilities to hazardous waste generators.

(2) Whenever any hazardous waste on the list adopted or revised pursuant to paragraph (1) is transported offsite for disposal, the department may request, in writing, by certified mail with return receipt requested, and the generator of that waste shall supply the department with, a formal, complete, and detailed statement justifying why the waste was not recycled. The generator shall supply the statement in writing, by certified mail with return receipt requested, within 30 calendar days of receipt of the department's request. This statement shall include the generator's assessment of the economic and technological feasibility of recycling the wastes and may include, but need not to be limited to, the generator's good faith determination that sending the hazardous waste to any recycling facility where it is feasible to recycle that hazardous waste would constitute an unacceptable environmental or business risk. This determination by the generator shall be based upon an environmental audit or other reasonably diligent investigation of the environmental and other relevant business practices of the recycling facility or facilities where it would otherwise be feasible to recycle the waste. If the request is made of any entity listed in Section 25118 other than an individual, the

statement shall be issued by the responsible management of that entity. The department shall keep confidential any trade secrets contained in that statement.

(3) On or before January 1, 2002, the department shall establish a procedure for the department to independently verify whether any hazardous waste identified in the list adopted pursuant to paragraph (1) is disposed of, rather than recycled. The department shall, on or before January 1, 2002, prepare and adopt those regulations that the department finds necessary to ensure that it can fully perform its duties pursuant to subdivisions (k) and (*l*) of Section 25170 to encourage the exchange of hazardous waste and to establish and maintain an information clearinghouse of hazardous wastes that may be recyclable.

(4) On or before July 1, 2000, the department shall establish an advisory committee to advise the department on the development of the regulations required or authorized by this section and on the department's implementation of this section. The advisory committee shall consist of representatives of generators, hazardous waste facility operators, environmental organizations, the Legislature, and other interested parties.

(5) In determining to which generators the department will send the request specified in paragraph (2), the department shall give priority to notifying generators transporting offsite for disposal more than 1000 pounds per year of the type of hazardous waste that would be the subject of the request, to the extent this prioritization is feasible within the information management capabilities of the department.

(b) (1) If, after the department receives a statement from a generator pursuant to paragraph (2) of subdivision (a), the department finds the recycling of a hazardous waste to be economically and technologically feasible, the department shall inform the generator, in writing, by certified mail, return receipt requested, that 30 days after the date the generator receives notice of the department's finding, any of the generators' hazardous waste transported offsite to which the department's finding applies shall, after that date, be recycled. The department may establish procedures for rescinding or modifying any finding made by the department pursuant to this paragraph if there is a pertinent change in circumstances related to that finding.

(2) Notwithstanding paragraph (1), the department shall not find the recycling of a hazardous waste to be economically and technologically feasible if a generator includes a good faith determination in the statement submitted pursuant to paragraph (2) of subdivision (a) that sending its hazardous waste to any recycling facility where it is otherwise feasible to recycle the hazardous waste constitutes an unacceptable environmental or business risk.

(c) A generator who does not recycle a hazardous waste after the generator receives a notice of the departments' findings pursuant to subdivision (b) that the hazardous waste is economically and technologically feasible to recycle is subject to five times the disposal fee that would otherwise apply to the disposal of that hazardous waste pursuant to Section 25174.1.

(d) For purposes of this section, "recycle" and "recycling" shall have the same meaning as set forth in subdivision (a) of Section 25121.1.

(e) This section applies only to fees due for the 2013 and earlier reporting periods.

(f) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 18.~~

SEC. 17. Section 25175 is added to the Health and Safety Code, to read:

25175. (a) (1) The department shall prepare and adopt, by regulation, a list, and when appropriate, shall revise, by regulation, that list, of specified hazardous wastes that the department finds are economically and technologically feasible to recycle either onsite or at an offsite commercial hazardous waste recycling facility in the state, taking into consideration various factors that shall include, but are not limited to, the quantities of, concentrations of, and potential contaminants in, these hazardous wastes, the number and location of recycling facilities, and the proximity of these facilities to hazardous waste generators.

(2) Whenever any hazardous waste on the list adopted or revised pursuant to paragraph (1) is transported offsite for disposal, the department may request, in writing, by certified mail with return receipt requested, and the generator of that waste shall supply the department with a formal, complete, and detailed statement

justifying why the waste was not recycled. The generator shall supply the statement in writing, by certified mail with return receipt requested, within 30 calendar days of receipt of the department's request. This statement shall include the generator's assessment of the economic and technological feasibility of recycling the wastes and may include, but need not to be limited to, the generator's good faith determination that sending the hazardous waste to any recycling facility where it is feasible to recycle that hazardous waste would constitute an unacceptable environmental or business risk. This determination by the generator shall be based upon an environmental audit or other reasonably diligent investigation of the environmental and other relevant business practices of the recycling facility or facilities where it would otherwise be feasible to recycle the waste. If the request is made of any entity listed in Section 25118 other than an individual, the statement shall be issued by the responsible management of that entity. The department shall keep confidential any trade secrets contained in that statement.

(3) The department shall establish a procedure for the department to independently verify whether any hazardous waste identified in the list adopted pursuant to paragraph (1) is disposed of, rather than recycled. The department shall prepare and adopt those regulations that the department finds necessary to ensure that it can fully perform its duties pursuant to subdivisions (k) and (*l*) of Section 25170 to encourage the exchange of hazardous waste and to establish and maintain an information clearinghouse of hazardous wastes that may be recyclable.

(4) The department shall establish an advisory committee to advise the department on the development of the regulations required or authorized by this section and on the department's implementation of this section. The advisory committee shall consist of representatives of generators, hazardous waste facility operators, environmental organizations, the Legislature, and other interested parties.

(5) In determining to which generators the department will send the request specified in paragraph (2), the department shall give priority to notifying generators transporting offsite for disposal more than 1000 pounds per year of the type of hazardous waste that would be the subject of the request, to the extent this

prioritization is feasible within the information management capabilities of the department.

(b) (1) If, after the department receives a statement from a generator pursuant to paragraph (2) of subdivision (a), the department finds the recycling of a hazardous waste to be economically and technologically feasible, the department shall inform the generator, in writing, by certified mail, return receipt requested, that 30 days after the date the generator receives notice of the department's finding, any of the generators' hazardous waste transported offsite to which the department's finding applies shall, after that date, be recycled. The department may establish procedures for rescinding or modifying any finding made by the department pursuant to this paragraph if there is a pertinent change in circumstances related to that finding.

(2) Notwithstanding paragraph (1), the department shall not find the recycling of a hazardous waste to be economically and technologically feasible if a generator includes a good faith determination in the statement submitted pursuant to paragraph (2) of subdivision (a) that sending its hazardous waste to any recycling facility where it is otherwise feasible to recycle the hazardous waste constitutes an unacceptable environmental or business risk.

(c) A generator who does not recycle a hazardous waste after the generator receives a notice of the departments' findings pursuant to subdivision (b) that the hazardous waste is economically and technologically feasible to recycle is subject to five times the generation and handling fee that would otherwise apply to of that hazardous waste pursuant to Section 25205.5.

(d) For purposes of this section, "recycle" and "recycling" shall have the same meaning as set forth in subdivision (a) of Section 25121.1.

(e) This section shall become operative on January 1, 2014, and shall apply to the fees due for the 2014 reporting period and thereafter, including the prepayments due following the reporting period and the final reconciliation fee due and payable following the reporting period.

~~SEC. 19.~~

SEC. 18. Section 25178.1 of the Health and Safety Code is amended to read:

25178.1. (a) The State Board of Equalization shall provide quarterly reports to the Legislature on the fees collected pursuant to Sections 25205.2 and 25205.5. The reports shall be due on the 15th day of the second month following each quarter.

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

~~SEC. 20.~~

SEC. 19. Section 25189.3 of the Health and Safety Code is amended to read:

25189.3. (a) For purposes of this section, the term "permit" means a hazardous waste facilities permit, interim status authorization, or standardized permit.

(b) The department shall suspend the permit of any facility for nonpayment of any facility fee assessed pursuant to Section 25205.2 or activity fee assessed pursuant to Section 25205.7, if the operator of the facility is subject to the fee, and if the department or the State Board of Equalization has certified in writing to all of the following:

(1) The facility's operator is delinquent in the payment of the fee for one or more reporting periods.

(2) The department or the State Board of Equalization has notified the facility's operator of the delinquency.

(3) For a facility operator that exercised the option to pay the flat activity fee rate under subdivision (d) of Section 25205.7 as that section read on January 1, 2013, the operator has exhausted his or her administrative rights of appeal provided by Chapter 3 (commencing with Section 43151) of Part 22 of Division 2 of the Revenue and Taxation Code, and the State Board of Equalization has determined that the operator is liable for the fee, or that the operator has failed to assert those rights.

(c) (1) The department shall suspend the permit of any facility for nonpayment of a penalty assessed upon the owner or operator for failure to comply with this chapter or the regulations adopted pursuant to this chapter, if the penalty has been imposed by a trial court judge or by an administrative hearing officer if the person has agreed to pay the penalty pursuant to a written agreement resolving a lawsuit or an administrative order or if the penalty has become final due to the person's failure to respond to the lawsuit or order.

(2) The department may suspend a permit pursuant to this subdivision only if the owner or operator is delinquent in the payment of the penalty and the department has notified the owner or operator of the delinquency pursuant to subdivision (d).

(d) Before suspending a permit pursuant to this section, the department shall notify the owner or operator of its intent to do so, and shall allow the owner or operator a minimum of 30 days in which to cure the delinquency.

(e) The department may deny a new permit or refuse to renew a permit on the same grounds for which the department is required to suspend a permit under this section, subject to the same requirements and conditions.

(f) (1) The department shall reinstate a permit that is suspended pursuant to this section upon payment of the amount due if the permit has not otherwise been revoked or suspended pursuant to any other provision of this chapter or regulation. Until the department reinstates a permit suspended pursuant to this section, if the facility stores, treats, disposes of, or recycles hazardous wastes, the facility shall be in violation of this chapter. If the operator of the facility subsequently pays the amount due, the period of time for which the operator shall have been in violation of this chapter shall be from the date of the activity that is in violation until the day after the owner or operator submits the payment to the department.

(2) Except as otherwise provided in this section, the department is not required to take any other statutory or regulatory procedures governing the suspension of the permit before suspending a permit in compliance with the procedures of this section.

(g) (1) A suspension under this section shall be stayed while an authorized appeal of the fee or penalty is pending before a court or an administrative agency.

(2) For purposes of this subdivision, "an authorized appeal" means any appeal allowed pursuant to an applicable regulation or statute.

(h) The department may suspend a permit under this section based on a failure to pay the required fee or penalty that commenced prior to January 1, 2002, if the failure to pay has been ongoing for at least 30 days following that date.

(i) Notwithstanding Section 43651 of the Revenue and Taxation Code, the suspension of a permit pursuant to this section, the reason

for the suspension, and any documentation supporting the suspension, shall be a matter of public record.

(j) (1) This section does not authorize the department to suspend a permit held by a government agency if the agency does not dispute the payment but nonetheless is unable to process the payment in a timely manner.

(2) This section does not apply to a site owned or operated by a federal agency if the department has entered into an agreement with that federal agency regarding the remediation of that site.

(k) This section does not limit or supersede Section 25186.

~~SEC. 21.~~

SEC. 20. Section 25205.2 of the Health and Safety Code is amended to read:

25205.2. (a) Except as provided in subdivisions (c) and (h), in addition to the fees specified in Section 25174.1, each operator of a facility shall pay a facility fee for each reporting period, or any portion thereof, to the board based on the size and type of the facility, as specified in Section 25205.4. On or before January 31 of each calendar year, the department annually shall notify the board of all known facility operators by facility type and size. The department shall also notify the board of any operator who is issued a permit or grant of interim status within 30 days from the date that a permit or grant of interim status is issued to the operator. The fee specified in this section does not apply to facilities exempted pursuant to Section 25205.12.

(b) The board shall deposit all fees collected pursuant to subdivision (a) in the Hazardous Waste Control Account in the General Fund. The fees so deposited may be expended by the department, upon appropriation by the Legislature, for the purposes specified in subdivision (b) of Section 25174.

(c) Notwithstanding subdivision (a), a person who is issued a variance by the department from the requirement of obtaining a hazardous waste facilities permit or grant of interim status is not subject to the fee, for any reporting period following the reporting period in which the variance was granted by the department.

(d) Operators subject to facility fee liability pursuant to this section shall pay the following amounts:

(1) The operator shall pay the applicable facility fee for each reporting period in which the facility actually engaged in the treatment, storage, or disposal of hazardous waste.

(2) The operator shall pay the applicable facility fee for one additional reporting period immediately following the final reporting period in which the facility actually engaged in that treatment or storage. For the 1994 reporting period and thereafter, the facility's size for that additional reporting period shall be deemed to be the largest size at which the facility has ever been subject to the fee. If the department previously approved a unit or portion of the facility for a variance, closure, or permit-by-rule, the facility's size for that reporting period shall be deemed to be its largest size since the department granted the approval.

(3) The operator of a disposal facility shall pay twice the applicable facility fee for one additional reporting period immediately following the final reporting period in which the facility actually engaged in disposal of hazardous waste.

(4) For the 1994 reporting period and thereafter, a facility shall not be deemed to have stopped treating, storing, or disposing of hazardous waste unless it has actually ceased that activity and has notified the department of its intent to close.

(5) If the reporting period which immediately followed the final reporting period in which a facility actually engaged in the treatment, storage, or disposal of the hazardous waste was the six-month period from July 1, 1991, through December 31, 1991, the operator shall be subject to twice the fee otherwise applicable to that operator for that reporting period under paragraphs (2) and (3).

(e) No facility shall be subject to a facility fee for treatment, storage, or disposal, if that activity ceased before July 1, 1986, and if the fee for the activity was not paid prior to January 1, 1994.

(f) Notwithstanding any other provision of this section, a person who ceased actual treatment, storage, or disposal of hazardous waste, whether generated onsite or received from offsite, before July 1, 1986, and who paid facility fees for any reporting period after that date pursuant to a decision of the State Board of Equalization, and who filed a claim for refund of those fees on or before January 1, 1994, shall be entitled to a refund of those amounts.

(g) Facility operators who treated, stored, or disposed of hazardous waste on or after July 1, 1986, shall be subject to the provisions of this section which were in effect prior to January 1, 1994, as to payments which their operators made prior to January

1, 1994. The operators shall be subject to subdivision (d) as to any other liability for the facility fee.

(h) A treatment facility is not subject to the facility fee established pursuant to this section, if the facility engages in treatment exclusively to accomplish a removal or remedial action or a corrective action in accordance with an order issued by the Environmental Protection Agency pursuant to the federal act or in accordance with an order issued by the department pursuant to Section 25187, if the facility was put in operation solely for purposes of complying with that order. The department shall instead assess a fee for that facility for the actual time spent by the department for the inspection and oversight of that facility. The department shall base the fee on the department's work standards and shall assess the fee on an hourly basis.

(i) Notwithstanding subdivision (a), a facility operating pursuant to a standardized permit or grant of interim status, as specified in Section 25201.6, shall receive a credit for the annual facility fee imposed by this section for a period of time equal to the number of years that the facility lawfully operated prior to September 21, 1993, pursuant to a hazardous waste facilities permit or other grant of authorization and paid facility fees for the operation of the facility pursuant to this section.

(j) This section applies only to fees due for the 2013 and earlier reporting periods, including the prepayments due during each reporting period and the final reconciliation fee due and payable by February 28 of the year following each reporting period.

(k) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 22.~~

SEC. 21. Section 25205.2 is added to the Health and Safety Code, to read:

25205.2. (a) Except as provided in subdivisions (c) and (e), each operator of a facility shall pay a facility fee for each reporting period, or any portion of the reporting period, to the board based on the size and type of the facility, as specified in Section 25205.4. On or before January 31 of each calendar year, the department annually shall notify the board of all known facility operators by facility type and size. The department shall also notify the board of any operator who is issued a permit or grant of interim status

within 30 days from the date that a permit or grant of interim status is issued to the operator. The fee specified in this section does not apply to facilities exempted pursuant to Section 25205.12.

(b) The board shall deposit all fees collected pursuant to subdivision (a) in the Hazardous Waste Control Account in the General Fund. The fees so deposited may be expended by the department, upon appropriation by the Legislature, for the purposes specified in subdivision (b) of Section 25174.

(c) Notwithstanding subdivision (a), a person who is issued a variance by the department from the requirement of obtaining a hazardous waste facilities permit or grant of interim status is not subject to the fee for any reporting period following the reporting period in which the variance was granted by the department.

(d) Operators subject to facility fee liability pursuant to this section shall pay the following amounts:

(1) The operator shall pay the applicable facility fee for each reporting period in which the facility actually engaged in the treatment, storage, or disposal of hazardous waste.

(2) The operator shall pay the applicable facility fee for one additional reporting period immediately following the final reporting period in which the facility actually engaged in that treatment or storage. The facility's size for the additional reporting period shall be deemed to be the largest size at which the facility has ever been subject to the fee. If the department previously approved a unit or portion of the facility for a variance, closure, or permit-by-rule, the facility's size for that reporting period shall be deemed to be its largest size since the department granted the approval.

(3) The operator of a disposal facility shall pay twice the applicable facility fee for one additional reporting period immediately following the final reporting period in which the facility actually engaged in disposal of hazardous waste.

(4) A facility shall not be deemed to have stopped treating, storing, or disposing of hazardous waste unless it has actually ceased that activity and has notified the department of its intent to close.

