Assembly Bill No. 7

Passed the Assembly February 25, 2010

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Chief Clerk of the Assembly

Passed the Senate February 18, 2010

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Secretary of the Senate

This bill was received by the Governor this _____ day of _____, 2010, at _____ o'clock ____M.

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Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 14560, 14580, and 14581 of, and to amend, repeal, and add Section 14574 to, the Public Resources Code, and to amend Sections 13476 and 13480 of the Water Code, relating to the environment, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 7, Committee on Budget. Environmental pollution: program funding.

(1) Existing law, the California Beverage Container Recycling and Litter Reduction Act (act), requires a distributor to pay a redemption payment no later than the 3rd month following the sale of a beverage container to the Division of Recycling in the Department of Resources Recycling and Recovery. The division is required to deposit those amounts in the California Beverage Container Recycling Fund. Under existing law, the money in the fund is continuously appropriated to the division to pay, among other things, handling fees to provide an incentive for the redemption of empty beverage containers in convenience zones. A violation of the act is a crime.

This bill would instead require, between February 1, 2010, and June 30, 2012, a distributor to submit the redemption payment to the department not later than the 2nd month following the sale, thereby imposing a state-mandated local program by changing the definition of a crime. The bill would require the department, on or before January 10, 2012, to submit to the relevant policy and budget committees of the Legislature an assessment of the effect of ending the bimonthly payment on the solvency of the fund. The bill would revise the conditions under which a distributor may make an annual payment of redemption payments.

(2) Existing law provides that after setting aside funds for the payment of refund values and administrative fees, and for a reserve for contingencies, the remaining moneys in the California Beverage Container Recycling Fund are continuously appropriated to the division for expenditure for designated programs, grants, and fee payments.

This bill would prohibit the department from expending, for the 2010 and 2011 calendar years, funds annually authorized for grants for beverage container recycling and litter reduction programs, the statewide public education and information campaign, grants for recycling market development, and grants for certain programs. The bill would revise certain amounts that the department is authorized to expend from those moneys remaining in the funds.

The bill would require the department, subject to the availability of funds, to retroactively pay in full any payments that have been proportionally reduced during the period of January 1, 2010, through June 30, 2010.

Since the bill would revise the conditions under which funds are expended from a continuously appropriated fund, the bill would make an appropriation.

(3) Existing law continuously appropriates state and federal funds in the State Water Pollution Control Revolving Fund to the State Water Resources Control Board for loans and other financial assistance for the construction of publicly owned treatment works by a municipality, the implementation of management programs, the development and implementation of a conservation and management plan, and other related purposes in accordance with the federal Clean Water Act. Existing law, for the purposes of these provisions, defines "financial assistance" to include grants for eligible projects to the extent those grants are funded by a specified federal law. Existing law authorizes the state board to make loans for eligible projects at or below market interest rates.

This bill would authorize the state board to make loans at negative interest rates and would allow for principal forgiveness to the extent authorized and funded by a federal capitalization grant. The bill would revise the term "financial assistance" to include other assistance that is authorized by a federal capitalization grant to the extent authorized and funded by that grant. By expanding the purposes for which moneys in the continuously appropriated revolving fund may be expended, the bill would make an appropriation.

(4) 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.

(5) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on January 8, 2010.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 8, 2010, pursuant to the California Constitution.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

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

SECTION 1. Section 14560 of the Public Resources Code is amended to read:

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

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

(3) On and after July 1, 2007, the amount of the redemption payment and refund value for a beverage container with a capacity of less than 24 fluid ounces sold or offered for sale in this state by a dealer shall equal five cents ($0.05) and the amount of redemption payment and refund value for a beverage container with a capacity of 24 fluid ounces or more shall be ten cents ($0.10), if the aggregate recycling rate reported pursuant to Section 14551 for all beverage containers subject to this division is less than 75 percent for the 12-month reporting period from January 1, 2006, to December 31, 2006, or for any calendar year thereafter.

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

(c) Notwithstanding subdivision (b), the department may, on and after January 1, 2007, but not after July 1, 2007, increase the amount of the refund value specified in subdivision (b), by no more than one cent ($0.01), if the container has a capacity of less than 24 fluid ounces, and by two cents ($0.02) if the container has a capacity of 24 fluid ounces or more, if the department determines, as specified in subdivision (f) of Section 14581, there are sufficient moneys remaining in the fund to make these increased payments.

