

**Senate Bill No. 1169**

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Passed the Senate August 30, 2010

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*Secretary of the Senate*

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Passed the Assembly August 23, 2010

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*Chief Clerk of the Assembly*

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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 Section 17516 of the Government Code, and to amend Sections 175, 182, 186, 1055, 1055.2, 1228.5, 1228.7, 1241, 1241.6, 1410, 1675, 1701.3, 1703.6, 13176, 13193, 13204, 13220, 13261, 13274, 13285, 13291, 13304.1, 13320, 13330, 13376, 13392, 13392.5, 13395.5, 13396.7, 13426, 13442, 13521, 13522, 13523, 13523.1, 13528, 13540, 13552.4, 13553, 13576, 13578, 13580.9, 13627, 13627.4, 13755, 13800, 13801, 13903, 13904, and 13952.1 of, to amend the headings of Article 1 (commencing with Section 13300) and Article 2 (commencing with Section 13320) of Chapter 5 of Division 7 of, to amend and renumber Section 13274 of, to add Section 13248 to, and to repeal Sections 1062 and 1241.5 of, the Water Code, relating to water.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1169, Lowenthal. Water.

(1) Existing law establishes the State Water Resources Control Board (state board) and the 9 California regional water quality control boards (regional boards) as the principal state agencies with authority over matters relating to water quality. Existing law authorizes a party aggrieved by a specified decision or order issued by the state board to obtain review of the order in superior court by filing a petition for writ of mandate within 30 days after service of a copy of the state board's decision or order. Existing law authorizes a party aggrieved by a final decision or order of a regional board for which the state board denies review to obtain review of the decision or order of the regional board in superior court by filing a petition for writ of mandate within 30 days after the date on which the state board denies review.

This bill would provide that an aggrieved party must file a petition for reconsideration with the state board to exhaust that party's administrative remedies only if the initial decision or order is issued under authority delegated to an officer or employee of the state board and the state board by regulation has authorized a petition for reconsideration. The bill, with respect to a decision or order of a regional board, would specify that the authorization to obtain review of the decision or order of the regional board applies

to a final decision or order of a regional board subject to review under a certain provision of law.

(2) The California Environmental Quality Act (CEQA) prescribes various timelines for commencing an action or proceeding to attack, review, set aside, void, or annul acts or decisions of a public agency on the grounds of noncompliance with CEQA.

This bill would provide that the time for filing an action or proceeding subject to these timelines for a person who seeks review of the regional board's decision or order under a specified provision of law, or who seeks reconsideration under a state board regulation authorizing a petition for reconsideration, shall commence upon the state board's completion of that review or reconsideration.

(3) Under existing law, each California regional water quality control board consists of 9 members who are appointed by the Governor and who serve 4-year terms.

This bill would extend the terms of 2 board members on each regional water quality control board, as specified, to September 30, 2014.

(4) Existing law requires that, prior to the indoor use of recycled water in a condominium project, the agency delivering the recycled water to the condominium project file a report with the regional board and receive written approval of the report from the State Department of Public Health.

This bill instead would require the agency to file the report with the State Department of Public Health.

(5) This bill would update cross-references in, and delete obsolete provisions of, the Water Code, and make various other technical or clarifying changes.

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

SECTION 1. Section 17516 of the Government Code is amended to read:

17516. "Executive order" means an order, plan, requirement, rule, or regulation issued by any of the following:

- (a) The Governor.
- (b) An officer or official serving at the pleasure of the Governor.
- (c) An agency, department, board, or commission of state government.

SEC. 2. Section 175 of the Water Code is amended to read:

175. (a) There is in the California Environmental Protection Agency the State Water Resources Control Board consisting of five members appointed by the Governor. One of the members appointed shall be an attorney admitted to practice law in this state who is qualified in the fields of water supply and water rights, one shall be a registered civil engineer under the laws of this state who is qualified in the fields of water supply and water rights, one shall be a registered professional engineer under the laws of this state who is experienced in sanitary engineering and who is qualified in the field of water quality, and one shall be qualified in the field of water quality. One of the above-appointed persons, in addition to having the specified qualifications, shall be qualified in the field of water supply and water quality relating to irrigated agriculture. One member shall not be required to have specialized experience.