(e) A treatment facility is not subject to the facility fee established pursuant to this section if the facility engages in treatment exclusively to accomplish a removal or remedial action or a corrective action in accordance with an order issued by the

United States Environmental Protection Agency pursuant to the federal act or in accordance with an order issued by the department pursuant to Section 25187, or if the removal or remedial action is carried out pursuant to a removal action work plan or a remedial action plan prepared pursuant to Section 25356.1 and that treatment facility is authorized to operate pursuant to Section 25358.9, if the facility was put in operation solely for purposes of complying with that order. The department shall instead assess a fee for that facility for the actual time spent by the department for the inspection and oversight of that facility. The department shall base the fee on the department's work standards and shall assess the fee on an hourly basis.

(f) This section shall become operative on January 1, 2014 and shall apply to the annual facility fees due for the 2014 reporting period and thereafter, including the prepayments due during the reporting period and the final reconciliation fee due and payable by February 28 of the year following the reporting period.

~~SEC. 23.~~

SEC. 22. Section 25205.3 of the Health and Safety Code is amended to read:

25205.3. The following facilities are exempt from the fees imposed by this article:

(a) Any household hazardous waste collection facility operated pursuant to Article 10.8 (commencing with Section 25218).

(b) Any facility operated by a local government agency, or by any person operating a hazardous waste collection program under an agreement with a public agency, which is used for wastes which meet the requirements of paragraph (3) of subdivision (a) of Section 25174.7.

(c) That portion of a solid waste facility permitted pursuant to Chapter 3 (commencing with Section 44001) of Part 4 of Division 30 of the Public Resources Code, which is used for the segregation, handling, and storage of hazardous waste separated from solid waste loads received by the facility, pursuant to a load checking program.

(d) A facility used solely for the treatment, storage, disposal, or recycling of hazardous waste which results when a public agency or its contractor investigates, removes, or remedies a release of hazardous waste caused by another person.

(e) (1) For purposes of fees assessed in any reporting period beginning July 1, 1990, or subsequently, a facility which has been issued a permit for the purpose of storing hazardous waste onsite, and whose permit has expired, if all of the following has occurred:

(A) The facility has received no waste from offsite since the permit expired.

(B) The owner or operator gave the department timely notification of intent to close the facility, pursuant to regulations adopted by the department.

(C) At least 90 days have elapsed since the owner or operator gave the department that notification.

(D) The department did not complete its review of the closure plan within 90 days of receiving the notification.

(2) This exclusion shall take effect the reporting period following the reporting period in which the facility first satisfied the requirements of paragraph (1) and did not accumulate waste onsite for more than 90 consecutive days.

(f) This section applies only to fees due for the 2013 and earlier reporting periods.

(g) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 24.~~

SEC. 23. Section 25205.3 is added to the Health and Safety Code, to read:

25205.3. The following facilities are exempt from the fees imposed by this article:

(a) Any household hazardous waste collection facility operated pursuant to Article 10.8 (commencing with Section 25218).

(b) Any facility operated by a local government agency or by any person operating a hazardous waste collection program under an agreement with a public agency that is used for wastes that meet the requirements of paragraph (3) of subdivision (a) of Section 25205.5.2.

(c) That portion of a solid waste facility permitted pursuant to Chapter 3 (commencing with Section 44001) of Part 4 of Division 30 of the Public Resources Code, which is used for the segregation, handling, and storage of hazardous waste separated from solid waste loads received by the facility, pursuant to a load checking program.

(d) A facility used solely for the treatment, storage, disposal, or recycling of hazardous waste that results when a public agency or its contractor investigates, removes, or remedies a release of hazardous waste caused by another person.

(e) (1) A facility that has been issued a permit for the purpose of storing hazardous waste onsite and whose permit has expired, if all of the following has occurred:

(A) The facility has received no waste from offsite since the permit expired.

(B) The owner or operator gave the department timely notification of intent to close the facility, pursuant to regulations adopted by the department.

(C) At least 90 days have elapsed since the owner or operator gave the department that notification.

(D) The department did not complete its review of the closure plan within 90 days of receiving the notification.

(2) This exclusion shall take effect the reporting period following the reporting period in which the facility first satisfied the requirements of paragraph (1) and did not accumulate waste onsite for more than 90 consecutive days.

(f) This section shall become operative on January 1, 2014, and shall apply to the fees due for the 2014 reporting period and thereafter. This includes the prepayments due during the reporting period and the final reconciliation fee due and payable following the reporting period.

~~SEC. 25.~~

SEC. 24. Section 25205.4 of the Health and Safety Code is amended to read:

25205.4. (a) The base rate for the 2013 reporting period for the fee imposed by Section 25205.2 is thirty thousand five dollars ($30,005). Commencing with the 2014 reporting period, and for each reporting period thereafter, the board shall adjust the base rate 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.

(b) The determination of the facility fee pursuant to this section, including the redetermination of the base rate, is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Except as provided in subdivision (e), in computing the facility fees pursuant to this section, all of the following shall apply:

(1) The fee to be paid by a ministorage facility shall equal 25 percent of the base facility rate.

(2) The fee to be paid by a small storage facility shall equal the base facility rate.

(3) The fee to be paid by a large storage facility shall equal twice the base facility rate.

(4) The fee to be paid by a minitreatment facility shall equal 50 percent of the base facility rate.

(5) The fee to be paid by a small treatment facility shall equal twice the base facility rate.

(6) The fee to be paid by a large onsite treatment facility shall equal three times the base facility rate.

(7) The fee to be paid by a large offsite treatment facility shall be three times the base facility rate.

(8) The fee to be paid by a disposal facility shall equal 10 times the base facility rate.

(9) (A) The fee to be paid by a facility with a postclosure permit shall be five thousand seven hundred twenty-five dollars ($5,725) annually for a small facility, eleven thousand four hundred fifty dollars ($11,450) annually for a medium facility, and seventeen thousand one hundred seventy-five dollars ($17,175) for a large facility during the first five years of the postclosure period. The fee to be paid by a facility with a postclosure permit during the remaining years of the postclosure care period shall be three thousand fifty dollars ($3,050) annually for a small facility, six thousand one hundred dollars ($6,100) annually for a medium facility, and ten thousand three hundred dollars ($10,300) annually for a large facility.

(B) The fees required by subparagraph (A) shall be reduced by 50 percent for any facility for which an agency, other than the department, is the lead agency pursuant to paragraph (1) of subdivision (b) of Section 25204.6.

(d) If a facility falls into more than one category listed in either subdivision (c) or (e), or any combination thereof, or multiple operations under a single hazardous waste facilities permit or grant of interim status fall into more than one category listed in subdivision (c) or (e), or any combination thereof, the facility

operator shall pay only the rate for the facility category which is the highest rate.

(e) Notwithstanding subdivision (c), the facility fee for a facility that has been issued a standardized permit shall be as follows:

(1) The fee to be paid for a facility that has been issued a Series A standardized permit shall be eleven thousand seven hundred thirty dollars ($11,730).

(2) The fee to be paid for a facility that has been issued a Series B standardized permit shall be five thousand four hundred ninety-seven dollars ($5,497).

(3) Except as specified in paragraph (4), the fee to be paid for a facility that has been issued a Series C standardized permit shall be four thousand six hundred seventeen dollars ($4,617).

(4) The fee for a facility that has been issued a Series C standardized permit is two thousand three hundred eight dollars ($2,308) if the facility meets all of the following conditions:

(A) The facility treats not more than 1,500 gallons of liquid hazardous waste and not more than 3,000 pounds of solid hazardous waste in any calendar month.

(B) The total facility storage capacity does not exceed 15,000 gallons of liquid hazardous waste and 30,000 pounds of solid hazardous waste.

(C) If the facility both treats and stores hazardous waste, the facility does not exceed the volume limitations specified in subparagraphs (A) and (B) for each individual activity.

(f) The fee imposed pursuant to this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

~~SEC. 26.~~

SEC. 25. Section 25205.5 of the Health and Safety Code is amended to read:

25205.5. (a) In addition to the fee imposed pursuant to Section 25174.1, every generator of hazardous waste, in the amounts specified in subdivision (c), shall pay the board a generator fee for each generator site for each calendar year, or portion thereof, unless the generator has paid a facility fee or received a credit, as specified in Section 25205.2, for each specific site, for the calendar year for which the generator fee is due.

(b) The base fee rate for the fee imposed pursuant to subdivision (a) is two thousand seven hundred forty-eight dollars ($2,748).

(c) (1) Each generator who generates an amount equal to, or more than, five tons, but less than 25 tons, of hazardous waste during the prior calendar year shall pay 5 percent of the base rate.

(2) Each generator who generates an amount equal to, or more than, 25 tons, but less than 50 tons, of hazardous waste during the prior calendar year shall pay 40 percent of the base rate.

(3) Each generator who generates an amount equal to, or more than, 50 tons, but less than 250 tons, of hazardous waste during the prior calendar year shall pay the base rate.

(4) Each generator who generates an amount equal to, or more than, 250 tons, but less than 500 tons, of hazardous waste during the prior calendar year shall pay five times the base rate.

(5) Each generator who generates an amount equal to, or more than, 500 tons, but less than 1,000 tons, of hazardous waste during the prior calendar year shall pay 10 times the base rate.

(6) Each generator who generates an amount equal to, or more than, 1,000 tons, but less than 2,000 tons, of hazardous waste during the prior calendar year shall pay 15 times the base rate.

(7) Each generator who generates an amount equal to, or more than, 2,000 tons of hazardous waste during the prior calendar year shall pay 20 times the base rate.

(d) The base rate established pursuant to subdivision (b) was the base rate for the 1997 calendar year and the board shall adjust the base rate 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.

(e) The establishment of the annual operating fee pursuant to this section is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) The following materials are not hazardous wastes for purposes of this section:

(1) Hazardous materials which are recycled, and used onsite, and are not transferred offsite.

(2) Aqueous waste treated in a treatment unit operating, or which subsequently operates, pursuant to a permit-by-rule, or pursuant to Section 25200.3 or 25201.5. However, hazardous waste generated by a treatment unit treating waste pursuant to a permit-by-rule, by a unit which subsequently obtains a

permit-by-rule, or other authorization pursuant to Section 25200.3 or 25201.5 is hazardous waste for purposes of this section.

(g) The fee imposed pursuant to this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(h) (1) A generator who pays a hazardous waste generator inspection fee to a certified unified program agency, which is imposed as part of a single fee system and fee accountability program that are both in compliance with the requirements of Section 25404.5, shall be eligible for a refund of all, or part of, the generator fee paid pursuant to subdivision (a) if both of the following conditions apply:

(A) The generator received a credit pursuant to Section 43152.7 or 43152.11 of the Revenue and Taxation Code for fees paid for hazardous waste generated in 1996.

(B) The department certifies, pursuant to subdivision (b) of Section 25205.9, that funds are available to pay all or part of the refund.

(2) A generator who is eligible for a refund pursuant to paragraph (1) shall submit an application for that refund to the board by September 30 following the fiscal year during which the generator paid the generator fee pursuant to subdivision (a). An application for a refund postmarked after September 30 is void, shall not be processed by the board, and shall be returned to the applicant.

(i) (1) A generator who transfers hazardous materials to an offsite facility for recycling at that offsite facility or another offsite facility shall be eligible for a refund of all, or part of, the generator fee paid pursuant to subdivision (a) if all of the following conditions apply:

(A) The offsite facility to which the hazardous materials are manifested pays a facility fee pursuant to Section 25205.2.

(B) The amount of hazardous materials transferred to the offsite facility and recycled there, when deducted from the total tonnage of hazardous waste generated at the generator's site, results in the generator becoming eligible for a generator fee that is lower than the fee paid pursuant to subdivision (a).

(C) The hazardous materials transferred to the offsite facility are not burned in a boiler, industrial furnace, or an incinerator, as those terms are defined in Section 260.10 of Title 40 of the Code

of Federal Regulations, used in a manner constituting disposal, or used to produce products that are applied to land.

(D) The department certifies, pursuant to subdivision (b) of Section 25205.9, that funds are available to pay all or part of the refund.

(2) A generator who is eligible for a refund pursuant to paragraph (1) shall submit an application for that refund to the board by September 30 following the fiscal year during which the generator paid the generator fee pursuant to subdivision (a). An application for a refund postmarked after September 30 is void, shall not be processed by the board, and shall be returned to the applicant.

(j) (1) The amendment of this section made by Chapter 1125 of the Statutes of 1991 does not constitute a change in, but is declaratory of, existing law.

(2) The amendment of subdivision (a) of this section made by Chapter 259 of the Statutes of 1996 does not constitute a change in, but is declaratory of, existing law.

(k) This section applies only to fees due for the 2013 and earlier reporting periods, including the prepayments due during each reporting period and the final reconciliation fee due and payable by February 28 of the year following each reporting period.

(*l*) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 27.~~

SEC. 26. Section 25205.5 is added to the Health and Safety Code, to read:

25205.5. (a) (1) Except as otherwise provided in this section, each generator, as defined in subdivision (e) of Section 25205.1, of hazardous waste that generates an amount equal to, or greater than, five tons of hazardous waste shall pay the board for each generator site for each calendar year, or portion of the calendar year, a generation and handling fee of thirty-one dollars and fifty-two cents ($31.52) per ton of hazardous waste generated.

(2) A generator that is issued a hazardous waste facilities permit from the department and that pays an annual facility fee, as specified in Section 25205.2, may deduct, from the amount of hazardous waste otherwise subject to this subdivision that is generated per calendar year, the amount of hazardous waste that

is solely stored, bulked, or transferred through the location of the permitted hazardous waste facility and that is in route to another facility that is authorized to do any of the following:

(A) Manage the hazardous waste for reclamation and recovery, including fuel blending prior to energy recovery at another site.

(B) Manage the hazardous waste through destruction methods or treatment prior to disposal at another site.

(C) Manage the hazardous waste by any form of treatment.

(D) Dispose of the hazardous waste.

(b) Generators of more than five tons of hazardous waste in the prior calendar year are subject to the prepayment due during each reporting period and the final reconciliation fee due and payable by February 28 of the year following each reporting period.

(c) Notwithstanding subdivision (a), a generator of used oil shall pay a generation and handling fee of twenty-seven dollars and eighty-six cents ($27.86) per ton of used oil generated.

(d) The base rates established pursuant to subdivisions (a) and (c) are the rates for the 2014 reporting period and the board shall adjust the base rates annually to reflect increases or decreases in the cost of living, during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or by a successor agency.

(e) The following materials are not hazardous wastes for purposes of this section:

(1) Hazardous materials that are recycled and used onsite, and that are not transferred offsite.

(2) Aqueous waste treated in a treatment unit operating, or which subsequently operates, pursuant to a permit-by-rule, or pursuant to Section 25200.3 or 25201.5. However, hazardous waste generated by a treatment unit treating waste pursuant to a permit-by-rule, by a unit that subsequently obtains a permit-by-rule, or by other authorization pursuant to Section 25200.3 or 25201.5 is hazardous waste for purposes of this section.

(f) The fee imposed pursuant to this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(g) This section shall become operative on January 1, 2014, and shall apply to the annual generation and handling fees due for the 2014 reporting period and thereafter. This includes the prepayments due during the reporting period and the final reconciliation fee due

and payable by February 28 of the year following the reporting period.

~~SEC. 28.~~

SEC. 27. Section 25205.5.1 of the Health and Safety Code is amended to read:

25205.5.1. Notwithstanding Sections 25174.1 and 25205.5, the department may adopt regulations exempting victims of disasters from the hazardous waste disposal fee imposed pursuant to Section 25174.1 and the generator fee imposed pursuant to Section 25205.5. The regulations may allow that exemption if all of the following apply:

(a) The hazardous waste is generated in a geographical area identified in a state of emergency proclamation by the Governor pursuant to Section 8625 of the Government Code because of fire, flood, storm, earthquake, riot, or civil unrest.

(b) The hazardous waste is generated when property owned or controlled by the victim is damaged or destroyed as a result of the disaster.

(c) The hazardous waste is not hazardous waste that is routinely produced as part of a manufacturing or commercial business or that is managed by a hazardous waste facility or a facility operated by a generator of hazardous waste who files a hazardous waste notification statement with the department pursuant to subdivision (a) of Section 25158.

(d) The victim meets any other condition or limitation on eligibility specified by the department.

(e) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 29.~~

SEC. 28. Section 25205.5.1 is added to the Health and Safety Code, to read:

25205.5.1. Notwithstanding Section 25205.5, the department may adopt regulations exempting victims of disasters from the generation and handling fee imposed pursuant to Section 25205.5. The regulations may allow that exemption if all of the following apply:

(a) The hazardous waste is generated in a geographical area identified in a state of emergency proclamation by the Governor

pursuant to Section 8625 of the Government Code because of fire, flood, storm, earthquake, riot, or civil unrest.

(b) The hazardous waste is generated when property owned or controlled by the victim is damaged or destroyed as a result of the disaster.

(c) The hazardous waste is not hazardous waste that is routinely produced as part of a manufacturing or commercial business or that is managed by a hazardous waste facility or a facility operated by a generator of hazardous waste who files a hazardous waste notification statement with the department pursuant to subdivision (a) of Section 25158.

(d) The victim meets any other condition or limitation on eligibility specified by the department.

(e) This section shall become operative on January 1, 2014, and shall apply to the fees due for the 2014 reporting period and thereafter, including the prepayments due following the reporting period and the final reconciliation fee due and payable following the reporting period.

~~SEC. 30.~~

SEC. 29. Section 25205.5.2 is added to the Health and Safety Code, to read:

25205.5.2. (a) The fees provided for in Section 25205.5 do not apply to any of the following:

(1) Hazardous wastes that result when a government agency, or its contractor, removes or remedies a release of hazardous waste in the state caused by another person.

(2) Hazardous waste generated or disposed of by a public agency operating a household hazardous waste collection facility in the state pursuant to Article 10.8 (commencing with Section 25218), including, but not limited to, hazardous waste received from conditionally exempt small quantity commercial generators, authorized pursuant to Section 25218.3.

