

AMENDED IN ASSEMBLY MAY 23, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2738**

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**Introduced by Committee on Environmental Safety and Toxic  
Materials (Assembly Members Alejo (Chair), Bloom, ~~Stone,~~  
Gomez, Lowenthal, and Ting)**

February 26, 2014

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An act to amend Sections 25249.7, 116760.40, 116760.44, 116761.70, and 116835 of the Health and Safety Code, relating to drinking water, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2738, as amended, Committee on Environmental Safety and Toxic Materials. Safe Drinking Water State Revolving Fund: accounts.

(1) Existing law, the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65), prohibits any person, in the course of doing business, from knowingly and intentionally exposing any individual to a chemical known to the state to cause cancer or reproductive toxicity without giving a specified warning, or from knowingly discharging or releasing that chemical into water or any source of drinking water, except as specified. The act imposes civil penalties of not more than \$2,500 per day upon persons who violate those ~~prohibitions~~, *prohibitions* and provides for the enforcement of those prohibitions by the Attorney General, a district attorney, or specified city attorneys or prosecutors, and by any person in the public interest. Existing law, in an action brought by a person in the public interest, requires a person who serves notice of the alleged violation

for an exposure to complete, as appropriate, and ~~provides~~ *provide* to the alleged violator a notice of special compliance procedure and proof of compliance form, as specified, and prohibits an action from being filed if specified circumstances are met, including the notice being timely served and the alleged violator correcting the alleged violation. Existing law requires the notice to allege that the alleged violator failed to provide clear and reasonable warning of specified exposures and no other violation.

This bill would require the notice of special compliance procedure and proof of compliance form to be provided to the alleged violator at the time the notice of the alleged violation is served. The bill would also require that the notice allege that the alleged violator failed to provide clear and reasonable warning regarding specified exposures.

(2) Existing law, the Safe Drinking Water State Revolving Fund Law of 1997, authorizes the State Department of Public Health to administer the Safe Drinking Water State Revolving Fund, which is established in the State Treasury and continuously appropriated to the department to provide grants or revolving fund loans for the design and construction of projects for public water systems, as defined, to enable compliance with safe drinking water standards. Existing law authorizes the department to enter into an agreement with the federal government for matching federal contributions into the fund. Existing law requires federal funds to be deposited in the special accounts that are continuously appropriated to the department.

This bill would, in addition, establish the fees and charges account within the fund for deposit of prescribed administrative fees to be expended for administrative costs of providing assistance under these provisions, to the extent consistent with federal law.

Existing law authorizes the department to establish a reasonable fee schedule of administrative fees for loans to be paid by grant applicants, not to exceed 4% of the capitation grant.

This bill would, instead, authorize the administrative fees to include an applicant fee to reimburse the department for the costs of reviewing and approving applications, and a loan disbursement fee to reimburse the department for all other costs. The bill would authorize the department to annually adjust the fee schedule.

Existing law requires payment of charges incurred by the Attorney General in protection of the state's interest in the use of funds under these provisions, not to exceed  $\frac{1}{2}$  of 1% of the fund, to be paid as program expenses rather than administrative costs.

This bill would delete this requirement.

By changing the purposes for which continuously appropriated funds may be expended, this bill would make an appropriation.

(3) Existing law requires the State Department of Public Health to adopt regulations setting forth the criteria and procedures for certification of specified water treatment devices. Existing law prohibits the sale or distribution of a water treatment device for which a health or safety claim is made, unless the device is included on the list of water treatment devices published on the department's Internet Web site and certified by an independent certified organization that has been accredited by the American National Standards Institute.

This bill would remove the requirement of certification by an independent certified organization.

Vote: majority. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 25249.7 of the Health and Safety Code  
2 is amended to read:

3 25249.7. (a) A person who violates or threatens to violate  
4 Section 25249.5 or 25249.6 may be enjoined in any court of  
5 competent jurisdiction.

6 (b) (1) A person who has violated Section 25249.5 or 25249.6  
7 is liable for a civil penalty not to exceed two thousand five hundred  
8 dollars (\$2,500) per day for each violation in addition to any other  
9 penalty established by law. That civil penalty may be assessed and  
10 recovered in a civil action brought in any court of competent  
11 jurisdiction.