(b) Each member shall represent the state at large and not any particular portion thereof and shall serve full time. The board shall, to the extent possible, be composed of members from different regions of the state. The appointments made by the Governor shall be subject to confirmation by the Senate in accordance with Article 2 (commencing with Section 1770) of Chapter 4 of Division 4 of Title 1 of the Government Code.

SEC. 3. Section 182 of the Water Code is amended to read:

182. The Governor shall designate the chairperson of the board from the membership of the board. The person so designated shall hold the office of chairperson at the pleasure of the Governor. The board shall elect a vice chairperson.

SEC. 4. Section 186 of the Water Code is amended to read:

186. (a) The board shall have any powers, and may employ any legal counsel and other personnel and assistance, that may be necessary or convenient for the exercise of its duties authorized by law.

(b) For the purpose of administration, the board shall organize itself, with the approval of the Governor, in the manner it deems necessary properly to segregate and conduct the work of the board. The work of the board shall be divided into at least two divisions, known as the Division of Water Rights and the Division of Water Quality. The board shall appoint a deputy director or division chief for each division, who shall supervise the work of the division and

act as technical adviser to the board on functions under his or her jurisdiction.

(c) The Attorney General shall represent the board, or any affected regional water quality control board, or both the board and the regional board, and the state in litigation concerning affairs of the board, or a regional board, or both, unless the Attorney General represents another state agency that is a party to the action. In that case, the Attorney General may represent the board, the regional board, or both, with the written consent of the board and the other state agency, the board may contract for the services of private counsel to represent the board, the regional board, or both, subject to Section 11040 of the Government Code, or the legal counsel of the board may represent the board, the regional board, or both. Sections 11041, 11042, and 11043 of the Government Code are not applicable to the board. The legal counsel of the board shall advise and furnish legal services, except representation in litigation, to the regional boards upon their request.

SEC. 5. Section 1055 of the Water Code is amended to read:

1055. (a) The executive director of the board may issue a complaint to any person or entity on which administrative civil liability may be imposed pursuant to Section 1052, Article 4 (commencing with Section 1845) of Chapter 12 of Part 2 of Division 2, or Section 5107. The complaint shall allege the act or failure to act that constitutes a trespass or violation, the provision of law authorizing civil liability to be imposed, and the proposed civil liability.

(b) The complaint shall be served by personal notice or certified mail, and shall inform the party served that the party may request a hearing not later than 20 days from the date the party was served. The hearing shall be before the board or a member of the board, in accordance with Section 183.

(c) The board, after any necessary hearing, may adopt an order setting administrative civil liability, or determining that a liability shall not be imposed.

(d) Orders setting administrative civil liability shall become effective and final upon issuance thereof and payment shall be made.

SEC. 6. Section 1055.2 of the Water Code is amended to read:

1055.2. A person or entity shall not be subject to both civil liability imposed under Section 1055 and civil liability imposed

by the superior court under Section 1052 or Article 4 (commencing with Section 1845) of Chapter 12 of Part 2 of Division 2 for the same act or failure to act.

SEC. 7. Section 1062 of the Water Code is repealed.

SEC. 8. Section 1228.5 of the Water Code is amended to read:

1228.5. (a) Registration of a small domestic or livestock stockpond use pursuant to this article shall be renewed prior to the expiration of each five-year period following completed registration.

(b) Renewal of registration shall be made upon a form prescribed by the board and shall contain a report of water use made pursuant to the registration as may be required by the board.

(c) The conditions established by the board pursuant to Section 1228.6 that are in effect at the time of renewal of registration shall supersede the conditions that were applicable to the original completed registration.

(d) Failure to renew registration in substantial compliance with the reporting requirements prescribed by the board within the time period specified in subdivision (a), or to pay the renewal fee specified in Section 1525, shall result by operation of law in the revocation of any right acquired pursuant to this article.