(3) Hazardous waste generated by a local vector control agency that has entered into a cooperative agreement pursuant to Section 116180 or by a county agricultural commissioner, if the hazardous wastes result from the agency's or commissioner's control or regulatory activities and if the agency or commissioner complies with the requirements of this chapter and regulations adopted pursuant to this chapter.

(4) Hazardous waste generated by any person, which is discovered and separated from solid waste as part of a load checking program.

(5) Hazardous waste used oil generated by a used oil collection center certified by the Department of Resources Recycling and Recovery pursuant to Section 48660 of the Public Resources Code for the collection of used oil from the public.

(b) Notwithstanding paragraph (1) of subdivision (a), any person responsible for a release of hazardous waste, which has been removed or remedied by a government agency, or its contractor, shall pay the fee pursuant to Section 25205.5.

(c) Any person who acquires land for the sole purpose of owner-occupied single-family residential use, and who acquires that land without actual or constructive notice or knowledge that there is a tank containing hazardous waste on or under that property, is exempt from the fees imposed pursuant to Section 25205.5 in connection with the removal of the tank.

(d) This section shall become operative on January 1, 2014, and shall apply to the fees due for the 2014 reporting period and thereafter, including the prepayments due during the reporting period and the final reconciliation fee due and payable following the reporting period.

~~SEC. 31.~~

SEC. 30. Section 25205.7 of the Health and Safety Code is amended to read:

25205.7. (a) (1) A person who applies for, or requests, any of the following shall enter into a written agreement with the department pursuant to which that person shall reimburse the department, pursuant to Article 9.2 (commencing with Section 25206.1), for the costs incurred by the department in processing the application or responding to the request, including the costs of reviewing and overseeing corrective action as set forth in subdivision (b):

(A) A new hazardous waste facilities permit, including a standardized permit.

(B) A hazardous waste facilities permit for postclosure.

(C) A renewal of an existing hazardous waste facilities permit, including a standardized permit or postclosure permit.

(D) A class 2 or class 3 modification of an existing hazardous waste facilities permit or grant of interim status, including a

standardized permit or grant of interim status or a postclosure permit.

(E) A variance.

(F) A waste classification determination.

(2) Any agreement required pursuant to paragraph (1) shall provide for at least 25 percent of the reimbursement to be made in advance of the processing of the application or the response to the request.

(3) Any agreement entered into pursuant to this section shall, if applicable, include costs of reviewing and overseeing corrective action as set forth in subdivision (b).

(b) An applicant pursuant to paragraph (1) of subdivision (a) shall pay the department's costs in reviewing and overseeing any corrective action program described in the application for a standardized permit pursuant to subparagraph (C) of paragraph (2) of subdivision (c) of Section 25201.6 or required pursuant to subdivision (b) of Section 25200.10, and in reviewing and overseeing any corrective action work undertaken at the facility pursuant to that corrective action program.

(c) (1) An applicant pursuant to paragraph (1) of subdivision (a) shall, pursuant to Section 21089 of the Public Resources Code, pay all costs incurred by the department for purposes of complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) in conjunction with an application or request, including any activities associated with corrective action for any of the activities identified in subdivision (a).

(2) Paragraph (1) does not apply to projects that are exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(d) Any reimbursements received pursuant to this section shall be placed in the Hazardous Waste Control Account for appropriation in accordance with Section 25174.

(e) Subdivision (a) does not apply to any variance granted pursuant to Article 4 (commencing with Section 66263.40) of Chapter 13 of Division 4.5 of Title 22 of the California Code of Regulations.

(f) Subdivision (a) does not apply to any of the following:

(1) Any variance issued to a public agency to transport wastes for purposes of operating a household hazardous waste collection

facility, or to transport waste from a household hazardous waste collection facility, which receives household hazardous waste or hazardous waste from conditionally exempted small quantity generators pursuant to Article 10.8 (commencing with Section 25218).

(2) A permanent household hazardous waste collection facility.

(3) Any variance issued to a public agency to conduct a collection program for agricultural wastes.

(g) (1) This section applies to applications and requests submitted to the department on or after July 1, 2013, and applications and requests pending before the department as of July 1, 2013.

(2) For purposes of applying the provisions of this subdivision, the Legislature finds and declares all of the following:

(A) The department expends a substantial amount of time and resources in processing permit applications and modifications.

(B) The former flat fee option paid by applicants was most often insufficient to cover the actual costs to the department in reviewing and processing the applications and modifications.

(C) The applicant, being the primary beneficiary of the permit process, in fairness should pay the actual costs of the department in reviewing permit applications and modifications.

(D) The amendment to the act adding this subdivision in the 2013–14 Regular Session eliminating the flat fee option and revising provisions requiring applicants to enter into a written reimbursement agreement with the department is intended to apply both to future and pending applications and modification requests in order to remedy this inequity.

(3) For an application or request that is submitted to the department prior to July 1, 2013, which remains pending as of that date, the reimbursement agreement shall provide credit for any fee previously paid to the department, minus the value of services provided by the department prior to July 1, 2013, in conjunction with that application or request pursuant to this section as it read prior to January 1, 2013.

(4) Only time and resources expended by the department after July 1, 2013, on already pending permit applications and modification requests will be the subject of the written reimbursement agreement with the department.

~~SEC. 32.~~

SEC. 31. Section 25205.9 of the Health and Safety Code is repealed.

~~SEC. 33.~~

SEC. 32. Section 25205.12 of the Health and Safety Code is amended to read:

25205.12. (a) The owner of a hazardous waste facility authorized to operate pursuant to a permit-by-rule, authorized under a grant of conditional authorization pursuant to Section 25200.3, exempted pursuant to subdivision (a) or (c) of Section 25201.5, or exempted pursuant to Section 25144.6 or 25201.14 is exempt from the fee specified in Section 25205.2 for any activities authorized by the permit-by-rule, under a grant of conditional authorization pursuant to Section 25200.3, exempted pursuant to subdivision (a) or (c) of Section 25201.5, or exempted pursuant to Section 25144.6 or 25201.14 at that facility for any year or reporting period during which the facility is operating.

(b) The operator of a hazardous waste facility authorized by the department to clean and recycle excavated underground storage tanks is exempt from the facility fee specified in Section 25205.2 with regard to those activities conducted before January 1, 1994, and those activities conducted after that date, until the effective date of a regulation adopted by the department governing the statewide requirements for the issuance of a permit for tank cleaning and recycling facilities.

~~SEC. 34.~~

SEC. 33. Section 25205.14 of the Health and Safety Code is amended to read:

25205.14. (a) Except as provided in Section 25404.5, the owner or operator of a facility or transportable treatment unit operating pursuant to a permit-by-rule shall pay a fee to the board per facility or transportable treatment unit for each reporting period, or portion of a reporting period. The fee for the 2013 reporting period shall be one thousand four hundred fifty-seven dollars ($1,457). Thereafter, the fee shall be adjusted annually by the board to reflect increases and decreases in the cost of living, as measured by the Consumer Price Index issued by the Department of Industrial Relations or a successor agency. The reporting period shall begin January 1 of each calendar year. On or before January 31 of each calendar year, the department shall notify the board of all known

owners or operators operating pursuant to a permit-by-rule who are not exempted from this fee pursuant to Section 25404.5. The department shall also notify the board of any owner or operator authorized to operate pursuant to a permit-by-rule, who is not exempted from this fee pursuant to Section 25404.5, within 60 days after the owner or operator is authorized.

(b) Except as provided in Section 25404.5, a generator operating under a grant of conditional authorization pursuant to Section 25200.3 shall pay a fee to the board per facility for each reporting period, or portion thereof, unless the generator is subject to a fee under a permit-by-rule. The fee for the 2013 reporting period shall be one thousand four hundred fifty-seven dollars ($1,457). Thereafter, the fee shall be adjusted annually by the board to reflect increases and 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 a successor agency. The reporting period shall begin January 1 of each calendar year. On or before January 31 of each calendar year, the department shall notify the board of all known generators operating pursuant to a grant of conditional authorization under Section 25200.3 who are not exempted from this fee pursuant to Section 25404.5. The department shall also notify the board of any generator authorized to operate under a grant of conditional authorization, who is not exempted from this fee pursuant to Section 25404.5, within 60 days of the receipt of notification.

(c) Except as provided in Section 25404.5, a generator performing treatment conditionally exempted pursuant to Section 25144.6 or subdivision (a) or (c) of Section 25201.5 shall pay thirty-eight dollars ($38) to the board per facility for each reporting period, unless that generator is subject to a fee under a permit-by-rule or a conditional authorization pursuant to Section 25200.3. The reporting period shall begin January 1 of each calendar year. On or before January 31 of each calendar year, the department shall notify the board of all known facilities performing treatment conditionally exempted by Section 25144.6 or subdivision (a) or (c) of Section 25201.5 who are not exempted from this fee pursuant to Section 25404.5. The department shall also notify the board of any generator who notifies the department that the generator is conducting a conditionally exempt treatment

operation, and who is not exempted from this fee pursuant to Section 25404.5, within 60 days of the receipt of the notification.

(d) The fees imposed pursuant to this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

~~SEC. 35.~~

SEC. 34. Section 25205.15 of the Health and Safety Code is amended to read:

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

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

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

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

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

and general manifests that may be used for transporting waste for any purpose.

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

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

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

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

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

(2) The Uniform Hazardous Waste Manifest printed by a source registered with the United States Environmental Protection Agency for a shipment initiated on and after September 5, 2006, if the manifest originates from a generator located in California, is received by the designated facility located in California where the manifest is signed and terminated, or is imported or exported through a point of entry or exit in California.

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

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

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

(f) This section shall apply only to fees due for the 2013 and earlier reporting periods.

(g) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 36.~~

SEC. 35. Section 25205.16 of the Health and Safety Code is amended to read:

25205.16. (a) (1) The department may impose an annual verification fee upon all generators, transporters, and facility operators with 50 or more employees that possess a valid identification number issued either by the department or by the Environmental Protection Agency. The fee charged shall be one hundred fifty dollars ($150) for each generator, transporter, and facility operator with 50 or more employees, but less than 75 employees; one hundred seventy-five dollars ($175) for each generator, transporter, and facility operator with 75 or more employees, but less than 100 employees; two hundred dollars ($200) for each generator, transporter, and facility operator with 100 or more employees, but less than 250 employees; two hundred twenty-five dollars ($225) for each generator, transporter, and facility operator with 250 or more employees, but less than 500 employees; two hundred fifty dollars ($250) for each generator, transporter, and facility operator with 500 or more employees. However, no generator, transporter, or facility operator shall be assessed fees pursuant to this section that exceed, in total, five thousand dollars ($5,000).

(2) The generator, transporter, or facility operator subject to the fee shall submit payment of the fee within 30 days from the date

of receiving a notice of assessment from the department. The notice shall be sent once during each fiscal year to each holder of a valid identification number. The fee imposed by this section shall be deposited in the Hazardous Waste Control Account and be available for expenditure, upon appropriation by the Legislature. For purposes of this section, "employee" shall have the same meaning set forth in Section 25205.6.

(b) The department shall establish an identification number certification system to biennially verify the accuracy of information related to generators, transporters, and facilities authorized to treat, store, or dispose of hazardous waste. However, if the number of identification numbers issued since the previous certification exceeds 20 percent of the active identification numbers, the department may implement an annual certification. Each entity issued an identification number shall provide or verify the information specified in paragraphs (1) to (9), inclusive, when requested by the department. The system shall include the provision or verification of all of the following information:

(1) The name, mailing address, facsimile number, fictitious business name, federal employer number, State Board of Equalization identification number, SIC code, electronic mail address, if available, and telephone number of the firm or organization engaged in hazardous waste activities.

(2) The name, mailing address, facsimile number, and telephone number of the owner of the firm or organization.

(3) The name, title, mailing address, facsimile number, and telephone number of a contact person for the firm or organization.

(4) The identification number assigned to the firm or organization.

(5) The site location address or description associated with the firm or organization's identification number provided in paragraph (4).

(6) The number of employees of the firm or organization.

(7) If the firm or organization is a generator, a statement of whether the generator produces RCRA hazardous waste or non-RCRA hazardous waste.

(8) An identification of any of the following hazardous waste activities in which the firm or organization is engaged:

(A) Generation.

(B) Transportation.

(C) Onsite treatment, storage, or disposal.

(9) The waste codes associated with the four largest hazardous waste streams, by volume, of the firm or organization. The federal waste code shall be verified for RCRA hazardous waste and the California waste code shall be verified for non-RCRA hazardous waste.

(c) Any generator, transporter, and facility operator who fails to comply with this section, or who fails to provide information required by the department to verify the accuracy of hazardous waste activity data, shall be subject to suspension of any and all identification numbers assigned to the generator, transporter, or facility operator and to any other authorized enforcement action.

(d) This section shall apply only to fees due for the 2013 and earlier reporting periods.

(e) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 37.~~

SEC. 36. Section 25205.16 is added to the Health and Safety Code, to read:

25205.16. (a) The department shall establish an identification number certification system to annually verify the accuracy of information related to generators, transporters, and facilities authorized to treat, store, or dispose of hazardous waste. Each entity issued an identification number shall provide or verify the information specified in paragraphs (1) to (9), inclusive, when requested by the department. The system shall include the provision or verification of all of the following information:

(1) The name, mailing address, facsimile number, fictitious business name, federal employer number, State Board of Equalization identification number, SIC code, electronic mail address, if available, and telephone number of the firm or organization engaged in hazardous waste activities.

(2) The name, mailing address, facsimile number, and telephone number of the owner of the firm or organization.

(3) The name, title, mailing address, facsimile number, and telephone number of a contact person for the firm or organization.

(4) The identification number assigned to the firm or organization.

(5) The site location address or description associated with the firm or organization's identification number provided in paragraph (4).

(6) The number of employees of the firm or organization.

(7) If the firm or organization is a generator, a statement of whether the generator produces RCRA hazardous waste or non-RCRA hazardous waste.

(8) An identification of any of the following hazardous waste activities in which the firm or organization is engaged:

(A) Generation.

(B) Transportation.

(C) Onsite treatment, storage, or disposal.

(9) The waste codes associated with the four largest hazardous waste streams, by volume, of the firm or organization. The federal waste code shall be verified for RCRA hazardous waste and the California waste code shall be verified for non-RCRA hazardous waste.

(b) Any generator, transporter, and facility operator who fails to comply with this section, or who fails to provide information required by the department to verify the accuracy of hazardous waste activity data, shall be subject to suspension of any and all identification numbers assigned to the generator, transporter, or facility operator and to any other authorized enforcement action.

(c) This section shall become operative on January 1, 2014, and shall apply to the fees due for the 2014 reporting period and thereafter, including the prepayments due following the reporting period and the final reconciliation fee due and payable following the reporting period.

~~SEC. 38.~~

SEC. 37. Section 25205.18 of the Health and Safety Code is amended to read:

25205.18. (a) If a facility has a permit or an interim status document that sets forth the facility's allowable capacity for treatment or storage, the facility's size for purposes of the annual facility fee pursuant to Section 25205.2 shall be based upon that capacity, except as provided in subdivision (d).

(b) If a facility's allowable capacity changes or is initially established as a result of a permit modification, or a submission of a certification pursuant to subdivision (d), the fee that is due for

the reporting period in which the change occurs shall be the higher fee.

(c) The department may require the facility to submit an application to modify its permit to provide for an allowable capacity.

(d) A facility may reduce its allowable capacity below the amounts specified in subdivision (a) or (c) by submitting a certification signed by the owner or operator in which the owner or operator pledges that the facility will not handle hazardous waste at a capacity above the amount specified in the certification. In that case, the facility's size for purposes of the annual facility fee pursuant to Section 25205.2 shall be based upon the capacity specified in the certification, until the certification is withdrawn. Exceeding the capacity limits specified in a certification that has not been withdrawn shall be a violation of the hazardous waste control law and may subject a facility or its operator to a penalty and corrective action as provided in this chapter, including, but not limited to, an augmentation pursuant to Section 25191.1.

(e) This section shall have no bearing on the imposition of the annual postclosure facility fee.

~~SEC. 39.~~

SEC. 38. Section 25205.19 of the Health and Safety Code is amended to read:

25205.19. (a) If a facility has a permit or an interim status document that sets forth the facility's type, pursuant to Section 25205.1, as either treatment, storage, or disposal, the facility's type for purposes of the annual facility fee pursuant to Section 25205.2 shall be rebuttably presumed to be what is set forth in that permit or document.

(b) If the facility's type changes as a result of a permit or interim status modification, any change in the annual fee shall be effective the reporting period following the one in which the modification becomes effective.

(c) If the facility's permit or interim status document does not set forth its type, the department may require the facility to submit an application to modify the permit or interim status document to provide for a facility type.

(d) A permit or interim status document may set forth more than one facility type or size. In accordance with subdivision (d) of

Section 25205.4, the facility shall be subject only to the highest applicable fee.

~~SEC. 40.~~

SEC. 39. Section 25205.20 of the Health and Safety Code is repealed.

~~SEC. 41.~~

SEC. 40. Section 25205.21 of the Health and Safety Code is amended to read:

25205.21. (a) Notwithstanding Section 25205.4, a disposal facility operator that is a government agency shall be subject to a maximum facility fee pursuant to Section 25205.2 of ten thousand dollars ($10,000) for any reporting period of 12 months and five thousand dollars ($5,000) for any reporting period of six months, for that disposal facility for any reporting period in which it did not at any time dispose of hazardous waste therein. This section shall apply to all reporting periods since the inception of the facility fee.

(b) This section shall not affect the imposition of the annual postclosure facility fee pursuant to Section 25205.2.