(d) (1) The department shall review the fund at least once every three months to ensure that there are adequate funds in the fund to pay refund values and other disbursements required by this division.

(2) If the department determines, pursuant to a review made pursuant to paragraph (1), that there may be inadequate funds to pay the refund values and necessary disbursements required by this division, the department shall immediately notify the Legislature of the need for urgent legislative action.

(3) On or before 180 days, but not less than 90 days, after the notice is sent pursuant to paragraph (2), the department may reduce or eliminate expenditures, or both, from the fund as necessary, according to the procedure set forth in Section 14581, to ensure that there are adequate funds in the fund to pay the refund values and other disbursements required by this division.

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

SEC. 2. Section 14574 of the Public Resources Code is amended to read:

14574. (a) (1) A distributor of beverage containers shall pay to the department the redemption payment for every beverage container, other than a refillable beverage container, sold or transferred to a dealer, less 1.5 percent for the distributor's administrative costs.

(2) Between February 1, 2010, and June 30, 2012, inclusive, the payment made by a distributor shall be made not later than the last day of the second month following the sale. The distributor shall make the payment in the form and manner that the department prescribes.

(b) (1) Notwithstanding subdivision (a), if a distributor displays a pattern of operation in compliance with this division and the regulations adopted pursuant to this division, to the satisfaction of the department, the distributor may make a single annual payment

of redemption payments if the distributor's projected redemption payment for a calendar year totals less than seventy-five thousand dollars ($75,000).

(2) An annual redemption payment made pursuant to this subdivision is due and payable on or before February 1 for every beverage container sold or transferred by the distributor to a dealer in the previous calendar year.

(3) A distributor shall notify the department of its intent to make an annual redemption payment pursuant to this subdivision on or before January 31 of the calendar year for which the payment will be due.

(c) On or before January 10, 2012, the department shall submit to the relevant policy and budget committees of the Legislature an assessment of the effect of ending the bimonthly payment pursuant to paragraph (2) of subdivision (a) on the solvency of the fund. The assessment shall include data used to make the assessment, including sales, recycling, and other relevant information.

(d)This section shall become inoperative on July 1, 2012, and, as of January 1, 2013, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 14574 is added to the Public Resources Code, to read:

14574. (a) (1) A distributor of beverage containers shall pay to the department the redemption payment for every beverage container, other than a refillable beverage container, sold or transferred to a dealer, less 1.5 percent for the distributor's administrative costs.

(2) The payment made by a distributor shall be made not later than the last day of the third month following the sale. The distributor shall make the payment in the form and manner that the department prescribes.

(b) (1) Notwithstanding subdivision (a), if a distributor displays a pattern of operation in compliance with this division and the regulations adopted pursuant to this division, to the satisfaction of the department, the distributor may make a single annual payment of redemption payments, if the distributor's projected redemption payment for a calendar year totals less than seventy-five thousand dollars ($75,000).

(2) An annual redemption payment made pursuant to this subdivision is due and payable on or before February 1 for every beverage container sold or transferred by the distributor to a dealer in the previous calendar year.

(3) A distributor shall notify the department of its intent to make an annual redemption payment pursuant to this subdivision on or before January 31 of the calendar year for which the payment will be due.

(b) This section shall become effective on July 1, 2012.

SEC. 4. Section 14580 of the Public Resources Code is amended to read:

14580. (a) Except as provided in subdivision (d), the department shall deposit all amounts paid as redemption payments by distributors pursuant to Section 14574 and all other revenues received into the California Beverage Container Recycling Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the fund is hereby continuously appropriated to the department for expenditure without regard to fiscal year for the following purposes:

(1) The payment of refund values and administrative fees to processors pursuant to Section 14573.

(2) For a reserve for contingencies, which shall not be greater than an amount equal to 5 percent of the total amount paid to processors pursuant to Section 14573 during the preceding calendar year, plus the interest earned on that amount.

(b) The money in the fund may be expended by the department for the administration of this division only upon appropriation by the Legislature in the annual Budget Act.