12 (2) In assessing the amount of a civil penalty for a violation of  
13 this chapter, the court shall consider all of the following:

14 (A) The nature and extent of the violation.

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

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

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

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

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

22 (G) Any other factor that justice may require.

1 (c) Actions pursuant to this section may be brought by the  
2 Attorney General in the name of the people of the State of  
3 California, by a district attorney, by a city attorney of a city having  
4 a population in excess of 750,000, or, with the consent of the  
5 district attorney, by a city prosecutor in a city or city and county  
6 having a full-time city prosecutor, or as provided in subdivision

7 (d).

8 (d) Actions pursuant to this section may be brought by a person  
9 in the public interest if both of the following requirements are met:

10 (1) The private action is commenced more than 60 days from  
11 the date that the person has given notice of an alleged violation of  
12 Section 25249.5 or 25249.6 that is the subject of the private action  
13 to the Attorney General and the district attorney, city attorney, or  
14 prosecutor in whose jurisdiction the violation is alleged to have  
15 occurred, and to the alleged violator. If the notice alleges a  
16 violation of Section 25249.6, the notice of the alleged violation  
17 shall include a certificate of merit executed by the attorney for the  
18 noticing party, or by the noticing party, if the noticing party is not  
19 represented by an attorney. The certificate of merit shall state that  
20 the person executing the certificate has consulted with one or more  
21 persons with relevant and appropriate experience or expertise who  
22 has reviewed facts, studies, or other data regarding the exposure  
23 to the listed chemical that is the subject of the action, and that,  
24 based on that information, the person executing the certificate  
25 believes there is a reasonable and meritorious case for the private  
26 action. Factual information sufficient to establish the basis of the  
27 certificate of merit, including the information identified in  
28 paragraph (2) of subdivision (h), shall be attached to the certificate  
29 of merit that is served on the Attorney General.

30 (2) Neither the Attorney General, a district attorney, a city  
31 attorney, nor a prosecutor has commenced and is diligently  
32 prosecuting an action against the violation.

33 (e) A person bringing an action in the public interest pursuant  
34 to subdivision (d) and a person filing an action in which a violation  
35 of this chapter is alleged shall notify the Attorney General that the  
36 action has been filed. Neither this subdivision nor the procedures  
37 provided in subdivisions (f) to (k), inclusive, affect the  
38 requirements imposed by statute or a court decision in existence  
39 on January 1, 2002, concerning whether a person filing an action

1 in which a violation of this chapter is alleged is required to comply  
2 with the requirements of subdivision (d).

3 (f) (1) A person filing an action in the public interest pursuant  
4 to subdivision (d), a private person filing an action in which a  
5 violation of this chapter is alleged, or a private person settling a  
6 violation of this chapter alleged in a notice given pursuant to  
7 paragraph (1) of subdivision (d), shall, after the action or violation  
8 is subject either to a settlement or to a judgment, submit to the  
9 Attorney General a reporting form that includes the results of that  
10 settlement or judgment and the final disposition of the case, even  
11 if dismissed. At the time of the filing of a judgment pursuant to  
12 an action brought in the public interest pursuant to subdivision (d),  
13 or an action brought by a private person in which a violation of  
14 this chapter is alleged, the plaintiff shall file an affidavit verifying  
15 that the report required by this subdivision has been accurately  
16 completed and submitted to the Attorney General.

17 (2) A person bringing an action in the public interest pursuant  
18 to subdivision (d), or a private person bringing an action in which  
19 a violation of this chapter is alleged, shall, after the action is either  
20 subject to a settlement, with or without court approval, or to a  
21 judgment, submit to the Attorney General a report that includes  
22 information on any corrective action being taken as a part of the  
23 settlement or resolution of the action.

24 (3) The Attorney General shall develop a reporting form that  
25 specifies the information that shall be reported, including, but not  
26 limited to, for purposes of subdivision (e), the date the action was  
27 filed, the nature of the relief sought, and for purposes of this  
28 subdivision, the amount of the settlement or civil penalty assessed,  
29 other financial terms of the settlement, and any other information  
30 the Attorney General deems appropriate.