~~SEC. 42.~~

SEC. 41. Section 25205.22 of the Health and Safety Code is amended to read:

25205.22. (a) Prior to January 1, 1996, any person transporting, importing, or receiving non-RCRA hazardous waste imported into this state for purposes of treatment, recycling, or disposal shall be considered the generator of that waste and the facility shall be considered the site of generation for purposes of payment of the generator fee pursuant to Section 25205.5, and the facility operator shall pay the applicable generator fee even if the operator has also paid a facility fee, but no generator fee shall be assessed for non-RCRA hazardous waste imported prior to January 1, 1994.

(b) Notwithstanding subdivision (c), any fees due pursuant to this chapter for calendar year 1995 and which are due and payable in calendar year 1996 shall be paid in 1996 in accordance with Section 43152.7 of the Revenue and Taxation Code.

(c) On and after January 1, 1996, any person transporting, importing, or receiving non-RCRA hazardous waste imported into this state for purposes of treatment, recycling, or disposal shall be exempt from the payment of the generator fee imposed pursuant

to Section 25205.5 and the generator surcharge imposed pursuant to Section 25205.9.

(d) This section applies only to fees due for the 2013 and earlier reporting periods, including the prepayments due during each reporting period and the final reconciliation fee due and payable by February 28 of the year following each reporting period.

(e) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 43.~~

SEC. 42. Section 25205.22 is added to the Health and Safety Code, to read:

25205.22. (a) On and after January 1, 2014, for hazardous waste imported into this state for purposes of treatment, recycling, or disposal, the operator of the facility receiving the imported hazardous waste shall pay the applicable generation and handling fee.

(b) This section shall initially apply to the annual generation and handling fees due for the 2014 reporting period. This includes the prepayments due during the reporting period and the final reconciliation fee due and payable by February 28 of the year following the reporting period.

(c) This section shall become operative on January 1, 2014.

~~SEC. 44.~~

SEC. 43. Section 25207.12 of the Health and Safety Code is amended to read:

25207.12. (a) Any eligible participant who submits banned, unregistered, or outdated agricultural wastes for collection in a program established pursuant to this article is exempt from the fees and reimbursements required by Sections 25174.1, 25205.2, 25205.5, and 25205.7, with regard to the wastes submitted for collection.

(b) An eligible participant who submits banned, unregistered, or outdated agricultural wastes for collection is exempt from the hazardous waste facilities permit requirements of Section 25201 with regard to the management of the wastes submitted for collection.

(c) A county operating a collection program in compliance with this article shall not be held liable in any cost recovery action brought pursuant to Section 25360 for any hazardous waste which

has been properly handled and transported to an authorized hazardous waste treatment or disposal facility, in compliance with this chapter, at a location other than that of the collection program.

(d) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 45.~~

SEC. 44. Section 25207.12 is added to the Health and Safety Code, to read:

25207.12. (a) Any eligible participant who submits banned, unregistered, or outdated agricultural wastes for collection in a program established pursuant to this article is exempt from the fees and reimbursements required by Sections 25205.2, 25205.5, and 25205.7, with regard to the wastes submitted for collection.

(b) An eligible participant who submits banned, unregistered, or outdated agricultural wastes for collection is exempt from the hazardous waste facilities permit requirements of Section 25201 with regard to the management of the wastes submitted for collection.

(c) A county operating a collection program in compliance with this article shall not be held liable in any cost recovery action brought pursuant to Section 25360 for any hazardous waste that has been properly handled and transported to an authorized hazardous waste treatment or disposal facility, in compliance with this chapter, at a location other than that of the collection program.

(d) This section shall become operative on January 1, 2014, and shall apply to the fees due for the 2014 reporting period and thereafter, including the prepayments due following the reporting period and the final reconciliation fee due and payable following the reporting period.

~~SEC. 46.~~

SEC. 45. Section 25247 of the Health and Safety Code is amended to read:

25247. (a) The department shall review each plan submitted pursuant to Section 25246 and shall approve the plan if it finds that the plan complies with the regulations adopted by the department and complies with all other applicable state and federal regulations.

(b) The department shall not approve the plan until at least one of the following occurs:

(1) The plan has been approved pursuant to Section 13227 of the Water Code.

(2) Sixty days expire after the owner or operator of an interim status facility submits the plan to the department. If the department denies approval of a plan for an interim status facility, this 60-day period shall not begin until the owner or operator resubmits the plan to the department.

(3) The director finds that immediate approval of the plan is necessary to protect public health, safety, or the environment.

(c) Any action taken by the department pursuant to this section is subject to Section 25204.5.

(d) (1) To the extent consistent with the federal act, the department shall impose the requirements of a hazardous waste facility postclosure plan on the owner or operator of a facility through the issuance of an enforcement order, entering into an enforceable agreement, or issuing a postclosure permit.

(A) A hazardous waste facility postclosure plan imposed or modified pursuant to an enforcement order, a permit, or an enforceable agreement shall be approved in compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(B) Before the department initially approves or significantly modifies a hazardous waste facility postclosure plan pursuant to this subdivision, the department shall provide a meaningful opportunity for public involvement, which, at a minimum, shall include public notice and an opportunity for public comment on the proposed action.

(C) For the purposes of subparagraph (B), a "significant modification" is a modification that the department determines would constitute a class 3 permit modification if the change were being proposed to a hazardous waste facilities permit. In determining whether the proposed modification would constitute a class 3 modification, the department shall consider the similarity of the modification to class 3 modifications codified in Appendix I of Chapter 20 (commencing with Section 66270.1) of Division 4.5 of Title 22 of the California Code of Regulations. In determining whether the proposed modification would constitute a class 3 modification, the department shall also consider whether there is significant public concern about the proposed modification, and whether the proposed change is so substantial or complex in

nature that the modification requires the more extensive procedures of a class 3 permit modification.

(2) This subdivision does not limit or delay the authority of the department to order any action necessary at a facility to protect public health or safety.

(3) If the department imposes a hazardous waste facility postclosure plan in the form of an enforcement order or enforceable agreement, in lieu of issuing or renewing a postclosure permit, the owner or operator who submits the plan for approval shall, at the time the plan is submitted, enter into a cost reimbursement agreement pursuant to subdivision (a) of Section 25205.7 and upon commencement of the postclosure period shall pay the fee required by paragraph (9) of subdivision (c) of Section 25205.4. For purposes of this paragraph and paragraph (9) of subdivision (c) of Section 25205.4, the commencement of the postclosure period shall be the effective date of the postclosure permit, enforcement order, or enforceable agreement.

(4) In addition to any other remedy available under state law to enforce a postclosure plan imposed in the form of an enforcement order or enforcement agreement, the department may take any of the following actions:

(A) File an action to enjoin a threatened or continuing violation of a requirement of the enforcement order or agreement.

(B) Require compliance with requirements for corrective action or other emergency response measures that the department deems necessary to protect human health and the environment.

(C) Assess or file an action to recover civil penalties and fines for a violation of a requirement of an enforcement order or agreement.

(e) Subdivision (d) does not apply to a postclosure plan for which a final or draft permit has been issued by the department on or before December 31, 2003, unless the department and the facility mutually agree to replace the permit with an enforcement order or enforceable agreement pursuant to the provisions of subdivision (d).

(f) (1) Except as provided in paragraphs (2) and (3), the department may only impose postclosure plan requirements through an enforcement order or an enforceable agreement pursuant to subdivision (d) until January 1, 2009.

(2) This subdivision does not apply to an enforcement order or enforceable agreement issued prior to January 1, 2009, or an order or agreement for which a public notice is issued on or before January 1, 2009.

(3) This subdivision does not apply to the modification on or after January 1, 2009, of an enforcement order or enforceable agreement that meets the conditions in paragraph (2).

(g) If the department determines that a postclosure permit is necessary to enforce a postclosure plan, the department may, at any time, rescind and replace an enforcement order or an enforceable agreement issued pursuant to this section by issuing a postclosure permit for the hazardous waste facility, in accordance with the procedures specified in the department's regulations for the issuance of postclosure permits.

(h) Nothing in this section may be construed to limit or delay the authority of the department to order any action necessary at a facility to protect public health or safety, or the environment.

~~SEC. 47.~~

SEC. 46. Section 25250.24 of the Health and Safety Code is amended to read:

25250.24. (a) Except as provided in subdivision (b), any person who generates, receives, stores, transfers, transports, treats, or recycles used oil, unless specifically exempted or unless the used oil is not regulated by the department pursuant to subdivision (b) of Section 25250.1, shall comply with all provisions of this chapter.

(b) Used oil which is removed from a motor vehicle and which is subsequently recycled, by a recycler who is permitted pursuant to this article, shall not be included in the calculation of the amount of hazardous waste generated for purposes of the generator fee imposed pursuant to Section 25205.5.

(c) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 48.~~

SEC. 47. Section 25250.24 is added to the Health and Safety Code, to read:

25250.24. (a) A person who generates, receives, stores, transfers, transports, treats, or recycles used oil, unless specifically exempted or unless the used oil is not regulated by the department

pursuant to subdivision (b) of Section 25250.1, shall comply with all provisions of this chapter.

(b) This section shall become operative on January 1, 2014, and shall apply to the fees due for the 2014 reporting period and thereafter, including the prepayments due following the reporting period and the final reconciliation fee due and payable following the reporting period.

~~SEC. 49.~~

SEC. 48. 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.

(i) Funds authorized by the State Air Resources Board during or subsequent to the 2013–14 fiscal year shall be allocated to local air districts by prioritizing to retrofit or replace the most polluting schoolbuses in small local air districts first and then medium local air districts as defined by the State Air Resources Board. Each allocation shall provide sufficient funding for at least one project to be implemented pursuant to the Lower-Emission School Bus Program adopted by the State Air Resources Board. If a local air district has unspent funds within six months of the expenditure deadline, the local air district shall work with the State Air Resources Board to transfer those funds to an alternative local air district with existing demand.

~~SEC. 50.~~

SEC. 49. Section 12211 of the Public Contract Code is amended to read:

12211. (a) (1) Except as provided in paragraph (2), a state agency shall report annually to the board its progress in meeting the recycled product purchasing requirements using the SABRC report format provided by the Department of Resources Recycling and Recovery.

(2) The reporting requirement in paragraph (1) does not apply to the Department of Forestry and Fire Protection.

(b) On or before October 31 of each year, the department shall provide to the Department of Resources Recycling and Recovery the following information:

(1) A list, by category, of individual reportable recycled products, materials, goods, and supplies that were available for purchase by state agencies from a statewide-use contract, agreement, or schedule during the previous fiscal year.

(2) A list, by category, of all reportable products, materials, goods, and supplies that were available for purchase by state agencies from a statewide-use contract, agreement, or schedule, including contract, agreement, or schedule tracking numbers, during the previous fiscal year.

~~SEC. 51.~~

SEC. 50. Section 4124 of the Public Resources Code is repealed.

~~SEC. 52.~~

SEC. 51. Section 4515 of the Public Resources Code is repealed.

~~SEC. 53.~~

SEC. 52. Section 4785 of the Public Resources Code is amended to read:

4785. The department shall from time to time prepare reports setting forth data as to experiments conducted and the department's findings and conclusions with reference to those experiments and submit these reports to the board for its guidance and assistance in determining the policy to be followed by the board with reference to range and forage lands.

~~SEC. 54.~~

SEC. 53. Section 5018.1 of the Public Resources Code is amended to read:

5018.1. (a) Notwithstanding any other law, the Department of Finance may delegate to the department the right to exercise the same authority granted to the Division of the State Architect and the Real Estate Services Division in the Department of General Services, to plan, design, construct, and administer contracts and professional services for legislatively approved capital outlay projects.

(b) Any right afforded to the department pursuant to subdivision (a) to exercise project planning, design, construction, and administration of contracts and professional services may be

revoked, in whole or in part, by the Department of Finance at any time prior to January 1, 2019.

(c) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

~~SEC. 55.~~

SEC. 54. Section 5080.18 of the Public Resources Code is amended to read:

5080.18. All concession contracts entered into pursuant to this article shall contain, but are not limited to, all of the following provisions:

(a) (1) The maximum term shall be 10 years, except that a term of more than 10 years may be provided if the director determines that the longer term is necessary to allow the concessionaire to amortize improvements made by the concessionaire, to facilitate the full utilization of a structure that is scheduled by the department for replacement or redevelopment, or to serve the best interests of the state. The term shall not exceed 20 years without specific authorization by statute.

(2) The maximum term shall be 50 years if the concession contract is for the construction, development, and operation of multiple-unit lodging facilities equipped with full amenities, including plumbing and electrical, that is anticipated to exceed an initial cost of one million five hundred thousand dollars ($1,500,000) in capital improvements in order to begin operation. The term for a concession contract described in this paragraph shall not exceed 50 years without specific authorization by statute.

(3) Notwithstanding paragraph (1), a concession agreement at Will Rogers State Beach executed prior to December 31, 1997, including, but not limited to, an agreement signed pursuant to Section 25907 of the Government Code, may be extended to exceed 20 years in total length without specific authorization by statute, upon approval by the director and pursuant to a determination by the director that the longer term is necessary to allow the concessionaire to amortize improvements made by the concessionaire that are anticipated to exceed one million five hundred thousand dollars ($1,500,000) in capital improvements. Any extensions granted pursuant to this paragraph shall not be for more than 15 years.

(b) Every concessionaire shall submit to the department all sales and use tax returns.

(c) Every concession shall be subject to audit by the department.

(d) A performance bond shall be obtained and maintained by the concessionaire. In lieu of a bond, the concessionaire may substitute a deposit of funds acceptable to the department. Interest on the deposit shall accrue to the concessionaire.

(e) The concessionaire shall obtain and maintain in force at all times a policy of liability insurance in an amount adequate for the nature and extent of public usage of the concession and naming the state as an additional insured.

(f) Any discrimination by the concessionaire or his or her agents or employees against any person because of the marital status or ancestry of that person or any characteristic listed or defined in Section 11135 of the Government Code is prohibited.

(g) To be effective, any modification of the concession contract shall be evidenced in writing.

(h) Whenever a concession contract is terminated for substantial breach, there shall be no obligation on the part of the state to purchase any improvements made by the concessionaire.

~~SEC. 56.~~

SEC. 55. Section 5096.650 of the Public Resources Code is amended to read:

5096.650. The one billion two hundred seventy-five million dollars ($1,275,000,000) allocated pursuant to subdivision (c) of Section 5096.610 shall be available for the acquisition and development of land, air, and water resources in accordance with the following schedule:

(a) Notwithstanding Section 13340 of the Government Code, the sum of three hundred million dollars ($300,000,000) is continuously appropriated to the Wildlife Conservation Board for the acquisition, development, rehabilitation, restoration, and protection of habitat that promotes the recovery of threatened and endangered species, that provides corridors linking separate habitat areas to prevent habitat fragmentation, and that protects significant natural landscapes and ecosystems such as old growth redwoods and oak woodlands and other significant habitat areas; and for grants and related state administrative costs pursuant to the Wildlife Conservation Law of 1947 (Chapter 4 (commencing with Section 1300) of Division 2 of the Fish and Game Code). Funds scheduled

in this subdivision may be used to prepare management plans for properties acquired in fee by the Wildlife Conservation Board.

(b) The sum of four hundred forty-five million dollars ($445,000,000) to the conservancies in accordance with the particular provisions of the statute creating each conservancy for the acquisition, development, rehabilitation, restoration, and protection of land and water resources; for grants and state administrative costs; and in accordance with the following schedule:

(1)	To the State Coastal Conservancy	$200,000,000
(2)	To the California Tahoe Conservancy	$ 40,000,000
(3)	To the Santa Monica Mountains Conservancy	$ 40,000,000
(4)	To the Coachella Valley Mountains Conservancy	$ 20,000,000
(5)	To the San Joaquin River Conservancy	$ 25,000,000
(6)	To the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy	$ 40,000,000
(7)	To the Baldwin Hills Conservancy	$ 40,000,000
(8)	To the San Francisco Bay Area Conservancy Program	$ 40,000,000

(c) The sum of three hundred seventy-five million dollars ($375,000,000) shall be available for grants to public agencies and nonprofit organizations for acquisition, development, restoration, and associated planning, permitting, and administrative costs for the protection and restoration of water resources in accordance with the following schedule:

(1) The sum of seventy-five million dollars ($75,000,000) to the secretary for the acquisition and development of river parkways and for protecting urban streams. The secretary shall make funds available in accordance with Sections 7048 and 78682.2 of the Water Code, and pursuant to any other applicable statutory authorization. Not less than five million dollars ($5,000,000) shall be available for grants for the urban streams program, pursuant to Section 7048 of the Water Code.

(2) The sum of three hundred million dollars ($300,000,000) shall be available for the purposes of clean beaches, watershed protection, and water quality projects to protect beaches, coastal waters, rivers, lakes, and streams from contaminants, pollution, and other environmental threats.

(d) (1) The sum of fifty million dollars ($50,000,000) to the State Air Resources Board for grants to air districts pursuant to Chapter 9 (commencing with Section 44275) of Part 5 of Division 26 of the Health and Safety Code for projects that reduce air pollution that affects air quality in state and local park and recreation areas. Eligible projects shall meet the requirements of Section 16727 of the Government Code and shall be consistent with Section 43023.5 of the Health and Safety Code, if Assembly Bill 1390 of the 2001–02 Regular Session of the Legislature is enacted on or before January 1, 2003. Each air district shall be eligible for grants of not less than two hundred thousand dollars ($200,000). Not more than 5 percent of the funds allocated to an air district may be used to cover the costs associated with implementing the grant program.

(2) Allocations of funds pursuant to this subdivision to the Lower-Emission School Bus Program shall be prioritized to retrofit or replace the most polluting schoolbuses in small air districts first and then to medium air districts as defined by the State Air Resources Board. Each allocation for this purpose 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. If a local air district has unspent funds within six months of the expenditure deadline, the air district shall work with the State Air Resources Board to transfer funds to an alternative air district with existing demand.