SEC. 9. Section 1228.7 of the Water Code is amended to read:

1228.7. (a) A registrant may change the point of diversion or place of use by delivering to the board an amended registration form in accordance with Section 1228.3, including payment of the registration fee specified in Section 1525, except that the purpose of the use shall not be changed and the change shall not operate to the injury of any legal user of the water involved.

(b) A completed amended registration of water use continues in effect the priority of right as of the date of the original completed registration.

(c) All provisions of this article regarding appropriations made pursuant thereto, including, but not limited to, provisions regarding enforcement, are applicable to the appropriation as described in the completed amended registration, except that the conditions established by the board pursuant to Section 1228.6 that are in effect at the time of completion of the amended registration shall supersede the conditions that were applicable to the original completed registration.

SEC. 10. Section 1241 of the Water Code is amended to read:

1241. If the person entitled to the use of water fails to use beneficially all or any part of the water claimed by him or her, for which a right of use has vested, for the purpose for which it was appropriated or adjudicated, for a period of five years, that unused water may revert to the public and shall, if reverted, be regarded as unappropriated public water. That reversion shall occur upon a finding by the board following notice to the permittee, licensee, or person holding a livestock stockpond certificate or small domestic or livestock stockpond use registration under this part and a public hearing if requested by the permittee, licensee, certificate holder, or registration holder.

SEC. 11. Section 1241.5 of the Water Code is repealed.

SEC. 12. Section 1241.6 of the Water Code is amended to read:

1241.6. If water appropriated for irrigation purposes is not used by reason of compliance with crop control or soil conservation contracts with the United States, and in other cases of hardship as the board may by rule prescribe, the five-year forfeiture period applicable to water appropriated pursuant to the Water Commission Act or this code, and the forfeiture period applicable to water appropriated prior to December 19, 1914, shall be extended by an additional period of not more than 10 years or the duration of any crop control or soil conservation contracts with the United States if less than 10 years.

SEC. 13. Section 1410 of the Water Code is amended to read:

1410. (a) There shall be cause for revocation of a permit if the work is not commenced, prosecuted with due diligence, and completed or the water applied to beneficial use as contemplated in the permit and in accordance with this division and the rules and regulations of the board.

(b) A permit may be revoked upon request of the permittee or under either of the following procedures:

(1) If, after a hearing on a petition for extension of time to complete a project and apply water to beneficial use, the board finds that cause exists to revoke the permit, the board may revoke the permit.

(2) If, after an investigation other than a hearing on a petition for extension of time, it appears that cause exists to revoke a permit, the board shall give notice of proposed revocation in writing, mailed in a sealed, prepaid postage and certified letter to the permittee at his or her last known address. If the permittee fails to

request a hearing with the time provided under Section 1410.1, the board shall revoke the permit and declare the water subject to appropriation. After a hearing, when a hearing is requested by the permittee pursuant to Section 1410.1, the board may, upon a finding that cause exists, revoke the permit and declare the water subject to appropriation.

SEC. 14. Section 1675 of the Water Code is amended to read:

1675. (a) If, at any time after a license is issued, the board finds that the licensee has not put the water granted under the license to a useful or beneficial purpose in conformity with this division or that the licensee has ceased to put the water to that useful or beneficial purpose, or that the licensee has failed to observe any of the terms and conditions in the license, the board may revoke the license and declare the water to be subject to appropriation in accordance with this part.

(b) The board may revoke the license upon request of the licensee or after due notice to the licensee and after a hearing, when a hearing is requested by the licensee pursuant to Section 1675.1.

(c) As used in this section “licensee” includes the heirs, successors, or assigns of the licensee.

SEC. 15. Section 1701.3 of the Water Code is amended to read:

1701.3. (a) After a petition is filed, the board may request additional information reasonably necessary to clarify, amplify, correct, or otherwise supplement the information required to be submitted under this chapter. The board shall provide a reasonable period for submitting the information.

(b) The additional information may include, but need not be limited to, any of the following:

(1) Information needed to demonstrate that the change will not injure any other legal user of water.

(2) Information needed to demonstrate that the change will comply with any applicable requirements of the Fish and Game Code or the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.).

(3) Information needed to comply with Division 13 (commencing with Section 21000) of the Public Resources Code.