31 (4) If there is a settlement of an action brought by a person in  
32 the public interest under subdivision (d), the plaintiff shall submit  
33 the settlement, other than a voluntary dismissal in which no  
34 consideration is received from the defendant, to the court for  
35 approval upon noticed motion, and the court may approve the  
36 settlement only if the court makes all of the following findings:

37 (A) The warning that is required by the settlement complies  
38 with this chapter.

39 (B) The award of attorney's fees is reasonable under California  
40 law.

1 (C) The penalty amount is reasonable based on the criteria set  
2 forth in paragraph (2) of subdivision (b).

3 (5) The plaintiff subject to paragraph (4) has the burden of  
4 producing evidence sufficient to sustain each required finding.  
5 The plaintiff shall serve the motion and all supporting papers on  
6 the Attorney General, who may appear and participate in a  
7 proceeding without intervening in the case.

8 (6) Neither this subdivision nor the procedures provided in  
9 subdivision (e) and subdivisions (g) to (k), inclusive, affect the  
10 requirements imposed by statute or a court decision in existence  
11 on January 1, 2002, concerning whether claims raised by a person  
12 or public prosecutor not a party to the action are precluded by a  
13 settlement approved by the court.

14 (g) The Attorney General shall maintain a record of the  
15 information submitted pursuant to subdivisions (e) and (f) and  
16 shall make this information available to the public.

17 (h) (1) Except as provided in paragraph (2), the basis for the  
18 certificate of merit required by subdivision (d) is not discoverable.  
19 However, nothing in this subdivision precludes the discovery of  
20 information related to the certificate of merit if that information  
21 is relevant to the subject matter of the action and is otherwise  
22 discoverable, solely on the ground that it was used in support of  
23 the certificate of merit.

24 (2) Upon the conclusion of an action brought pursuant to  
25 subdivision (d) with respect to a defendant, if the trial court  
26 determines that there was no actual or threatened exposure to a  
27 listed chemical, the court may, upon the motion of that alleged  
28 violator or upon the court's own motion, review the basis for the  
29 belief of the person executing the certificate of merit, expressed  
30 in the certificate of merit, that an exposure to a listed chemical had  
31 occurred or was threatened. The information in the certificate of  
32 merit, including the identity of the persons consulted with and  
33 relied on by the certifier, and the facts, studies, or other data  
34 reviewed by those persons, shall be disclosed to the court in an  
35 in-camera proceeding at which the moving party shall not be  
36 present. If the court finds that there was no credible factual basis  
37 for the certifier's belief that an exposure to a listed chemical had  
38 occurred or was threatened, then the action shall be deemed  
39 frivolous within the meaning of Section 128.7 of the Code of Civil  
40 Procedure. The court shall not find a factual basis credible on the

1 basis of a legal theory of liability that is frivolous within the  
2 meaning of Section 128.7 of the Code of Civil Procedure.

3 (i) The Attorney General may provide the factual information  
4 submitted to establish the basis of the certificate of merit on request  
5 to a district attorney, city attorney, or prosecutor within whose  
6 jurisdiction the violation is alleged to have occurred, or to any  
7 other state or federal government agency, but in all other respects  
8 the Attorney General shall maintain, and ensure that all recipients  
9 maintain, the submitted information as confidential official  
10 information to the full extent authorized in Section 1040 of the  
11 Evidence Code.

12 (j) In an action brought by the Attorney General, a district  
13 attorney, a city attorney, or a prosecutor pursuant to this chapter,  
14 the Attorney General, district attorney, city attorney, or prosecutor  
15 may seek and recover costs and attorney's fees on behalf of a party  
16 who provides a notice pursuant to subdivision (d) and who renders  
17 assistance in that action.