(e) The sum of twenty million dollars ($20,000,000) to the California Conservation Corps for the acquisition, development, restoration, and rehabilitation of land and water resources, and for grants and state administrative costs in accordance with the following schedule:

(1) The sum of five million dollars ($5,000,000) shall be available for resource conservation activities.

(2) The sum of fifteen million dollars ($15,000,000) shall be available for grants to local conservation corps for acquisition and development of facilities to support local conservation corps programs.

(f) The sum of seventy-five million dollars ($75,000,000) shall be available for grants for the preservation of agricultural lands and grazing lands, including oak woodlands and grasslands.

(g) The sum of ten million dollars ($10,000,000) to the Department of Forestry and Fire Protection for grants for urban forestry programs pursuant to the California Urban Forestry Act of 1978 (Chapter 2 (commencing with Section 4799.06) of Part 2.5 of Division 1).

~~SEC. 57.~~

SEC. 56. Section 14538 of the Public Resources Code is amended to read:

14538. (a) (1) The department shall certify the operators of recycling centers pursuant to this section.

(2) The department shall review whether an application for certification or renewal is complete within 30 working days of receipt, including compliance with subdivision (c). If the department deems an application complete, the department shall approve or deny the application no later than 60 calendar days after the date when the application was deemed complete.

(b) The director shall adopt, by regulation, a procedure for the certification of recycling centers, including standards and requirements for certification. These regulations shall require that all information be submitted to the department under penalty of perjury. A recycling center shall meet all of the standards and requirements contained in the regulations for certification. The regulations shall require, but shall not be limited to requiring, that all of the following conditions be met for certification:

(1) The operator of the recycling center demonstrates, to the satisfaction of the department, that the operator will operate in accordance with this division.

(2) If one or more certified entities have operated at the same location within the past five years, the operations at the location of the recycling center exhibit, to the satisfaction of the department, a pattern of operation in compliance with the requirements of this division and regulations adopted pursuant to this division.

(3) The operator of the recycling center notifies the department promptly of any material change in the nature of his or her operations which conflicts with information submitted in the operator's application for certification.

(c) (1) On and after January 1, 2014, an applicant for certification as a recycling center, and a recycling center applying for renewal of a certification, shall complete the precertification training program required by this subdivision and meet all other

qualification requirements prescribed by the department, which may include, but are not limited to, requiring the applicant to obtain a passing score on an examination administered by the department.

(2) The department may use staff or industry experts, or may seek expertise available in other state agencies, to provide the training program required by this subdivision, which shall include providing technical assistance to better prepare recycling centers for successful participation in this division, thereby reducing the potential for errors, fraud, or other activities that compromise the integrity of the implementation of this division.

(d) A certified recycling center shall comply with all of the following requirements for operation:

(1) The operator of the recycling center shall not pay a refund value for, or receive a refund value from any processor for, any food or drink packaging material or any beverage container or other product that does not have a refund value established pursuant to Section 14560.

(2) The operator of a recycling center shall take those actions that satisfy the department to prevent the payment of a refund value for any food or drink packaging material or any beverage container or other product that does not have a refund value established pursuant to Section 14560.

(3) Unless exempted pursuant to subdivision (b) of Section 14572, a certified recycling center shall accept, and pay at least the refund value for, all empty beverage containers, regardless of type.

(4) A certified recycling center shall not pay any refund values, processing payments, or administrative fees to a noncertified recycler.

(5) A certified recycling center shall not pay any refund values, processing payments, or administrative fees on empty beverage containers or other containers that the certified recycling center knew, or should have known, were coming into the state from out of the state.

(6) A certified recycling center shall not claim refund values, processing payments, or administrative fees on empty beverage containers that the certified recycling center knew, or should have known, were received from noncertified recyclers or on beverage containers that the certified recycling center knew, or should have known, come from out of the state.

(7) A certified recycling center shall prepare and maintain the following documents involving empty beverage containers, as specified by the department by regulation:

(A) Shipping reports that are required to be prepared by the recycling center, or that are required to be obtained from other recycling centers.

(B) Consumer transaction receipts.

(C) Consumer transaction logs.

(D) Rejected container receipts on materials subject to this division.

(E) Receipts for transactions with beverage manufacturers on materials subject to this division.

(F) Receipts for transactions with beverage distributors on materials subject to this division.

(G) Documents authorizing the recycling center to cancel empty beverage containers.

(H) Weight tickets.

(8) In addition to the requirements of paragraph (7), a certified recycling center shall cooperate with the department and make available its records of scrap transactions when the review of these records is necessary for an audit or investigation by the department.

(e) The department may recover, in restitution pursuant to paragraph (5) of subdivision (c) of Section 14591.2, payments made from the fund to the certified recycling center pursuant to Section 14573.5 that are based on the documents specified in paragraph (7), that are not prepared or maintained in compliance with the department's regulations, and that do not allow the department to verify claims for program payments.

(f) The department may certify a recycling center that will operate less than 30 hours a week, as specified in paragraph (2) of subdivision (b) of Section 14571.

~~SEC. 58.~~

SEC. 57. Section 14539 of the Public Resources Code is amended to read:

14539. (a) (1) The department shall certify processors pursuant to this section.

(2) The department shall review whether an application for certification or renewal is complete within 30 working days of receipt, including compliance with subdivision (c). If the department deems an application complete, the department shall

approve or deny the application no later than 60 calendar days after the date when the application was deemed complete.

(b) The director shall adopt, by regulation, requirements and standards for certification. The regulations shall require, but shall not be limited to requiring, that all of the following conditions be met for certification:

(1) The processor demonstrates to the satisfaction of the department that the processor will operate in accordance with this division.

(2) If one or more certified entities have operated at the same location within the past five years, the operations at the location of the processor exhibit, to the satisfaction of the department, a pattern of operation in compliance with the requirements of this division and regulations adopted pursuant to this division.

(3) The processor notifies the department promptly of any material change in the nature of the processor's operations that conflicts with the information submitted in the operator's application for certification.

(c) (1) On and after January 1, 2014, an applicant for certification as a processor and a processor applying for renewal of a certification shall complete the precertification training program required by this subdivision and meet all other qualification requirements prescribed by the department, which may include, but are not limited to, requiring the applicant to obtain a passing score on an examination administered by the department.

(2) The department may use staff or industry experts, or may seek expertise available in other state agencies, to provide the training program required by this subdivision, which shall include providing technical assistance to better prepare processors for successful participation in this division, thereby reducing the potential for errors, fraud, or other activities which compromise the integrity of the implementation of this division.

(d) A certified processor shall comply with all of the following requirements for operation:

(1) The processor shall not pay a refund value for, or receive a refund value from the department for, any food or drink packaging material or any beverage container or other product that does not have a refund value established pursuant to Section 14560.

(2) The processor shall take those actions that satisfy the department to prevent the payment of a refund value for any food

or drink packaging material or any beverage container or other product that does not have a refund value established pursuant to Section 14560.

(3) Unless exempted pursuant to subdivision (b) of Section 14572, the processor shall accept, and pay at least the refund value for, all empty beverage containers, regardless of type, for which the processor is certified.

(4) A processor shall not pay any refund values, processing payments, or administrative fees to a noncertified recycler. A processor may pay refund values, processing payments, or administrative fees to any entity that is identified by the department on its list of certified recycling centers.

(5) A processor shall not pay any refund values, processing payments, or administrative fees on empty beverage containers or other containers that the processor knew, or should have known, were coming into the state from out of the state.

(6) A processor shall not claim refund values, processing payments, or administrative fees on empty beverage containers that the processor knew, or should have known, were received from noncertified recyclers or on beverage containers that the processor knew, or should have known, come from out of the state. A processor may claim refund values, processing payments, or administrative fees on any empty beverage container that does not come from out of the state and that is received from any entity that is identified by the department on its list of certified recycling centers.

(7) A processor shall take the actions necessary and approved by the department to cancel containers to render them unfit for redemption.

(8) A processor shall prepare or maintain the following documents involving empty beverage containers, as specified by the department by regulation:

(A) Shipping reports that are required to be prepared by the processor or that are required to be obtained from recycling centers.

(B) Processor invoice reports.

(C) Cancellation verification documents.

(D) Documents authorizing recycling centers to cancel empty beverage containers.

(E) Processor-to-processor transaction receipts.

(F) Rejected container receipts on materials subject to this division.

(G) Receipts for transactions with beverage manufacturers on materials subject to this division.

(H) Receipts for transactions with distributors on materials subject to this division.

(I) Weight tickets.

(9) In addition to the requirements of paragraph (7), a processor shall cooperate with the department and make available its records of scrap transactions when the review of these records is necessary for an audit or investigation by the department.

(e) The department may recover, in restitution pursuant to paragraph (5) of subdivision (c) of Section 14591.2, any payments made by the department to the processor pursuant to Section 14573 that are based on the documents specified in paragraph (8) of subdivision (b) of this section, that are not prepared or maintained in compliance with the department's regulations, and that do not allow the department to verify claims for program payments.

~~SEC. 59.~~

SEC. 58. Section 14549.5 of the Public Resources Code is amended to read:

14549.5. On or before April 1, 2004, and annually thereafter, or more frequently as determined to be necessary by the department, the department shall review and, if necessary in order to ensure payment of the most accurate commingled rate feasible, recalculate commingled rates paid for beverage containers and postfilled containers paid to curbside recycling programs and collection programs. Prior to recalculating a commingled rate pursuant to this section, the department shall do all of the following:

(a) Consult with private and public operators of curbside recycling programs and collection programs concerning the size of the statewide sample, appropriate sampling methodologies, and alternatives to exclusive reliance on a statewide commingled rate.

(b) At least 60 days prior to the effective date of any new commingled rate, hold a public hearing, after giving notice, to make available to the public and affected parties the department's review and any proposed recalculations of the commingled rate.

(c) At least 60 days prior to the effective date of any new commingled rate, and upon the request of any party, make available

documentation or studies which were prepared as part of the department's review of a commingled rate.

(d) (1) Notwithstanding this division, the department may calculate a curbside recycling program commingled rate pursuant to this subdivision for bimetal containers and a combined commingled rate for all plastic beverage containers displaying the resin identification code "3," "4," "5," "6," or "7" pursuant to Section 18015.

(2) The department may enter into a contract for the services required to implement the amendments to this section made by Chapter 753 of the Statutes of 2003. The department may not expend more than two hundred fifty thousand dollars ($250,000) for each year of the contract. The contract shall be paid only from revenues derived from redemption payments and processing fees paid on plastic beverage containers displaying the resin identification code "3," "4," "5," "6," or "7" pursuant to Section 18015. If the department determines that insufficient funds will be available from these revenues, after refund values are paid to processors and the reduction is made in the processing fee pursuant to subdivision (e) of Section 14575 for these containers, the department may determine not to calculate a commingled rate pursuant to this subdivision.

~~SEC. 60.~~

SEC. 59. Section 14553 of the Public Resources Code is amended to read:

14553. (a) Except as provided in subdivision (b), all reports, claims, and other information required pursuant to this division and submitted to the department shall be complete, legible, and accurate, as determined by the department by regulation, and shall be signed, by an officer, director, managing employee, or owner of the certified recycling center, processor, distributor, beverage manufacturer, container manufacturer, or other entity.

(b) Notwithstanding subdivision (a), a person submitting the reports, claims, and other information specified in subdivision (a) shall use the Division of Recycling Integrated Information System (DORIIS) or other system designated by the department for reporting, making, or claiming payments, or providing other information required pursuant to this division.

(c) The department may inspect the operations, processes, and records of an entity required to submit a report to the department

pursuant to this division to determine the accuracy of the report and compliance with the requirements of this division.

(d) (1) A violation of this section is subject to the penalties specified in Section 14591.1.

(2) The department may take an enforcement action against a certified recycling center or processor that fails to comply with this section, including, but not limited to, imposing penalties, denying claims for payment, or terminating the certification of the certified recycling center or processor.

~~SEC. 61.~~

SEC. 60. Section 14572 of the Public Resources Code is amended to read:

14572. (a) (1) Except as provided in subdivision (b), a certified recycling center shall accept from any consumer or dropoff or collection program any empty beverage container, and shall pay to the consumer or dropoff or collection program the refund value of the beverage container.

(2) Except as provided in paragraph (3), the recycling center may pay the refund value based on the weight of returned containers.

(3) On and after September 1, 2013, for beverage containers redeemed by consumers, a certified recycling center shall pay the refund value using the applicable segregated rate, as defined in paragraph (43) of subsection (a) of Section 2000 of Title 14 of the California Code of Regulations, as that section read on September 1, 2013, which shall be based on the weight of the redeemed beverage containers.

(b) Any recycling center or processor that was in existence on January 1, 1986, and that refused, as of January 1, 1986, to accept at a particular location a certain type of empty beverage container may continue to refuse to accept at the location the type or types of empty beverage containers that the recycling center or processor refused to accept as of January 1, 1986. A certified recycling center that refuses, pursuant to this subdivision, to accept a certain type or types of empty beverage containers is not eligible to receive handling fees unless the center agrees to accept all types of empty beverage containers and is a supermarket site. This subdivision does not preclude the certified recycling center from receiving a handling fee for beverage containers redeemed at supermarket sites that do accept all types of containers.

(c) The department shall develop procedures by which recycling centers and processors that meet the criteria of subdivision (b) may recertify to change the material types accepted.

(d) (1) Only a certified recycling center may pay the refund value to consumers or dropoff or collection programs. A person shall not pay a noncertified recycler for empty beverage containers an amount that exceeds the current scrap value for each container type, which shall be determined in the following manner:

(A) For a plastic or glass beverage container, the current scrap value shall be determined by the department.

(B) For an aluminum beverage container, the current scrap value shall be not greater than the amount paid to the processor for that aluminum beverage container, on the date the container was purchased, by the location of end use, as defined in the regulations of the department.

(2) A person shall not receive or retain, for empty beverage containers that come from out of state, any refund values, processing payments, or administrative fees for which a claim is made to the department against the fund.

(3) Paragraph (1) does not affect curbside programs under contract with cities or counties.

~~SEC. 62.~~

SEC. 61. Section 14591 of the Public Resources Code is amended to read:

14591. (a) Except as provided in subdivision (b), in addition to any other applicable civil or criminal penalties, a person convicted of a violation of this division, or a regulation adopted pursuant to this division, is guilty of an infraction, which is punishable by a fine of one hundred dollars ($100) for each initial separate violation and not more than one thousand dollars ($1,000) for each subsequent separate violation per day.

(b) (1) Every person who, with intent to defraud, knowingly takes any of the following actions is guilty of a crime:

(A) Submits a false or fraudulent claim for payment pursuant to Section 14573 or 14573.5.

(B) Fails to accurately report the number of beverage containers sold, as required by subdivision (b) of Section 14550.

(C) Fails to make payments as required by Section 14574.

(D) Redeems out-of-state containers, rejected containers, line breakage, or containers that have already been redeemed.

(E) Returns redeemed containers to the California marketplace for redemption.

(F) Brings out-of-state containers, rejected containers, or line breakage to the California marketplace for redemption.

(G) Submits a false or fraudulent claim for handling fee payments pursuant to Section 14585.

(2) If the money obtained or withheld pursuant to paragraph (1) exceeds nine hundred fifty dollars ($950), a person convicted of a crime pursuant to paragraph (1) is subject to punishment by imprisonment in the county jail for not more than one year or by a fine not exceeding ten thousand dollars ($10,000), or by both, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months, two years, or three years, or by a fine not exceeding twenty-five thousand dollars ($25,000) or twice the late or unmade payments plus interest, whichever is greater, or by both fine and imprisonment. If the money obtained or withheld pursuant to paragraph (1) equals, or is less than, nine hundred fifty dollars ($950), the person is subject to punishment by imprisonment in the county jail for not more than six months or by a fine not exceeding one thousand dollars ($1,000), or by both.

(c) For purposes of this section and Chapter 8.5 (commencing with Section 14595), “line breakage” and “rejected container” have the same meanings as defined in the regulations adopted or amended by the department pursuant to this division.

~~SEC. 63.~~

SEC. 62. Section 25711.5 is added to the Public Resources Code, to read:

25711.5. In administering moneys in the fund for research, development, and demonstration programs under this chapter, the commission shall develop and implement the Electric Program Investment Charge (EPIC) program to do all of the following:

(a) Award funds for projects that will benefit electricity ratepayers and lead to technological advancement and breakthroughs to overcome the barriers that prevent the achievement of the state’s statutory energy goals and that result in a portfolio of projects that is strategically focused and sufficiently narrow to make advancement on the most significant technological challenges that shall include, but not be limited to, energy storage, renewable energy and its integration into the

electrical grid, energy efficiency, integration of electric vehicles into the electrical grid, and accurately forecasting the availability of renewable energy for integration into the grid.

(b) In consultation with the Treasurer, establish terms that shall be imposed as a condition to receipt of funding for the state to accrue any intellectual property interest or royalties that may derive from projects funded by the EPIC program. The commission, when determining if imposition of the proposed terms is appropriate, shall balance the potential benefit to the state from those terms and the effect those terms may have on the state achieving its statutory energy goals. The commission shall require each reward recipient, as a condition of receiving moneys pursuant to this chapter, to agree to any terms the commission determines are appropriate for the state to accrue any intellectual property interest or royalties that may derive from projects funded by the EPIC program.

(c) Require each applicant to report how the proposed project may lead to technological advancement and potential breakthroughs to overcome barriers to achieving the state's statutory energy goals.

(d) Establish a process for tracking the progress and outcomes of each funded project, including an accounting of the amount of funds spent by program administrators and individual grant recipients on administrative and overhead costs and whether the project resulted in any technological advancement or breakthrough to overcome barriers to achieving the state's statutory energy goals.