(c) After setting aside funds estimated to be needed for expenditures authorized pursuant to this section, the department shall set aside funds on a quarterly basis for the purposes specified in Section 14581. Notwithstanding Section 13340 of the Government Code, that money is hereby continuously appropriated to the department, without regard to fiscal year, for the purposes specified in Section 14581.

(d) The department shall deposit all civil penalties or fines collected pursuant to this division into the Penalty Account, which is hereby created in the fund. The money in the Penalty Account may be expended by the department only upon appropriation by the Legislature, for purposes of this division.

(e) The Legislature finds and declares that the maintenance of the fund is of the utmost importance to the state and that it is essential that any money in the fund be used solely for the purposes authorized in this division and should not be used, loaned, or transferred for any other purpose.

SEC. 5. Section 14581 of the Public Resources Code is amended to read:

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

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

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

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

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

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

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

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

by Section 166 of Chapter 1 of the Fourth Extraordinary Session of the Statutes of 2009, shall be in addition to the amounts expended pursuant to paragraph (3).

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

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

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

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

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

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

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

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

(6) (A) The department shall expend the amount necessary to pay the processing payment established pursuant to Section 14575. The department shall establish separate processing fee accounts in the fund for each beverage container material type for which a processing payment and processing fee are calculated pursuant to Section 14575, or for which a processing payment is calculated pursuant to Section 14575 and a voluntary artificial scrap value is calculated pursuant to Section 14575.1, into which account shall be deposited both of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Focused, regional community beverage container recycling and litter reduction programs that enable the department to more

effectively organize the amount and type of resources needed for regional and statewide efforts to increase recycling.

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

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

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

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

(c) (1) The department shall review all funds on a quarterly basis and provide a status report on its Internet Web site to ensure that there are adequate funds to make the payments specified in this section and the processing fee reductions required pursuant to Section 14575.

(2) If the department determines, pursuant to a review made pursuant to paragraph (1), that there may be inadequate funds to pay the payments required by this section and the processing fee reductions required pursuant to Section 14575, the department shall immediately notify the appropriate policy and fiscal committees of the Legislature regarding the inadequacy.

(3) On or before 180 days, but not less than 90 days, after the notice is sent pursuant to paragraph (2), the department may reduce or eliminate expenditures, or both, from the funds as necessary, according to the procedure set forth in subdivision (d).

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

(e) Prior to making an expenditure pursuant to paragraph (7) of subdivision (a), the department shall convene an advisory committee consisting of representatives of the beverage industry, beverage container manufacturers, environmental organizations, the recycling industry, nonprofit organizations, and retailers to advise the department on the most cost-effective and efficient method of the expenditure of the funds for that education and information campaign.

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

SEC. 6. Section 13476 of the Water Code is amended to read:

13476. Unless the context otherwise requires, the following definitions govern the construction of this chapter:

(a) "Administration fund" means the State Water Pollution Control Revolving Fund Administration Fund.

(b) "Board" means the State Water Resources Control Board.

(c) "Federal Clean Water Act" or "federal act" means the Clean Water Act (33 U.S.C. Sec. 1251 et seq.) and acts amendatory thereof or supplemental thereto.

(d) (1) "Financial assistance" means assistance authorized under Section 13480. Financial assistance includes loans, refinancing, installment sales agreements, purchase of debt, and loan guarantees for municipal revolving funds, but excludes grants.

(2) Notwithstanding paragraph (1), financial assistance may include grants or other assistance directed by a federal capitalization grant deposited in the fund to the extent authorized and funded by that grant.

(e) "Fund" means the State Water Pollution Control Revolving Fund.

(f) "Grant fund" means the State Water Pollution Control Revolving Fund Small Community Grant Fund.

(g) "Matching funds" means money that equals that percentage of federal contributions required by the federal act to be matched with state funds.

(h) "Municipality" has the same meaning and construction as in the federal act and also includes all state, interstate, and intermunicipal agencies.

(i) "Publicly owned" means owned by a municipality.

(j) "Severely disadvantaged community" means a community with a median household income of less than 60 percent of the statewide median household income.

SEC. 7. Section 13480 of the Water Code is amended to read:

13480. (a) Moneys in the fund shall be used only for the permissible purposes allowed by the federal act or a federal capitalization grant deposited in the fund to the extent authorized and funded by that grant, including providing financial assistance for the following purposes:

(1) The construction of publicly owned treatment works, as defined by Section 212 of the federal act (33 U.S.C. Sec. 1292), by any municipality.