18 (k) Any person who serves a notice of alleged violation pursuant  
19 to paragraph (1) of subdivision (d) for an exposure identified in  
20 subparagraph (A), (B), (C), or (D) of paragraph (1) shall complete,  
21 as appropriate, and provide to the alleged violator at the time the  
22 notice of alleged violation is served, a notice of special compliance  
23 procedure and proof of compliance form pursuant to subdivision  
24 (l) and shall not file an action for that exposure against the alleged  
25 violator, or recover from the alleged violator in a settlement any  
26 payment in lieu of penalties or any reimbursement for costs and  
27 attorney's fees, if all of the following conditions have been met:

28 (1) The notice given pursuant to paragraph (1) of subdivision  
29 (d) was served on or after the effective date of the act amending  
30 this section during the 2013–14 Regular Session and alleges that  
31 the alleged violator failed to provide clear and reasonable warning  
32 as required under Section 25249.6 regarding one or more of the  
33 following:

34 (A) An exposure to alcoholic beverages that are consumed on  
35 the alleged violator's premises to the extent onsite consumption  
36 is permitted by law.

37 (B) An exposure to a chemical known to the state to cause cancer  
38 or reproductive toxicity in a food or beverage prepared and sold  
39 on the alleged violator's premises primarily intended for immediate

1 consumption on or off premises, to the extent of both of the  
2 following:

- 3 (i) The chemical was not intentionally added.
- 4 (ii) The chemical was formed by cooking or similar preparation  
5 of food or beverage components necessary to render the food or  
6 beverage palatable or to avoid microbiological contamination.

7 (C) An exposure to environmental tobacco smoke caused by  
8 entry of persons (other than employees) on premises owned or  
9 operated by the alleged violator where smoking is permitted at any  
10 location on the premises.

11 (D) An exposure to chemicals known to the state to cause cancer  
12 or reproductive toxicity in engine exhaust, to the extent the  
13 exposure occurs inside a facility owned or operated by the alleged  
14 violator and primarily intended for parking noncommercial  
15 vehicles.

16 (2) Within 14 days after service of the notice, the alleged violator  
17 has done all of the following:

- 18 (A) Corrected the alleged violation.
- 19 (B) (i) Agreed to pay a civil penalty for the alleged violation  
20 of Section 25496.6 in the amount of five hundred dollars (\$500),  
21 to be adjusted quinquennially pursuant to clause (ii), per facility  
22 or premises where the alleged violation occurred, of which 75  
23 percent shall be deposited in the Safe Drinking Water and Toxic  
24 Enforcement Fund, and 25 percent shall be paid to the person that  
25 served the notice as provided in Section 25249.12.

26 (ii) On April 1, 2019, and at each five-year interval thereafter,  
27 the dollar amount of the civil penalty provided pursuant to this  
28 subparagraph shall be adjusted by the Judicial Council based on  
29 the change in the annual California Consumer Price Index for All  
30 Urban Consumers, published by the Department of Industrial  
31 Relations, Division of Labor Statistics, for the most recent five-year  
32 period ending on December 31 of the year preceding the year in  
33 which the adjustment is made, rounded to the nearest five dollars  
34 (\$5). The Judicial Council shall quinquennially publish the dollar  
35 amount of the adjusted civil penalty provided pursuant to this  
36 subparagraph, together with the date of the next scheduled  
37 adjustment.

38 (C) Notified, in writing, the person that served the notice of the  
39 alleged violation, that the violation has been corrected. The written  
40 notice shall include the notice of special compliance procedure

1 and proof of compliance form specified in subdivision (l), which  
2 was provided by the person serving notice of the alleged violation  
3 and which shall be completed by the alleged violator as directed  
4 in the notice.

5 (3) The alleged violator shall deliver the civil penalty to the  
6 person that served the notice of the alleged violation within 30  
7 days of service of that notice, and the person that served the notice  
8 of violation shall remit the portion of the penalty due to the Safe  
9 Drinking Water and Toxic Enforcement Fund within 30 days of  
10 receipt of the funds from the alleged violator.

11 (l) The notice required to be provided to an alleged violator  
12 pursuant to subdivision (k) shall be presented as follows:

Date:  
Name of Noticing Party or attorney for Noticing Party:  
Address:  
Phone number:

**SPECIAL COMPLIANCE PROCEDURE**  
**PROOF OF COMPLIANCE**

You are receiving this form because the Noticing Party listed above has alleged that you are violating California Health and Safety Code §25249.6 (Prop. 65).