SEC. 16. Section 1703.6 of the Water Code is amended to read:



1703.6. (a) The board may cancel a protest or petition for failure to provide information requested by the board under this chapter within the period provided.

(b) Except as provided in subdivisions (c) and (d), the board shall not cancel a protest for failure to submit information not in the possession or under the control of the protestant if the protest meets the requirements of Section 1703.2 and the petitioner is or could be required to submit the information under Section 1701.1, 1701.2, or 1701.3.

(c) If a protest is based on injury to a legal user of water, the board may cancel the protest if the protestant fails to submit any of the following information requested by the board:

(1) Information that the protestant is required to submit to the board to comply with Part 5.1 (commencing with Section 5100) during any period after the protest is filed.

(2) Information that is reasonably necessary to determine if the protestant is a legal user of water.

(3) Information concerning the protestant's historical, current, or proposed future diversion and use of water that is reasonably necessary to determine if the proposed change will result in injury to the protestant's exercise of its water right or other legal use of water.

(d) If the protest is based on an allegation other than injury to a legal user of water, the board may cancel the protest for failure to submit information requested by the board if the board determines both of the following:

(1) The public review period has expired for any draft environmental document or negative declaration required to be circulated for public review and comment pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) In the absence of the requested information, there is no substantial evidence in light of the whole record to support the allegation.

(e) If a protest is subject to both subdivisions (c) and (d), the part of the protest subject to subdivision (c) may be canceled pursuant to subdivision (c) and the part of the protest subject to subdivision (d) may be canceled pursuant to subdivision (d).

SEC. 17. Section 13176 of the Water Code is amended to read:

13176. (a) The analysis of any material required by this division shall be performed by a laboratory that has accreditation

or certification pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101 of the Health and Safety Code.

(b) A person or public entity of the state shall not contract with a laboratory for environmental analyses for which the State Department of Public Health requires accreditation or certification pursuant to this chapter, unless the laboratory holds a valid certification or accreditation.

SEC. 18. Section 13193 of the Water Code is amended to read:

13193. (a) As used in this section, the following terms have the following meanings:

(1) “Collection system owner or operator” means the public or private entity having legal authority over the operation and maintenance of, or capital improvements to, the sewer collection system.

(2) “GIS” means Geographic Information System.

(b) On or before January 1 of a year in which the Legislature has appropriated sufficient funds for this purpose, the state board, in consultation with representatives of cities, counties, cities and counties, special districts, public interest groups, the State Department of Public Health, and the regional boards shall develop a uniform overflow event report form to be used for reporting of sanitary sewer system overflows as required in subdivision (c). This event report form shall include, but not be limited to, all of the following:

(1) The cause of the overflow. The cause shall be specifically identified, unless there is an ongoing investigation, in which case it shall be identified immediately after completion of the investigation. The cause shall be identified, at a minimum, as blockage, infrastructure failure, pump station failure, significant wet weather event, natural disaster, or other cause, which shall be specifically identified. If the cause is identified as a blockage, the type of blockage shall be identified, at a minimum, as roots, grease, debris, vandalism, or multiple causes of which each should be identified. If the cause is identified as infrastructure, it shall be determined, at a minimum, whether the infrastructure failure was due to leaks, damage to, or breakage of, collection system piping or insufficient capacity. If the cause is identified as a significant wet weather event or natural disaster, the report shall describe both the event and how it resulted in the overflow. If the precise cause

cannot be identified after investigation, the report shall include a narrative explanation describing the investigation conducted and providing the information known about the possible causes of the overflow.

(2) An estimate of the volume of the overflow event.

(3) Location of the overflow event. Sufficient information shall be provided to determine location for purposes of GIS mapping, such as specific street address or the latitude and longitude of the event.

(4) Date, time, and duration of the overflow event.

(5) Whether or not the overflow reached or may have reached waters of the state.

(6) Whether or not a beach closure occurred or may have occurred as a result of the overflow.

(7) The response and corrective action taken.

(8) Whether or not there is an ongoing investigation, the reasons for it and expected date of completion.