(e) Notwithstanding Section 10231.5 of the Government Code, prepare and submit to the Legislature no later than April 30 of each year an annual report in compliance with Section 9795 of the Government Code that shall include all of the following:

(1) A brief description of each project for which funding was awarded in the immediately prior calendar year, including the name of the recipient and the amount of the award, a description of how the project is thought to lead to technological advancement or breakthroughs to overcome barriers to achieving the state's statutory energy goals, and a description of why the project was selected.

(2) A brief description of each project funded by the EPIC program that was completed in the immediately prior calendar year, including the name of the recipient, the amount of the award, and the outcomes of the funded project.

(3) A brief description of each project funded by the EPIC program for which an award was made in the previous years but that is not completed, including the name of the recipient and the amount of the award, and a description of how the project will lead to technological advancement or breakthroughs to overcome barriers to achieving the state's statutory energy goals.

(4) Identification of the award recipients that are California-based entities, small businesses, or businesses owned by women, minorities, or disabled veterans.

(5) Identification of which awards were made through a competitive bid, interagency agreement, or sole source method, and the action of the Joint Legislative Budget Committee pursuant to paragraph (2) of subdivision (g) for each award made through an interagency agreement or sole source method.

(6) Identification of the total amount of administrative and overhead costs incurred for each project.

(f) Establish requirements to minimize program administration and overhead costs, including costs incurred by program administrators and individual grant recipients. Each program administrator and grant recipient, including a public entity, shall be required to justify actual administration and overhead costs incurred, even if the total costs incurred do not exceed a cap on those costs that the commission may adopt.

(g) (1) The commission shall use a sealed competitive bid as the preferred method to solicit project applications and award funds pursuant to the EPIC program.

(2) (A) The commission may use a sole source or interagency agreement method if the project cannot be described with sufficient specificity so that bids can be evaluated against specifications and criteria set forth in a solicitation for bid and if both of the following conditions are met:

(i) The commission, at least 60 days prior to making an award pursuant to this subdivision, notifies the Joint Legislative Budget Committee and the relevant policy committees in both houses of the Legislature, in writing, of its intent to take the proposed action.

(ii) The Joint Legislative Budget Committee either approves or does not disapprove the proposed action within 60 days from the date of notification required by clause (i).

(B) It is the intent of the Legislature to enact this paragraph to ensure legislative oversight for awards made on a sole source basis, or through an interagency agreement.

(3) Notwithstanding any other law, standard terms and conditions that generally apply to contracts between the commission and any entities, including state entities, do not automatically preclude the award of moneys from the fund through the sealed competitive bid method.

~~SEC. 64.~~

SEC. 63. Section 25711.7 is added to the Public Resources Code, to read:

25711.7. (a) The Public Utilities Commission shall not require the collection of funds pursuant to its Decision 12-05-037 (May 24, 2012), Phase 2 Decision Establishing Purposes and Governance for Electric Program Investment Charge and Establishing Funding Collections for 2013-2020, as corrected by Decision 12-07-001 (July 3, 2012), Order Correcting Error, and as modified by Decision 13-04-030 (April 18, 2013), Order Modifying Decision (D.) 12-05-037, and Denying Rehearing of Decision, as Modified, in an annual amount greater than the amount specified in those decisions.

(b) This section does not modify, alter, or, in any way, affect the operation of Section 25712.

~~SEC. 65.~~

SEC. 64. 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.

(3) To provide funding for the New Solar Homes Partnership pursuant to paragraph (3) of subdivision (e) of Section 2851 of the Public Utilities Code.

(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. 66.~~

SEC. 65. Section 26052 of the Public Resources Code is amended to read:

26052. "Applicant" means, for the purposes of Article 2 (commencing with Section 26060), a public agency as defined in paragraph (3) of subdivision (c) of Section 5898.20 of the Streets and Highways Code, or an entity administering a PACE loan program on behalf of and with written consent of a public agency, and, for the purposes of Article 3 (commencing with Section 26070), a financial institution providing a loan pursuant to that chapter to finance the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements.

~~SEC. 67.~~

SEC. 66. Section 26055 of the Public Resources Code is amended to read:

26055. "PACE program" means a program established by an applicant that is financed by the PACE bond or a PACE loan program regardless of funding sources.

~~SEC. 68.~~

SEC. 67. Section 26060 of the Public Resources Code is amended to read:

26060. (a) The authority shall develop and administer a PACE Reserve program to reduce overall costs to the property owners of PACE bonds issued by an applicant by providing a reserve of

no more than 10 percent of the initial principal amount of the PACE bond.

(b) The authority shall develop and administer a PACE risk mitigation program for PACE loans to increase their acceptance in the marketplace and protect against the risk of default and foreclosure.

~~SEC. 69.~~

SEC. 68. Section 26062 of the Public Resources Code is amended to read:

26062. An applicant shall submit to the authority an application providing a detailed description of the PACE program, a detailed description of the transactional activities associated with the PACE bond issuance, including all transactional costs, information regarding any credit enhancement or loan insurance associated with a PACE loan program, and other information deemed necessary by the authority.

~~SEC. 70.~~

SEC. 69. Section 26063 of the Public Resources Code is amended to read:

26063. (a) In evaluating eligibility, the authority shall consider whether the applicant's PACE program includes the following conditions:

(1) Loan recipients are legal owners of underlying property.

(2) Loan recipients are current on mortgage and property tax payments.

(3) Loan recipients are not in default or in bankruptcy proceedings.

(4) Loans are for less than 10 percent of the value of the property.

(5) The property is within the geographical boundaries of the PACE program.

(6) The program offers financing for energy efficiency improvements or electric vehicle charging infrastructure.

(7) Improvements financed by the program follow applicable standards of energy efficiency retrofit work, including any guidelines adopted by the State Energy Resources Conservation and Development Commission.

(b) In evaluating an application, the authority shall consider all of the following factors:

(1) The use by the PACE program of best practices, adopted by the authority, to qualify eligible properties for participation in underwriting the PACE program.

(2) The cost efficiency of the applicant's PACE program, including bond issuance, credit enhancement, or loan insurance.

(3) The projected number of jobs created by the PACE program.

(4) The applicant's PACE program requirements for quality assurance and consumer protection as related to achieving efficiency and clean energy production.

(5) The mechanisms by which savings produced by this program are passed on to the property owners.

(6) Any other factors deemed appropriate by the authority.

~~SEC. 71.~~

SEC. 70. Section 35600 of the Public Resources Code is amended to read:

35600. (a) The Ocean Protection Council is established in state government. The council consists of the Secretary of the Natural Resources Agency, the Secretary for Environmental Protection, the Chair of the State Lands Commission, and two members of the public appointed by the Governor.

(b) The two public members shall each serve a term of four years, and may each be reappointed to one additional term. The public members of the board shall be appointed on the basis of their educational and professional qualifications and their general knowledge of, interest in, and experience in the protection and conservation of coastal waters and ocean ecosystems. One of the public members shall have a scientific professional background and experience in coastal and ocean ecosystems.

(c) Except as provided in this section, members of the council shall serve without compensation. A member shall be reimbursed for actual and necessary expenses incurred in the performance of his or her duties, and in addition shall be compensated at one hundred dollars ($100) for each day during which the member is engaged in the performance of official duties of the council. Payment for actual and necessary expenses shall be paid only to the extent that those expenses are not provided or payable by another public agency. The total number of days for which a member shall be compensated may not exceed 25 days in any one fiscal year.

~~SEC. 72.~~

SEC. 71. Section 35605 of the Public Resources Code is amended to read:

35605. The Secretary of the Natural Resources Agency shall serve as the chairperson of the council, and the Secretary for Environmental Protection shall serve as the vice chairperson of the council. The Assistant Secretary for Coastal Matters at the Natural Resources Agency shall be designated as the Deputy Secretary of the Natural Resources Agency for Ocean and Coastal Policy, and the deputy secretary shall also serve as the executive director for the council.

~~SEC. 73.~~

SEC. 72. Section 35625 of the Public Resources Code is amended to read:

35625. (a) Under the direction of the Secretary of the Natural Resources Agency, the council shall administer its affairs, and provide the staff services that the council needs to carry out this division, including, but not limited to, both of the following:

(1) Administering grants and expenditures authorized by the council from the fund or other sources, including, but not limited to, block grants from other state boards, commissions, or departments.

(2) Arranging meetings, agendas, and other administrative functions in support of the council.

(b) The Legislature may make appropriations to be used for the purposes of this division directly to the Secretary of the Natural Resources Agency, for expenditures authorized by the council. If an expenditure has been approved by the council for the purposes of this division, approval of the secretary is not required, except in the case of block grants provided by the council to be administered by the secretary.

(c) Any bond funds received by the State Coastal Conservancy, on or before July 1, 2013, which authorized the use of funds for council programs, shall be transferred to the Natural Resources Agency for use for those programs.

(d) (1) The Legislature finds and declares that, on the effective date of the act adding this subdivision during the 2013–14 Regular Session, various contracts and grants will be pending or remain subject to management and control by the State Coastal Conservancy on behalf of the council. On and after that date, the

Secretary of the Natural Resources Agency is hereby designated as the legal successor to the State Coastal Conservancy, and the Secretary of the Natural Resources Agency shall assume management and control of those contracts and grants and shall have all of the same powers and duties as the State Coastal Conservancy.

(2) In addition to the powers and duties described in paragraph (1), on and after the effective date of the act adding this subdivision during the 2013–14 Regular Session, the Secretary of the Natural Resources Agency shall have the following powers and duties on behalf of the council:

(A) The management of all contracts and grants, including the completion, modification, and cancellation of those contracts and grants in accordance with existing law.

(B) The negotiation and settlement of claims relating to contracts and grants.

(C) Responsibility for the completion, maintenance, and disposal of any records relating to the transfer of responsibilities from the State Coastal Conservancy to the Natural Resources Agency.

~~SEC. 74.~~

SEC. 73. Section 42977 of the Public Resources Code is amended to read:

42977. (a) The carpet stewardship organization submitting a carpet stewardship plan shall pay the department a quarterly administrative fee. The department shall set the fee at an amount that, when paid by every carpet stewardship organization that submits a carpet stewardship plan, is adequate to cover the department's full costs of administering and enforcing this chapter, including any program development costs or regulatory costs incurred by the department prior to carpet stewardship plans being submitted. The department may establish a variable fee based on relevant factors, including, but not limited to, the portion of carpets sold in the state by members of the organization compared to the total amount of carpet sold in the state by all organizations submitting a carpet stewardship plan.

(b) The total amount of fees collected annually pursuant to this section shall not exceed the amount necessary to recover costs incurred by the department in connection with the administration and enforcement of the requirements of this chapter.

(c) The department shall identify the direct development or regulatory costs it incurs pursuant to this chapter prior to the submittal of a carpet stewardship plan and shall establish a fee in an amount adequate to cover those costs, which shall be paid by a carpet stewardship organization that submits a carpet stewardship plan. The fee established pursuant to this subdivision shall be paid pursuant to the schedule specified in subdivision (d).

(d) A carpet stewardship organization subject to this section shall pay a quarterly fee to the department to cover the administrative and enforcement costs of the requirements of this chapter pursuant to subdivision (a) on or before July 1, 2012, and every three months thereafter and the applicable portion of the fee pursuant to subdivision (c) on July 1, 2012, and every three months thereafter through July 1, 2014. Each year after the initial payment, the total amount of the administrative fees paid for a calendar year may not exceed 5 percent of the aggregate assessments collected for the preceding calendar year.

(e) The department shall deposit the fees collected pursuant to this section into the Carpet Stewardship Account created pursuant to Section 42977.1.

~~SEC. 75.~~

SEC. 74. Section 48704 of the Public Resources Code is amended to read:

48704. (a) The department shall review the plan within 90 days of receipt, and make a determination whether or not to approve the plan. The department shall approve the plan if it provides for the establishment of a paint stewardship program that meets the requirements of Section 48703.

(b) (1) The approved plan shall be a public record, except that financial, production, or sales data reported to the department by a manufacturer or the stewardship organization is not a public record under the California Public Records Act, as described in Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code and shall not be open to public inspection.

(2) Notwithstanding paragraph (1), the department may release a summary form of financial, production, or sales data if it does not disclose financial, production, or sales data of a manufacturer or stewardship organization.

(c) On or before July 1, 2012, or three months after a plan is approved pursuant to subdivision (a), whichever date is later, the manufacturer or stewardship organization shall implement the architectural paint stewardship program described in the approved plan.

(d) The department shall enforce this chapter.

(e) (1) The stewardship organization shall pay the department a quarterly administrative fee pursuant to paragraph (2).

(2) The department shall impose fees in an amount that is sufficient to cover the full administrative and enforcement costs of the requirements of this chapter, including any program development costs or regulatory costs incurred by the department prior to the submittal of the stewardship plans. The stewardship organization shall pay the fee on or before the last day of the month following the end of each quarter. Fee revenues collected under this section shall only be used to administer and enforce this chapter.

(f) (1) A civil penalty may be administratively imposed by the department on any person who violates this chapter in an amount of up to one thousand dollars ($1,000) per violation per day.

(2) A person who intentionally, knowingly, or negligently violates this chapter may be assessed a civil penalty by the department of up to ten thousand dollars ($10,000) per violation per day.

~~SEC. 76.~~

SEC. 75. The Legislature hereby finds and declares all of the following:

(a) Environmental literacy enhances a citizen's ability to make informed decisions with an understanding that humans depend on natural systems and human actions influence natural systems in both beneficial and detrimental ways.

(b) Environmentally literate citizens are better able to make wise individual and collective decisions to conserve natural resources and protect environmental and human health.

(c) An environmentally literate citizenry is essential to confronting and overcoming the environmental challenges of the 21st century.

(d) An environmentally literate citizenry, consisting of technological innovators, entrepreneurs, scientists, and engineers, as well as environmentally conscientious consumers, supports a

vibrant state economy and drives California's role as a leader in the emerging global green marketplace.

(e) A model environmental curriculum, also known as the Education and the Environment Curriculum (curriculum) was developed by the California Environmental Protection Agency, in cooperation with the State Department of Education and the Natural Resources Agency, to increase environmental literacy among students in kindergarten and grades 1 to 12, inclusive.

(f) The curriculum is the first environment-based curriculum of its kind in the nation to receive State Board of Education approval.

(g) There are many benefits of enhanced environmental literacy, and the curriculum materials, along with training and support, should be made readily available to any educator in California who wishes to teach the curriculum.

(h) To achieve this goal, the Department of Resources Recycling and Recovery should collaborate across agencies and disciplines, including, but not limited to, the California Environmental Protection Agency, the State Department of Education, and the Natural Resources Agency.

(i) The state should seek to develop strong partnerships with the private sector, including nonprofit organizations, associations, businesses, and private entities, in order to support use of the curriculum and increase environmental literacy.

~~SEC. 77.~~

SEC. 76. Section 71300 of the Public Resources Code is amended to read:

71300. (a) For purposes of this part, the following definitions shall apply:

(1) "Department" means the Department of Resources Recycling and Recovery.

(2) "Office" means the Office of Education and the Environment of the Department of Resources Recycling and Recovery, as established pursuant to this section.

(3) "Program" means the statewide environmental education program prescribed in this part.

(b) 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 education program prescribed pursuant

to this part, including the integrated waste educational requirements specified in paragraph (9) of subdivision (b) of Section 71301. The office, through staffing and resources, shall give a high priority to implementing the statewide environmental education program.

(c) The office, under the direction of the department, 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, in cooperation with the department, 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.

(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. 78.~~

SEC. 77. Section 71301 of the Public Resources Code is amended to read:

71301. (a) As part of the unified education strategy specified in subdivision (c) of Section 71300, the office, in cooperation with the Secretary for Environmental Protection, the Natural Resources Agency, the State Department of Education, and the State Board of Education, shall develop education principles for the environment for elementary and secondary school pupils. The principles may be updated every four years beginning July 1, 2008. The principles shall be aligned to the academic content standards adopted by the State Board of Education pursuant to Section 60605 of the Education Code. The principles shall be used to do all of the following:

(1) To direct state agencies that include environmental education components for elementary and secondary education in regulatory decisions or enforcement actions.

(2) To align state agency environmental education programs and materials that are developed for elementary and secondary education.

(b) The education principles for the environment shall include, but not be limited to, concepts relating to the following topics:

(1) Environmental sustainability.

(2) Water.

(3) Air.

(4) Energy.

(5) Forestry.

(6) Fish and wildlife resources.

(7) Oceans.

(8) Toxics and hazardous waste.

(9) Integrated waste management.

(10) Integrated pest management.

(11) Public health and the environment.

(12) Pollution prevention.

(13) Resource conservation and recycling.

(14) Environmental justice.

(c) The principles shall be aligned to the applicable academic content standards adopted by the State Board of Education and shall not duplicate or conflict with any academic content standards.

(d) (1) The education principles for the environment shall be incorporated, as the State Board of Education determines to be appropriate, in criteria developed for textbook adoption required pursuant to Section 60200 or 60400 of the Education Code in science, mathematics, English/language arts, and history/social sciences.

(2) If the State Board of Education determines that the education principles for the environment are not appropriate for inclusion in the textbook adoption criteria cited in paragraph (1), the State Board of Education shall collaborate with the office to make the changes necessary to ensure that the principles are included in the textbook adoption criteria in science, mathematics, English/language arts, and history/social sciences.

(e) If the content standards required pursuant to Section 60605 of the Education Code are revised, the education principles for the environment shall be appropriately considered for inclusion into part of the revised academic content standards.