The Noticing Party may not bring any legal proceedings against you for the alleged violation checked below if:

- (1) You have actually taken the corrective steps that you have certified in this form.
- (2) The Noticing Party has received this form at the address shown above, accurately completed by you, postmarked within 14 days of your receiving this notice.
- (3) The Noticing Party receives the required \$500 penalty payment from you at the address shown above postmarked within 30 days of your receiving this notice.
- (4) This is the first time you have submitted a Proof of Compliance for a violation arising from the same exposure in the same facility on the same premises.

**PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE NOTICING PARTY**

The alleged violation is for an exposure to: (check one)

Alcoholic beverages that are consumed on the alleged violator’s premises to the extent on-site consumption is permitted by law.

A chemical known to the state to cause cancer or reproductive toxicity in a food or beverage prepared and sold on the alleged violator’s premises for immediate consumption on or off premises to the extent: (1) the chemical was not intentionally added; and (2) the chemical was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination.

Environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises.

Chemicals known to the State to cause cancer or reproductive toxicity in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking noncommercial vehicles.

**IMPORTANT NOTES:**

- (1) You have no potential liability under California Health and Safety Code §25249.6 if your business has nine (9) or fewer employees.
- (2) Using this form will NOT prevent the Attorney General, a district attorney, a city attorney, or a prosecutor in whose jurisdiction the violation is alleged to have occurred from filing an action over the same alleged violations, and that in any in such action, the amount of civil penalty shall be reduced to reflect any payment made at this time.

Date:

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Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

**PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE**

**Certification of Compliance**

Accurate completion of this form will demonstrate that you are now in compliance with California Health and Safety Code §25249.6 for the alleged violation listed above. You must complete and submit the form below to the Noticing Party at the address shown above, postmarked within 14 days of you receiving this notice.

I hereby agree to pay, within 30 days of completion of this notice, a civil penalty of \$500 to the Noticing Party only and certify that I have complied with Health and Safety Code §25249.6 by (check only one of the following):

- Posting a warning or warnings about the alleged exposure that complies with the law, and attaching a copy of that warning and a photograph accurately showing its placement on my premises;
- Posting the warning or warnings demanded in writing by the Noticing Party, and attaching a copy of that warning and a photograph accurately showing its placement on my premises; OR
- Eliminating the alleged exposure, and attaching a statement accurately describing how the alleged exposure has been eliminated.

**Certification**

My statements on this form, and on any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I have carefully read the instructions to complete this form. I understand that if I make a false statement on this form, I may be subject to additional penalties under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65).

\_\_\_\_\_  
Signature of alleged violator or authorized representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and title of signatory

1 (m) An alleged violator may satisfy the conditions set forth in  
2 subdivision (k) only one time for a violation arising from the same  
3 exposure in the same facility or on the same premises.

4 (n) Nothing in subdivision (k) shall prevent the Attorney  
5 General, a district attorney, a city attorney, or a prosecutor in whose  
6 jurisdiction the violation is alleged to have occurred from filing  
7 an action pursuant to subdivision (c) against an alleged violator.  
8 In any such action, the amount of any civil penalty for a violation  
9 shall be reduced to reflect any payment made by the alleged  
10 violator for the same alleged violation pursuant to subparagraph  
11 (B) of paragraph (2) of subdivision (k).

12 SEC. 2. Section 116760.40 of the Health and Safety Code is  
13 amended to read:

14 116760.40. The department may undertake any of the following  
15 actions to implement the Safe Drinking Water State Revolving  
16 Fund:

17 (a) Enter into agreements with the federal government for federal  
18 contributions to the fund.

19 (b) Accept federal contributions to the fund.

20 (c) Use moneys in the fund for the purposes permitted by the  
21 federal act.

22 (d) Provide for the deposit of matching funds and other available  
23 and necessary moneys into the fund.

24 (e) Make requests, on behalf of the state, for deposit into the  
25 fund of available federal moneys under the federal act.

26 (f) Determine, on behalf of the state, that public water systems  
27 that receive financial assistance from the fund will meet the  
28 requirements of, and otherwise be treated as required by, the federal  
29 act.

30 (g) Provide for appropriate audit, accounting, and fiscal  
31 management services, plans, and reports relative to the fund.