(9) The name, address, and telephone number of the reporting collection system owner or operator and a specific contact name.

(c) Commencing on July 1 of a year in which the Legislature has appropriated sufficient funds for this purpose, in the event of a spill or overflow from a sanitary sewer system that is subject to the notification requirements set forth in Section 13271, the applicable collection system owner or operator, in addition to immediate reporting duties pursuant to Section 13271, shall submit to the appropriate regional board, within 30 days of the date of becoming aware of the overflow event, a report using the form described in subdivision (b). The report shall be filed electronically, if possible, or by fax or mail if electronic submission is not possible.

(d) (1) Commencing on July 1 of a year in which the Legislature has appropriated sufficient funds for this purpose, in the event of a spill or overflow from a sanitary sewer system that is not subject to the reporting requirements set forth in Section 13271 that is either found by the State Department of Public Health or any local health officer to result in contamination pursuant to Section 5412 of the Health and Safety Code, or is found by the State Department of Public Health to result in pollution or nuisance pursuant to Section 5413 of the Health and Safety Code, the agency making the determination shall submit to the appropriate regional board,

within 30 days of making the determination, a report that shall include, at a minimum, the following information:

- (A) Date, time, and approximate duration of the overflow event.
- (B) An estimate of the volume of the overflow event.
- (C) Location of the overflow event.
- (D) A description of the response or corrective action taken by the agency making the determination.
- (E) The name, address, and telephone number of the reporting collection system owner or operator, and a specific contact name.

(2) The report shall be filed electronically, if possible, or by fax or mail if electronic submission is not possible.

(e) Before January 1 of a year in which the Legislature has appropriated sufficient funds for this purpose, the state board, in consultation with representatives of cities, counties, cities and counties, and special districts, public interest groups, the State Department of Public Health, and regional boards, shall develop and maintain a sanitary sewer system overflow database that, at a minimum, contains the parameters described in subdivisions (b) and (d).

(f) Commencing on July 1 of a year in which the Legislature has appropriated sufficient funds for this purpose, each regional board shall coordinate with collection system owners or operators, the State Department of Public Health, and local health officers to compile the reports submitted pursuant to subdivisions (c) and (d). Each regional board shall report that information to the state board on a quarterly basis, to be included in the sanitary sewer system overflow database.

(g) The state board shall make available to the public, by Internet and other cost-effective means, as determined by the state board, information that is generated pursuant to this section. In a year in which the Legislature has appropriated sufficient funds for the purposes described in this subdivision, the state board shall prepare a summary report of the information collected in the sanitary sewer system overflow database, and make it available to the general public through the Internet and other cost-effective means, as determined by the state board. To the extent resources and the data allow, this report shall include GIS maps compiling coastal overflow events.

SEC. 19. Section 13204 of the Water Code is amended to read:

13204. Each regional board shall hold at least six regular meetings each calendar year and the additional special meetings or hearings as shall be called by the chairperson or any two members of the regional board.

SEC. 20. Section 13220 of the Water Code is amended to read:

13220. Each regional board shall do all of the following:

- (a) Establish an office.
- (b) Select one of its members as chairperson at the first regular meeting held each year.
- (c) Appoint as its confidential employee, who may be exempt from civil service under Section 4 of Article VII of the California Constitution, and fix the salary of, an executive officer who shall meet technical qualifications as defined by the state board. The executive officer shall serve at the pleasure of the regional board.
- (d) Employ any other assistants that may be determined necessary to assist the executive officer.

SEC. 21. Section 13248 is added to the Water Code, to read:

13248. (a) At any time, the state board may, on its own motion, review the regional board's failure to act under this article.

(b) The state board may find that the failure of the regional board to act was appropriate and proper. Upon finding that the failure of the regional board to act was inappropriate or improper, the state board may direct that appropriate action be taken by the regional board, refer the matter to another state agency having jurisdiction, take appropriate action itself, or take any combination of those actions. In taking any action, the state board is vested with all the powers of the regional boards under this division.

SEC. 22. Section 13261 of the Water Code is amended to read:

13261. (a) A person who fails to furnish a report or pay a fee under Section 13260 when so requested by a regional board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).