~~SEC. 79.~~

SEC. 78. Section 71302 of the Public Resources Code is amended to read:

71302. (a) Using the education principles for the environment required to be developed pursuant to Section 71301, the office, in cooperation with the Secretary for Environmental Protection, the Natural Resources Agency, the State Department of Education, and the State Board of Education, shall develop a model environmental curriculum that incorporates these education principles for the environment. The model curriculum shall be aligned with applicable State Board of Education adopted academic content standards in Science, Mathematics, English/Language Arts, and History/Social Sciences, to the extent that any of those content areas are addressed in the model curriculum.

(b) The model curriculum shall be submitted to the Instructional Quality Commission for review. The commission shall submit its recommendation to the Secretary for Environmental Protection and to the Secretary of the Natural Resources Agency.

(1) The Secretary for Environmental Protection and the Secretary of the Natural Resources Agency shall review and comment on the model curriculum.

(2) The model curriculum along with the comments by the Secretary for Environmental Protection and the Secretary of the

Natural Resources Agency shall be submitted to the State Board of Education for its approval.

~~SEC. 80.~~

SEC. 79. Section 71303 of the Public Resources Code is amended to read:

71303. (a) As determined appropriate by the Superintendent of Public Instruction, the State Department of Education shall incorporate into publications that provide examples of curriculum resources for teacher use, those materials developed by the office that provide information on the education principles for the environment developed pursuant to Section 71300.

(b) If the Superintendent of Public Instruction determines that materials developed by the office that provide information on the education principles for the environment are not appropriate for inclusion in publications that provide examples of curriculum resources for teacher use, the Superintendent of Public Instruction shall collaborate with the office to make the changes necessary to ensure that the materials are included in that information.

(c) Pursuant to Section 71302, the department shall coordinate with the Secretary for Environmental Protection, the Superintendent of Public Instruction, the State Department of Education, and the Secretary of the Natural Resources Agency to facilitate use of the model environmental curriculum by elementary and secondary schools to the extent that funds are available for this purpose.

(d) The department, the Secretary for Environmental Protection, the Superintendent of Public Instruction, the State Department of Education, and the Secretary of the Natural Resources Agency may collaborate with other federal, state, and local entities, and nongovernmental entities including nonprofit organizations, associations, businesses, individuals, and private entities, and may enter into interagency agreements, memoranda of understanding, and contracts to ensure implementation of this part.

(e) The department shall make the model curriculum available electronically on the department's Internet Web site. The State Department of Education shall make readily identifiable on its Internet Web site a link to the department's Internet Web site containing the curriculum.

(f) The State Department of Education, to the extent feasible and to the extent that funds are available for this purpose, shall encourage the development and use of instructional materials and

active pupil participation in campus and community environmental education programs. To the extent feasible, the environmental education programs should be considered in the development and promotion of after school programs for elementary and secondary school pupils and state and local professional development activities to provide teachers with content background and resources to assist in teaching about the environment.

(g) The State Department of Education shall explore implementation of this section from its baseline resources dedicated to this purpose and if funding is not available from that source, then funding may be provided to the department, pursuant to appropriation by the Legislature, under Section 71305.

~~SEC. 81.~~

SEC. 80. Section 71304 of the Public Resources Code is amended to read:

71304. (a) The office, in coordination with the Secretary for Environmental Protection, shall be responsible for the statewide coordination of regulatory administrative decisions that require the development or encourage the promotion of environmental education for elementary and secondary school pupils.

(b) All California Environmental Protection Agency or Natural Resources Agency boards, departments, or offices that take regulatory actions or take enforcement actions requiring the development of, or encouraging the promotion of, environmental education for elementary and secondary school pupils shall, prior to adoption or approval of the action, seek comments on the action from the office in order to promote consistency with this part and cross-media coordination.

(c) The office shall coordinate with all state agencies to develop and distribute environmental education materials.

~~SEC. 82.~~

SEC. 81. Section 71305 of the Public Resources Code, as added by Section 23 of Chapter 718 of the Statutes of 2010, is amended to read:

71305. (a) The Environmental Education Account is hereby established within the State Treasury. Moneys in the account may, upon appropriation by the Legislature, be expended by the department for the purposes of this part. The Director of Resources Recycling and Recovery shall administer this part, including, but not limited to, the account.

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

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

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

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

~~SEC. 83.~~

SEC. 82. Section 309.5 of the Public Utilities Code is amended to read:

309.5. (a) There is within the commission an independent Office of Ratepayer Advocates to represent and advocate on behalf of the interests of public utility customers and subscribers within the jurisdiction of the commission. The goal of the office shall be to obtain the lowest possible rate for service consistent with reliable and safe service levels. For revenue allocation and rate design matters, the office shall primarily consider the interests of residential and small commercial customers.

(b) The director of the office shall be appointed by, and serve at the pleasure of, the Governor, subject to confirmation by the Senate.

The director shall annually appear before the appropriate policy committees of the Assembly and the Senate to report on the activities of the office.

(c) The director shall develop a budget for the office that shall be subject to final approval of the Department of Finance. As authorized in the approved budget, the office shall employ personnel and resources, including attorneys and other legal support staff, at a level sufficient to ensure that customer and subscriber interests are effectively represented in all significant proceedings. The office may employ experts necessary to carry out its functions. The director may appoint a lead attorney who shall represent the office, and shall report to and serve at the pleasure of the director. The lead attorney for the office shall obtain adequate legal personnel for the work to be conducted by the office from the commission's attorney appointed pursuant to Section 307. The commission's attorney shall timely and appropriately fulfill all requests for legal personnel made by the lead attorney for the office, provided the office has sufficient moneys and positions in its budget for the services requested.

(d) The commission shall develop appropriate procedures to ensure that the existence of the office does not create a conflict of roles for any employee. The procedures shall include, but shall not be limited to, the development of a code of conduct and procedures for ensuring that advocates and their representatives on a particular case or proceeding are not advising decisionmakers on the same case or proceeding.

(e) The office may compel the production or disclosure of any information it deems necessary to perform its duties from any entity regulated by the commission, provided that any objections to any request for information shall be decided in writing by the assigned commissioner or by the president of the commission, if there is no assigned commissioner.

(f) There is hereby created the Public Utilities Commission Ratepayer Advocate Account in the General Fund. Moneys from the Public Utilities Commission Utilities Reimbursement Account in the General Fund shall be transferred in the annual Budget Act to the Public Utilities Commission Ratepayer Advocate Account.

The funds in the Public Utilities Commission Ratepayer Advocate Account shall be a budgetary program fund administered and utilized exclusively by the office in the performance of its duties as determined by the director. The director shall annually submit a staffing report containing a comparison of the staffing levels for each five-year period.

(g) On or before January 10 of each year, the office shall provide to the chairperson of the fiscal committee of each house of the Legislature and to the Joint Legislative Budget Committee all of the following information:

(1) The number of personnel years utilized during the prior year by the Office of Ratepayer Advocates.

(2) The total dollars expended by the Office of Ratepayer Advocates in the prior year, the estimated total dollars expended in the current year, and the total dollars proposed for appropriation in the following budget year.

(3) Workload standards and measures for the Office of Ratepayer Advocates.

(h) The office shall meet and confer in an informal setting with a regulated entity prior to issuing a report or pleading to the commission regarding alleged misconduct, or a violation of a law or a commission rule or order, raised by the office in a complaint. The meet and confer process shall be utilized in good faith to reach agreement on issues raised by the office regarding any regulated entity in the complaint proceeding.

~~SEC. 84.~~

SEC. 83. Section 318 is added to the Public Utilities Code, to read:

318. The commission shall conduct a zero-based budget for all of its programs by January 10, 2015. The zero-based budget shall be completed for the entire commission, rather than on a division-by-division basis.

~~SEC. 85.~~

SEC. 84. (a) The Legislature finds and declares that the purpose of adding Section 740.5 to the Public Utilities Code is to limit the implementation of the Public Utilities Commission Decision 12-12-031 (December 20, 2012), Decision Granting Authority to Enter Into a Research and Development Agreement with Lawrence Livermore National Laboratory for 21st Century Energy Systems and for costs up to $152.19 million so that:

(1) No research and development projects other than for the purposes of cyber security and grid integration shall be funded by ratepayers as a result of Decision 12-12-031.

(2) Total funding for research and development projects for the purposes of cyber security and grid integration shall not exceed $35 million over the five-year research period.

(3) Those program management expenditures proposed, commencing with page seven, in the joint advice letter filed by the state's three largest electrical corporations, Advice 3379-G/4215-E (Pacific Gas and Electric Company), Advice 2887-E (Southern California Edison Company), and Advice 2473-E (San Diego Gas and Electric Company), dated April 19, 2013, be voided.

(4) Project managers be limited to three representatives, one representative each from Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company.

(5) The Lawrence Livermore National Laboratory, Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company ensure that research parameters reflect a new contribution to cyber security and that there not be a duplication of research being done by other private and governmental entities.

(b) Nothing in this act authorizes the Public Utilities Commission's adoption of Decision 12-12-031.

~~SEC. 86.~~

SEC. 85. Section 740.5 is added to the Public Utilities Code, to read:

740.5. (a) For purposes of this section, "21st Century Energy System Decision" means commission Decision 12-12-031 (December 20, 2012), Decision Granting Authority to Enter Into a Research and Development Agreement with Lawrence Livermore National Laboratory for 21st Century Energy Systems and for costs up to $152.19 million, or any subsequent decision in Application 11-07-008 (July 18, 2011), Application of Pacific Gas and Electric Company (U39M), San Diego Gas and Electric Company (U902E), and Southern California Edison Company (U338E) for Authority to Increase Electric Rates and Charges to Recover Costs of Research and Development Agreement with

Lawrence Livermore National Laboratory for 21st Century Energy Systems.

(b) In implementing the 21st Century Energy System Decision, the commission shall not authorize recovery from ratepayers of any expense for research and development projects that are not for purposes of cyber security and grid integration. Total funding for research and development projects for the purposes of cyber security and grid integration pursuant to the 21st Century Energy System Decision shall not exceed thirty-five million dollars ($35,000,000). All cyber security and grid integration research and development projects shall be concluded by the fifth anniversary of their start date.

(c) The commission shall not approve for recovery from ratepayers, those program management expenditures proposed, commencing with page seven, in the joint advice letter filed by the state's three largest electrical corporations, Advice 3379-G/4215-E (Pacific Gas and Electric Company), Advice 2887-E (Southern California Edison Company), and Advice 2473-E (San Diego Gas and Electric Company), dated April 19, 2013. Project managers for the 21st Century Energy System Decision shall be limited to three representatives, one representative each from Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company.

(d) The commission shall require the Lawrence Livermore National Laboratory, as a condition for entering into any contract pursuant to the 21st Century Energy System Decision, and Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company to ensure that research parameters reflect a new contribution to cyber security and that there not be a duplication of research being done by other private and governmental entities.

(e) (1) The commission shall require each participating electrical corporation to prepare and submit to the commission by December 1, 2013, a joint report on the scope of all proposed research projects, how the proposed project may lead to technological advancement and potential breakthroughs in cyber security and grid integration, and the expected timelines for concluding the projects. The commission shall, within 30 days of receiving the joint report, determine whether the report is sufficient or requires revision, and upon determining that the report is

sufficient submit the report to the Legislature in compliance with Section 9795 of the Government Code.

(2) The commission shall require each participating electrical corporation to prepare and submit to the commission by 60 days following the conclusion of all research and development projects, a joint report summarizing the outcome of all funded projects, including an accounting of expenditures by the project managers and grant recipients on administrative and overhead costs and whether the project resulted in any technological advancements or breakthroughs in promoting cyber security and grid integration. The commission shall, within 30 days of receiving the joint report, determine whether the report is sufficient or requires revision, and upon determining that the report is sufficient, submit the report to the Legislature in compliance with Section 9795 of the Government Code.

(3) This subdivision shall become inoperable January 1, 2023, pursuant to Section 10231.5 of the Government Code.

~~SEC. 87.~~

SEC. 86. Section 854.5 is added to the Public Utilities Code, to read:

854.5. (a) For purposes of this section, a "nonstate entity" means a company, corporation, partnership, firm, or other entity or group of entities, whether organized for profit or not for profit.

(b) The commission, by order, decision, motion, settlement, or other action, shall not establish a nonstate entity with any moneys other than those moneys that would otherwise belong to the public utility's shareholders. A nonstate entity to be created with moneys from a public utility's shareholders shall be subject to a 30-day review by the Joint Legislative Budget Committee prior to creation. This subdivision does not limit the authority of the commission to form an advisory committee or other body whose budget is subject to oversight by the commission and the Department of Finance.

(c) The commission shall not enter into a contract with a nonstate entity in which a person serves as an owner, director, or officer while serving as a commissioner. Any contract between the commission and a nonstate entity shall be void and cease to exist by operation of law, if a commissioner, who was a commissioner at the time the contract was awarded, entered into, or extended, becomes, on or after January 1, 2014, an owner,

director, or officer of the nonstate entity while serving as a commissioner.

(d) A commissioner who acts as an owner, director, or officer of a nonstate entity that was established after January 1, 2015, as a result of an order, decision, motion, settlement, or other action by the commission in which the commissioner participated, neglects his or her duty pursuant to Section 1 of Article XII of the California Constitution, for which the commissioner may be removed pursuant to that section.

~~SEC. 88.~~

SEC. 87. Section 2120 is added to the Public Utilities Code, to read:

2120. (a) The commission shall not distribute, expend, or encumber any moneys received by the commission as a result of any commission proceeding or judicial action, including the compromise or settlement of a claim, until both of the following are true:

(1) The commission has provided the Director of Finance with written notification of the receipt of the moneys and the basis for those moneys being received by the commission.

(2) The Director of Finance provides not less than 60 days' written notice to the Chairperson of the Joint Legislative Budget Committee and the chairs of the appropriate budget subcommittees of the Assembly and Senate of the receipt of the moneys and the basis for those moneys being received by the commission.

(b) This section does not apply to application or licensing fees charged by the commission to defray regulatory expenses.

(c) This section does not apply to moneys received by the commission in a court-approved settlement or as a result of a court judgment where the court orders that the moneys be used for specified purposes.

(d) This section does not apply to moneys received by the commission where statutes expressly provide how the moneys are to be paid or used, including all of the following:

(1) Payment to any fund created by Chapter 1.5 (commencing with Section 270).

(2) Payment to any account or fund pursuant to Chapter 2.5 (commencing with Section 401).

(3) Payment to the Ratepayer Relief Fund pursuant to Article 9.5 (commencing with Section 16428.1) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code.

~~SEC. 89.~~

SEC. 88. 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 (New Solar Homes Partnership Program), administered by the Energy 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. If the commission is notified by the Energy Commission that funding available pursuant to Section 25751 of the Public Resources Code for the New Solar Homes Partnership Program has been exhausted, the commission may require an electrical corporation to continue administration of the program pursuant to the guidelines established for the program by the Energy Commission, until the funding limit authorized by this paragraph has been reached. The commission, in consultation with the Energy Commission, shall supervise the administration of the continuation of the New Solar Homes Partnership Program by an electrical corporation. An electrical corporation may elect to have a third party, including the Energy Commission, administer the utility's continuation of the New Solar Homes Program. After the exhaustion of funds, the Energy Commission shall notify the Joint Legislative Budget Committee 30 days prior to the continuation of the program.

(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. 90.~~

SEC. 89. Section 5900 of the Public Utilities Code is amended to read:

5900. (a) The holder of a state franchise shall comply with the provisions of Sections 53055, 53055.1, 53055.2, and 53088.2 of the Government Code, and any other customer service standards pertaining to the provision of video service established by federal law or regulation or adopted by subsequent enactment of the Legislature. All customer service and consumer protection standards under this section shall be interpreted and applied to

accommodate newer or different technologies while meeting or exceeding the goals of the standards.

(b) The holder of a state franchise shall comply with provisions of Section 637.5 of the Penal Code and the privacy standards contained in Section 551 et seq. of Title 47 of the United States Code.

(c) The local entity shall enforce all of the customer service and protection standards of this section with respect to complaints received from residents within the local entity's jurisdiction, but it may not adopt or seek to enforce any additional or different customer service or other performance standards under Section 53055.3 or subdivision (q), (r), or (s) of Section 53088.2 of the Government Code, or any other authority or provision of law.

(d) The local entity shall, by ordinance or resolution, provide a schedule of penalties for any material breach by a holder of a state franchise of this section. No monetary penalties shall be assessed for a material breach if it is out of the reasonable control of the holder. Further, no monetary penalties may be imposed prior to January 1, 2007. Any schedule of monetary penalties adopted pursuant to this section shall in no event exceed five hundred dollars ($500) for each day of each material breach, not to exceed one thousand five hundred dollars ($1,500) for each occurrence of a material breach. However, if a material breach of this section has occurred, and the local entity has provided notice and a fine or penalty has been assessed, and if a subsequent material breach of the same nature occurs within 12 months, the penalties may be increased by the local entity to a maximum of one thousand dollars ($1,000) for each day of each material breach, not to exceed three thousand dollars ($3,000) for each occurrence of the material breach. If a third or further material breach of the same nature occurs within those same 12 months, and the local entity has provided notice and a fine or penalty has been assessed, the penalties may be increased to a maximum of two thousand five hundred dollars ($2,500) for each day of each material breach, not to exceed seven thousand five hundred dollars ($7,500) for each occurrence of the material breach. With respect to video providers subject to a franchise or license, any monetary penalties assessed under this section shall be reduced dollar-for-dollar to the extent any liquidated damage or penalty provision of a current cable television ordinance, franchise contract, or license agreement

imposes a monetary obligation upon a video provider for the same customer service failures, and no other monetary damages may be assessed.

(e) The local entity shall give the video service provider written notice of any alleged material breach of the customer service standards of this division and allow the video provider at least 30 days from receipt of the notice to remedy the specified material breach.