(2) Implementation of a management program pursuant to Section 319 of the federal act (33 U.S.C. Sec. 1329).

(3) Development and implementation of a conservation and management plan under Section 320 of the federal act (33 U.S.C. Sec. 1330).

(4) Financial assistance, other than a loan, toward the nonfederal share of costs of any grant-funded treatment works project, but only if that assistance is necessary to permit the project to proceed.

(5) Financial assistance provided under the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5) for projects authorized pursuant to this subdivision.

(b) Consistent with expenditure for authorized purposes, moneys in the fund may be used for the following purposes:

(1) Loans that meet all of the following requirements:

(A) Are made at or below market interest rates.

(B) Require annual payments of principal and any interest, with repayment commencing not later than one year after completion of the project for which the loan is made and full amortization not later than 20 years after project completion unless otherwise authorized by a federal capitalization grant deposited in the fund to the extent authorized and funded by that grant. Loan forgiveness is permissible to the extent authorized by a federal capitalization grant deposited in the fund to the extent authorized and funded by that grant.

(C) Require the loan recipient to establish an acceptable dedicated source of revenue for repayment of a loan.

(D) (i) Contain other terms and conditions required by the board or the federal act or applicable rules, regulations, guidelines, and

policies. To the extent permitted by federal law, the combined interest and loan service rate shall be set at a rate that does not exceed 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds and the combined interest and loan service rate shall be computed according to the true interest cost method. If the combined interest and loan service rate so determined is not a multiple of one-tenth of 1 percent, the combined interest and loan service rate shall be set at the multiple of one-tenth of 1 percent next above the combined interest and loan service rate so determined. A loan from the fund used to finance costs of facilities planning, or the preparation of plans, specifications, or estimates for construction of publicly owned treatment works shall comply with Section 603(e) of the federal act (33 U.S.C. Sec. 1383(e)).

(ii) Notwithstanding clause (i), if the loan applicant is a municipality, an applicant for a loan for the implementation of a management program pursuant to Section 319 of the federal Clean Water Act (33 U.S.C. Sec. 1329), or an applicant for a loan for nonpoint source or estuary enhancement pursuant to Section 320 of the federal Clean Water Act (33 U.S.C. Sec. 1330), and the applicant provides matching funds, the combined interest and loan service rate on the loan shall be 0 percent. A loan recipient that returns to the fund an amount of money equal to 20 percent of the remaining unpaid federal balance of an existing loan shall have the remaining unpaid loan balance refinanced at a combined interest and loan service rate of 0 percent over the time remaining in the original loan contract.

(2) To buy or refinance the debt obligations of municipalities within the state at or below market rates if those debt obligations were incurred after March 7, 1985.

(3) To guarantee, or purchase insurance for, local obligations where that action would improve credit market access or reduce interest rates.

(4) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the state, if the proceeds of the sale of those bonds will be deposited in the fund.

(5) To establish loan guarantees for similar revolving funds established by municipalities.

(6) To earn interest.

(7) For payment of the reasonable costs of administering the fund and conducting activities under Title VI (commencing with Section 601) of the federal act (33 U.S.C. Sec. 1381 et seq.). Those costs shall not exceed 4 percent of all federal contributions to the fund, except that if permitted by federal and state law, interest repayments into the fund and other moneys in the fund may be used to defray additional administrative and activity costs to the extent permitted by the federal government and approved by the Legislature in the Budget Act.

(8) For financial assistance toward the nonfederal share of the costs of grant-funded treatment works projects to the extent permitted by the federal act.

(9) Grants, principal forgiveness, negative interest rates, and any other type of, or variation on the above types of, assistance authorized by a federal capitalization grant deposited in the fund to the extent authorized and funded by that grant.

SEC. 8. 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. 9. This act addresses the fiscal emergency declared by the Governor by proclamation on January 8, 2010, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the recycling of beverage containers in the state and to authorize, as soon as possible, the expenditure of funds under the State Water Pollution Control Revolving Fund Program in accordance with federal laws, it is necessary that this act take effect immediately.

Approved _____, 2010

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Governor