32 (h) Take additional incidental action as may be appropriate for  
33 adequate administration and operation of the fund.

34 (i) Enter into an agreement with, and accept matching funds  
35 from, a public water system. A public water system that seeks to  
36 enter into an agreement with the department and provide matching  
37 funds pursuant to this subdivision shall provide to the department  
38 evidence of the availability of those funds in the form of a written  
39 resolution, or equivalent document, from the public water system  
40 before it requests a preliminary loan commitment.

1 (j) Charge public water systems that elect to provide matching  
2 funds a fee to cover the actual cost of obtaining the federal funds  
3 pursuant to Section 1452(e) of the federal act (42 U.S.C. Sec.  
4 300j-12) and to process the loan application. The fee shall be  
5 waived by the department if sufficient funds to cover those costs  
6 are available from other sources.

7 (k) Use money returned to the fund under Section 116761.85  
8 and any other source of matching funds, if not prohibited by statute,  
9 as matching funds for the federal administrative allowance under  
10 Section 1452(g) of the federal act (42 U.S.C. Sec. 300j-12).

11 (l) Establish separate accounts or subaccounts as required or  
12 allowed in the federal act and related guidance, for funds to be  
13 used for administration of the fund and other purposes. Within the  
14 fund the department shall establish the following accounts,  
15 including, but not limited to:

16 (1) A fund administration account for state expenses related to  
17 administration of the fund pursuant to Section 1452(g)(2) of the  
18 federal act.

19 (2) A water system reliability account for department expenses  
20 pursuant to Section 1452(g)(2)(A), (B), (C), or (D) of the federal  
21 act.

22 (3) A source protection account for state expenses pursuant to  
23 Section 1452(k) of the federal act.

24 (4) A small system technical assistance account for department  
25 expenses pursuant to Section 1452(g)(2) of the federal act.

26 (5) A state revolving loan account pursuant to Section 1452(a)(2)  
27 of the federal act.

28 (6) A wellhead protection account established pursuant to  
29 Section 1452(a)(2) of the federal act.

30 (7) A fees and charges account for state expenses in providing  
31 assistance under this chapter.

32 (m) Deposit federal funds for administration and other purposes  
33 into separate accounts or subaccounts as allowed by the federal  
34 act.

35 (n) Determine, on behalf of the state, whether sufficient progress  
36 is being made toward compliance with the enforceable deadlines,  
37 goals, and requirements of the federal act and the California Safe  
38 Drinking Water Act, Chapter 4 (commencing with Section 116270).

39 (o) To the extent permitted under federal law, including, but  
40 not limited to, Section 1452(a)(2) and (f)(4) of the federal Safe

1 Drinking Water Act (42 U.S.C. Sec. 300j-12(a)(2) and (f)(4)), use  
2 any and all amounts deposited in the fund, including, but not  
3 limited to, loan repayments and interest earned on the loans, as a  
4 source of reserve and security for the payment of principal and  
5 interest on revenue bonds, the proceeds of which are deposited in  
6 the fund.

7 (p) Request the Infrastructure and Economic Development Bank  
8 (I-Bank), established under Chapter 2 (commencing with Section  
9 63021) of Division 1 of Title 6.7 of the Government Code, to issue  
10 revenue bonds, enter into agreements with the I-Bank, and take  
11 all other actions necessary or convenient for the issuance and sale  
12 of revenue bonds pursuant to Article 6.3 (commencing with Section  
13 63048.55) of Chapter 2 of Division 1 of Title 6.7 of the  
14 Government Code. The purpose of the bonds is to augment the  
15 fund.

16 SEC. 3. Section 116760.44 of the Health and Safety Code is  
17 amended to read:

18 116760.44. (a) The department may deposit administrative  
19 fees and charges paid by public water systems and other available  
20 and necessary money into the administrative account of the fund.

21 (b) (1) Notwithstanding subdivision (a), the department may  
22 deposit the following moneys into the fees and charges account:

23 (A) Administrative fees received pursuant to Section 116761.70.

24 (B) Notwithstanding Section 16475 of the Government Code,  
25 interest earned upon the moneys deposited into the fees and charges  
26 account.