(f) A material breach for the purposes of assessing penalties shall be deemed to have occurred for each day within the jurisdiction of each local entity, following the expiration of the period specified in subdivision (e), that any material breach has not been remedied by the video service provider, irrespective of the number of customers or subscribers affected.

(g) Any penalty assessed pursuant to this section shall be remitted to the local entity, which shall submit one-half of the penalty to the Digital Divide Account established in Section 280.5.

(h) Any interested person may seek judicial review of a decision of the local entity in a court of appropriate jurisdiction. For this purpose, a court of law shall conduct a de novo review of any issues presented.

(i) This section shall not preclude a party affected by this section from utilizing any judicial remedy available to that party without regard to this section. Actions taken by a local legislative body, including a local franchising entity, pursuant to this section shall not be binding upon a court of law. For this purpose, a court of law shall conduct de novo review of any issues presented.

(j) For purposes of this section, “material breach” means any substantial and repeated failure of a video service provider to comply with service quality and other standards specified in subdivision (a).

(k) The Office of Ratepayer Advocates shall have authority to advocate on behalf of video subscribers regarding renewal of a state-issued franchise and enforcement of this section, and Sections 5890 and 5950. For this purpose, the office shall have access to any information in the possession of the commission subject to all restrictions on disclosure of that information that are applicable to the commission.

~~SEC. 91.~~

SEC. 90. Section 43002.3 of the Revenue and Taxation Code is amended to read:

43002.3. (a) For purposes of the collection of the fees specified in subdivision (a) of Section 25174 and the fee imposed pursuant to Section 25174.1 of the Health and Safety Code, a determination by the Department of Toxic Substances Control that a waste is nonhazardous shall be effective only for wastes disposed of, or submitted for disposal, commencing with the month during which the Department of Toxic Substances Control receives a completed application for that determination.

(b) This section applies only to fees due for the 2013 and earlier reporting periods.

(c) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 92.~~

SEC. 91. Section 43005.5 of the Revenue and Taxation Code is repealed.

~~SEC. 93.~~

SEC. 92. Section 43012 of the Revenue and Taxation Code is amended to read:

43012. (a) For purposes of this part, "taxpayer" means any person liable for the payment of a fee or a tax specified in paragraph (1) of subdivision (a) of Section 25173.6 of the Health and Safety Code or subdivision (a) of Section 25174 of the Health and Safety Code, or imposed by Section 105310 or 25174.1 of the Health and Safety Code.

(b) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 94.~~

SEC. 93. Section 43012 is added to the Revenue and Taxation Code, to read:

43012. (a) For purposes of this part, "taxpayer" means any person liable for the payment of a fee or a tax specified in paragraph (1) of subdivision (a) of Section 25173.6 of the Health and Safety Code or subdivision (a) of Section 25174 of the Health and Safety Code, or imposed by Section 105310 of the Health and Safety Code.

(b) This section shall become operative on January 1, 2014, and shall apply to the fees due for the 2014 reporting period and thereafter, including the prepayments due following the reporting period and the final reconciliation fee due and payable following the reporting period.

~~SEC. 95.~~

SEC. 94. Section 43051 of the Revenue and Taxation Code is amended to read:

43051. (a) The fee imposed pursuant to Section 25174.1 of the Health and Safety Code shall be administered and collected by the board in accordance with this part.

(b) This section applies only to fees due for the 2013 and earlier reporting periods.

(c) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 96.~~

SEC. 95. Section 43053 of the Revenue and Taxation Code is amended to read:

43053. The fees imposed pursuant to Sections 25205.2, 25205.5, and 25205.14 of the Health and Safety Code shall be administered and collected by the board in accordance with this part.

~~SEC. 97.~~

SEC. 96. Section 43055 of the Revenue and Taxation Code is repealed.

~~SEC. 98.~~

SEC. 97. Section 43101 of the Revenue and Taxation Code is amended to read:

43101. Every person, as defined in Section 25118 of the Health and Safety Code, who is subject to the fees specified in Section 105190 of the Health and Safety Code, and imposed pursuant to Sections 25205.2, 25205.5, 25205.6, and 25205.14 of the Health and Safety Code, shall register with the board on forms provided by the board.

~~SEC. 99.~~

SEC. 98. Section 43151 of the Revenue and Taxation Code is amended to read:

43151. (a) The fee imposed pursuant to Section 25174.1 of the Health and Safety Code, which is a tax collected and

administered under Section 43051, is due and payable to the board monthly on or before the last day of the third calendar month following the end of the calendar month for which the fee is due. Each taxpayer shall, on or before the last day of the third calendar month following the end of the calendar month for which the fee is due, make out a tax return for the calendar month, in the form as prescribed by the board, which may include, but not be limited to, electronic media in accordance with subdivision (c). The taxpayer shall deliver the return, together with a remittance of the amount of fee due, to the office of the board on or before the last day of the third calendar month following the end of the calendar month for which the fee is due. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

(b) With the approval of the board, a taxpayer who has more than one facility subject to the taxes collected and administered under this chapter, may file a combined tax return covering operations at more than one, or all, of those facilities.

(c) The form required to be submitted by the taxpayer pursuant to this section shall show, for the taxpayer and for each person from whom the taxpayer accepted hazardous waste for disposal, all of the following:

(1) The total amount of hazardous waste subject to the tax and the amount of the tax for the period covered by the return.

(2) The amount of hazardous waste disposed during the tax period that is in each of the fee categories described in Section 25174.6 of the Health and Safety Code, and the amount of disposal fees paid for each of those categories.

(3) The amount of hazardous waste received for disposal by the taxpayer's facility or facilities that is exempt from the payment of disposal fees pursuant to Section 25174.7 of the Health and Safety Code, including a copy of any written documentation provided for any shipment or shipments of hazardous waste received by a facility.

(4) The amount of RCRA hazardous waste which is treated by the taxpayer so that the waste is considered to be non-RCRA hazardous waste for purposes of the disposal fee, pursuant to paragraph (2) of subdivision (b) of Section 25174.6.

(d) (1) Each taxpayer shall maintain records documenting all of the following information for each person who has submitted hazardous waste for disposal by the taxpayer during each calendar

month and shall make those records available for review and inspection at the request of the board or the department:

(A) The tonnage of hazardous waste submitted for disposal.

(B) The type of hazardous waste disposed as specified by Section 25174.6 of the Health and Safety Code, including both of the following:

(i) Any characterization of the hazardous waste made by the person submitting the hazardous waste for disposal.

(ii) Any other documentation which the taxpayer maintains regarding the type of hazardous waste disposed to land.

(C) Any representation made by the person submitting the hazardous waste regarding any exemptions that may be applicable to the payment of disposal fees.

(D) For any RCRA hazardous waste which is treated by the taxpayer so that the waste is considered to be non-RCRA hazardous waste for purposes of the disposal fee, pursuant to paragraph (2) of subdivision (b) of Section 25174.6, all of the following information:

(i) The tonnage and type of hazardous waste.

(ii) The method or methods used to treat the hazardous waste.

(iii) Operating records documenting the treatment activity.

(iv) Representative and statistical waste sampling and analysis data demonstrating that the waste is no longer RCRA hazardous waste at the time of disposal.

(2) If the hazardous wastes submitted for disposal were accompanied by a manifest, the information specified in paragraph (1) shall be maintained by manifest number for each calendar month.

(e) This section applies only to fees due for the 2013 and earlier reporting periods.

(f) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 100.~~

SEC. 99. Section 43152 of the Revenue and Taxation Code is amended to read:

43152. (a) The board shall establish and annually submit to each generator of hazardous waste a consolidated statement of fees required to be paid by the generator to the board pursuant to

Sections 25205.2, 25205.5, 25205.6, and 25205.14 of the Health and Safety Code.

(b) Notwithstanding any other provision of law, any return or other document that is required to be submitted by a generator of hazardous waste to the board in connection with the payment of any fee specified in subdivision (a) shall instead be submitted together with the consolidated statement made pursuant to subdivision (a).

~~SEC. 101.~~

SEC. 100. Section 43152.7 of the Revenue and Taxation Code is amended to read:

43152.7. (a) The fee imposed pursuant to Section 25205.5 of the Health and Safety Code that is collected and administered under Section 43053 is due and payable on the last day of the second month following the end of the calendar year.

(b) Every generator subject to the fee imposed pursuant to Section 25205.5 of the Health and Safety Code shall file an annual return in the form as prescribed by the board, which may include, but not be limited to, electronic media and pay the proper amount of fee due. The board shall credit the prepayment made pursuant to Section 43152.15 against the amount due with the annual return. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

~~SEC. 102.~~

SEC. 101. Section 43152.10 of the Revenue and Taxation Code is amended to read:

43152.10. The fees collected and administered under Sections 43053 and 43054, are due and payable within 30 days after the date of assessment and the feepayer shall deliver a remittance of the amount of the assessed fee to the office of the board within that 30-day period.

~~SEC. 103.~~

SEC. 102. Section 43152.11 of the Revenue and Taxation Code is repealed.

~~SEC. 104.~~

SEC. 103. Section 43152.15 of the Revenue and Taxation Code is amended to read:

43152.15. (a) In addition to the requirements imposed pursuant to Section 43152.7, every generator subject to the fees specified in Sections 25205.5 and 25205.9 of the Health and Safety Code

shall make a prepayment of the fee by site to the board which is due and payable on or before the last day of August of each calendar year. The prepayment shall be accompanied by a prepayment return in a form prescribed by the board.

(b) For purposes of subdivision (a), the amount of the prepayment shall be not less than either of the following:

(1) One hundred percent of the applicable fee imposed on the generator, based on the generator's fee category as specified in Section 25205.5 of the Health and Safety Code for the total volume of hazardous waste generated by site during the period January 1 to June 30, inclusive, of the current calendar year in which the prepayment is due. The prepayment may be offset by fees paid by the generator for a local hazardous waste management program conducted by a local agency pursuant to a memorandum of understanding with the department which includes the following:

(A) The local fees are paid for the current calendar year for which the prepayment is due or the local fees are paid for the preceding calendar year, if fees have not been paid for the current year.

(B) The offset is subject to the limitations and requirements specified in subdivision (c) of Section 43152.7.

(2) Fifty percent of the generator fee liability paid to the board by site for the preceding calendar year provided the generator paid a generator fee liability to the board for the preceding calendar year for that site.

(c) The board shall credit the amount of the prepayment against the amount of the fee due and payable for the calendar year in which the prepayment is due.

(d) Notwithstanding any other provision in this section, the prepayment of a generator fee shall not be required for any amount due that is less than five hundred dollars ($500), or for any other amount due if the board determines that prepayment is not in the best economic interest of the program.

(e) Any person required to make a prepayment pursuant to this section who fails to make a prepayment by the due date specified in subdivision (a) shall also pay penalties and interest in accordance with Section 43155.

(f) This section applies only to fees due for the 2013 and earlier reporting periods.

(g) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 105.~~

SEC. 104. Section 43152.15 is added to the Revenue and Taxation Code, to read:

43152.15. (a) In addition to the requirements imposed pursuant to Section 43152.7, every generator subject to the fees specified in Section 25205.5 of the Health and Safety Code shall make a prepayment of the fee by site to the board which is due and payable on or before the last day of August of each calendar year. The prepayment shall be accompanied by a prepayment return in a form prescribed by the board.

(b) For purposes of subdivision (a), the amount of the prepayment shall be not less than either of the following:

(1) One hundred percent of the applicable fee imposed on the generator, based on the generation and handling fee specified in Section 25205.5 of the Health and Safety Code for the total volume of hazardous waste generated by site during the period January 1 to June 30, inclusive, of the current calendar year in which the prepayment is due. The prepayment may be offset by fees paid by the generator for a local hazardous waste management program conducted by a local agency pursuant to a memorandum of understanding with the department which includes the following:

(A) The local fees are paid for the current calendar year for which the prepayment is due or the local fees are paid for the preceding calendar year, if fees have not been paid for the current year.

(B) The offset is subject to the limitations and requirements specified in subdivision (c) of Section 43152.7.

(2) Fifty percent of the generation and handling fee liability paid to the board by site for the preceding calendar year provided the generator paid a generation and handling fee liability to the board for the preceding calendar year for that site.

(c) The board shall credit the amount of the prepayment against the amount of the fee due and payable for the calendar year in which the prepayment is due.

(d) Notwithstanding any other provision in this section, the prepayment of a generation and handling fee shall not be required for any amount due that is less than five hundred dollars ($500),

or for any other amount due if the board determines that prepayment is not in the best economic interest of the program.

(e) Any person required to make a prepayment pursuant to this section who fails to make a prepayment by the due date specified in subdivision (a) shall also pay penalties and interest in accordance with Section 43155.

(f) This section shall become operative on January 1, 2014, and shall apply to the fees due for the 2014 reporting period and thereafter, including the prepayments due following the reporting period and the final reconciliation fee due and payable following the reporting period.

~~SEC. 106.~~

SEC. 105. Section 43152.16 of the Revenue and Taxation Code is repealed.

~~SEC. 107.~~

SEC. 106. The Legislature finds and declares all of the following:

(a) The Department of Transportation owns real property commonly known as 2829 Juan Street, San Diego, which served as the department's District 11 administrative headquarters until 2006.

(b) Subsequently, the Department of Transportation constructed a new District 11 administrative headquarters and relocated its staff to the new facility, and no longer needs the property at 2829 Juan Street, and is desirous of transferring it.

(c) It has cost the Department of Transportation over five hundred thousand dollars ($500,000) to continue to own and maintain the property at 2829 Juan Street, and future annual costs to maintain the property will be at least eighty thousand dollars ($80,000) annually. It is also estimated to cost between three million dollars ($3,000,000) and six million dollars ($6,000,000) to remove antiquated and obsolete buildings and fixtures from the property.

(d) The property at 2829 Juan Street is immediately adjacent to property owned by the Department of Parks and Recreation, which is operated as Old Town San Diego State Historic Park and which is one of the most popular and most visited parks in the state park system.

(e) The Department of Parks and Recreation desires to have the property at 2829 Juan Street transferred to it, so that it can be

incorporated into Old Town San Diego State Historic Park, or developed in a manner than complements the state park.

(f) It is adequate consideration for the Department of Transportation to transfer the property at 2829 Juan Street to the Department of Parks and Recreation if the recipient department assumes all ongoing maintenance and ownership liabilities as well as all future development costs, including the removal of all structures and fixtures that the recipient department concludes are not consistent with the development of Old Town San Diego State Historic Park.

~~SEC. 108.~~

SEC. 107. Section 104.22 is added to the Streets and Highways Code, to read:

104.22. (a) Notwithstanding any other law, the Department of Transportation shall, consistent with Article XIX of the California Constitution, transfer to the Department of Parks and Recreation the real property in the City of San Diego between Taylor Street and Wallace Street and between Juan Street and Calhoun Street, which was acquired for highway purposes and which was previously used by the department as its District 11 administrative headquarters, and which is commonly known as 2829 Juan Street, San Diego.

(b) The real property transferred pursuant to subdivision (a) shall be incorporated into the state park system upon its transfer to the Department of Parks and Recreation.

(c) On and after the date of transfer, the Department of Transportation shall have no continuing obligation relating to the ownership, maintenance, or control of the transferred real property, and all obligations of ownership, maintenance, and control shall thereafter be borne by the Department of Parks and Recreation.

(d) The transfer of the real property required by this section shall be completed within 90 days of the effective date of the act enacting this section in the 2013–14 Regular Session of the Legislature.

(e) The transfer of the real property required by this section serves a public purpose.

~~SEC. 109.~~

SEC. 108. Section 10001.7 is added to the Water Code, to read:

10001.7. The Director of Finance shall notify the Joint Legislative Budget Committee of any hydroelectric power project

relicensing proposal for the Federal Energy Regulatory Commission that, if approved by the department, would obligate the General Fund in the current or future years. The department may approve that relicensing proposal not less than 30 days after the Director of Finance notifies the Joint Legislative Budget Committee.

~~SEC. 110.~~

SEC. 109. Section 85200 of the Water Code is amended to read:

85200. (a) The Delta Stewardship Council is hereby established as an independent agency of the state.

(b) The council shall consist of seven voting members, of which four members shall be appointed by the Governor and confirmed by the Senate, one member shall be appointed by the Senate Committee on Rules, one member shall be appointed by the Speaker of the Assembly, and one member shall be the Chairperson of the Delta Protection Commission. Initial appointments to the council shall be made by July 1, 2010.

(c) (1) (A) The initial terms of two of the four members appointed by the Governor shall be four years.

(B) The initial terms of two of the four members appointed by the Governor shall be six years.

(C) The initial terms of the members appointed by the Senate Committee on Rules and the Speaker of the Assembly shall be four years.

(D) Upon the expiration of each term described in subparagraphs (A), (B), or (C), the term of each succeeding member shall be four years.

(2) The Chairperson of the Delta Protection Commission shall serve as a member of the council for the period during which he or she holds the position as commission chairperson.

(d) Any vacancy shall be filled by the appointing authority within 60 days. If the term of a council member expires, and no successor is appointed within the allotted timeframe, the existing member may serve up to 180 days beyond the expiration of his or her term.

(e) The council members shall select a chairperson from among their members, who shall serve for not more than four years in that capacity.

(f) The council shall meet once a month in a public forum. At least two meetings each year shall take place at a location within the Delta.

~~SEC. 111.~~

SEC. 110. Section 34 of Chapter 718 of the Statutes of 2010 is repealed.

~~SEC. 112.~~

SEC. 111. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SEC. 113.~~

SEC. 112. The balance of the appropriation made in Schedule (1) of Item 3850-301-6051 of Section 2.00 the Budget Act of 2010 (Chapter 724, Statutes 2010) is hereby reappropriated to the Coachella Valley Mountains Conservancy, to be available for expenditure for capital outlay or local assistance until June 30, 2016.

~~SEC. 114.~~

SEC. 113. 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.

O