27 (2) The department may expend moneys in the fees and charges  
28 account for administrative costs of providing assistance under this  
29 chapter, to the extent consistent with federal law and regulations.

30 SEC. 4. Section 116761.70 of the Health and Safety Code is  
31 amended to read:

32 116761.70. (a) Not more than 4 percent of the capitalization  
33 grant may be used by the department for administering this chapter.  
34 The department may establish a reasonable schedule of  
35 administrative fees for loans, which shall be paid by the applicant  
36 and recipient, as appropriate, to reimburse the state for the costs  
37 of the state administration of this chapter.

38 (b) The fee schedule authorized pursuant to subdivision (a) shall  
39 be designed to generate total annual revenue in an amount ~~that, as~~  
40 ~~elose~~ly as practicable, ~~approximates without exceeding,~~ *that does*

1 *not exceed* the total annual cost to the department for administration  
2 of this chapter, including, but not limited to, the costs of servicing  
3 loans made pursuant to this chapter.

4 (c) The fee schedule may contain, and the department may  
5 assess, both of the following administrative fees:

6 (1) An application fee, to be paid by all applicants, to reimburse  
7 the department for the costs of reviewing ~~and approving~~ the  
8 application. The application fee shall be collected at the time of  
9 submission of the application.

10 (2) A loan disbursement fee, to be paid by loan recipients, to pay  
11 all other costs of the department associated with administering this  
12 chapter, including, but not limited to, costs associated with  
13 servicing the loan. In total, the loan disbursement fee shall not exceed  
14 1 percent of the principal loan amount and may be assessed on, or  
15 at the time of, each disbursement of loan funds. The department  
16 may invoice the funding recipient for the loan disbursement fee.  
17 The fee shall be due and payable by the funding recipient within  
18 90 days following the date of the invoice. Loan disbursement fees shall  
19 not be deferred during project construction.

20 (d) Notwithstanding subdivision (a), (b), or (c), if a funding  
21 recipient demonstrates to the department that the assessment of  
22 administrative fees would make the costs of the loan unaffordable  
23 to a recipient, the department shall waive or reduce the fees, as  
24 appropriate.

25 (e) The department shall annually adjust the fee schedule of  
26 charges for loans to be issued in that fiscal year to set the fees at  
27 a rate ~~that will generate total annual revenue in an amount that, as~~  
28 ~~closely as practicable, that~~ approximates without exceeding, the  
29 total annual cost to the department for administration of this chapter  
30 during that fiscal year, including, but not limited to, the costs of  
31 servicing loans made pursuant to this chapter.

32 SEC. 5. Section 116835 of the Health and Safety Code is  
33 amended to read:

34 116835. (a) A water treatment device for which a health or  
35 safety claim is made shall not be sold or otherwise distributed  
36 unless the device is included on the list of water treatment devices  
37 published on the department's Internet Web site pursuant to Section  
38 116845.

39 (b) After July 1, 2015, the exterior packaging of a water  
40 treatment device for which a health or safety claim is made, and

1 that is offered for sale in a retail establishment in California, shall  
 2 clearly identify the contaminant or contaminants that the device  
 3 has been certified pursuant to subdivision (a) to remove or reduce.  
 4 If a device has been certified to remove or reduce more than five  
 5 contaminants, at least five contaminants shall be listed on the  
 6 exterior packaging followed by a statement directing consumers  
 7 to visit the manufacturer’s Internet Web site to obtain information  
 8 regarding additional contaminants that the device is certified to  
 9 remove or reduce.

10 (c) After July 1, 2015, the manufacturer of a water treatment  
 11 device for which it makes a health or safety claim shall include  
 12 with each water treatment device offered for sale in California a  
 13 decal that may be affixed to the device by the consumer that states,  
 14 at a minimum, the following:

15  
 16 “Please refer to the owner’s manual for proper maintenance and  
 17 operation. If this device is not maintained and operated as specified  
 18 in the owner’s manual, there is a risk of exposure to contaminants.  
 19 For more information, visit the manufacturer’s Internet Web site  
 20 at \_\_\_\_\_ or the California Department  
 21 of Public Health’s Internet Web site at www.cdph.ca.gov.”

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CORRECTIONS:  
 Heading—Authors—Line 3.

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