(b) (1) Civil liability may be administratively imposed by a regional board or the state board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount not exceeding one thousand dollars (\$1,000) for each day in which the violation occurs. Civil liability shall not be imposed by the regional board pursuant to this section if the state board has imposed liability against the same person for the same violation.

(2) Civil liability may be imposed by the superior court in accordance with Article 5 (commencing with Section 13350) and Article 6 (commencing with Section 13360) of Chapter 5 for a violation of subdivision (a) in an amount not exceeding five thousand dollars (\$5,000) for each day the violation occurs.

(c) A person who discharges or proposes to discharge hazardous waste, as defined in Section 25117 of the Health and Safety Code, who knowingly furnishes a false report under Section 13260, or who either willfully fails to furnish a report or willfully withholds material information under Section 13260 despite actual knowledge of that requirement, may be liable in accordance with subdivision (d) and is guilty of a misdemeanor.

This subdivision does not apply to any waste discharge that is subject to Chapter 5.5 (commencing with Section 13370).

(d) (1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (c) in an amount not exceeding five thousand dollars (\$5,000) for each day the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Article 5 (commencing with Section 13350) and Article 6 (commencing with Section 13360) of Chapter 5 for a violation of subdivision (c) in an amount not exceeding twenty-five thousand dollars (\$25,000).

SEC. 23. Section 13274 of the Water Code, as amended by Section 162 of Chapter 485 of the Statutes of 1998, is amended to read:

13274. (a) (1) The state board or a regional board, upon receipt of applications for waste discharge requirements for discharges of dewatered, treated, or chemically fixed sewage sludge and other biological solids, shall prescribe general waste discharge requirements for that sludge and those other solids. General waste discharge requirements shall replace individual waste discharge requirements for sewage sludge and other biological solids, and their prescription shall be considered to be a ministerial action.

(2) The general waste discharge requirements shall set minimum standards for agronomic applications of sewage sludge and other biological solids and the use of that sludge and those other solids as a soil amendment or fertilizer in agriculture, forestry, and surface mining reclamation, and may permit the transportation of that

sludge and those other solids and the use of that sludge and those other solids at more than one site. The requirements shall include provisions to mitigate significant environmental impacts, potential soil erosion, odors, the degradation of surface water quality or fish or wildlife habitat, the accidental release of hazardous substances, and any potential hazard to the public health or safety.

(b) The state board or a regional board, in prescribing general waste discharge requirements pursuant to this section, shall comply with Division 13 (commencing with Section 21000) of the Public Resources Code and guidelines adopted pursuant to that division, and shall consult with the State Air Resources Board, the Department of Food and Agriculture, and the Department of Resources Recycling and Recovery.

(c) The state board or a regional board may charge a reasonable fee to cover the costs incurred by the board in the administration of the application process relating to the general waste discharge requirements prescribed pursuant to this section.

(d) Notwithstanding any other law, except as specified in subdivisions (f) to (i), inclusive, general waste discharge requirements prescribed by a regional board pursuant to this section supersede regulations adopted by any other state agency to regulate sewage sludge and other biological solids applied directly to agricultural lands at agronomic rates.

(e) The state board or a regional board shall review general waste discharge requirements for possible amendment upon the request of any state agency, including, but not limited to, the Department of Food and Agriculture and the State Department of Public Health, if the board determines that the request is based on new information.

(f) This section is not intended to affect the jurisdiction of the Department of Resources Recycling and Recovery to regulate the handling of sewage sludge or other biological solids for composting, deposit in a landfill, or other use.

(g) This section is not intended to affect the jurisdiction of the State Air Resources Board or an air pollution control district or air quality management district to regulate the handling of sewage sludge or other biological solids for incineration.

(h) This section is not intended to affect the jurisdiction of the Department of Food and Agriculture in enforcing Sections 14591 and 14631 of the Food and Agricultural Code and any regulations

adopted pursuant to those sections, regarding the handling of sewage sludge and other biological solids sold or used as fertilizer or as a soil amendment.

(i) This section does not restrict the authority of a local government agency to regulate the application of sewage sludge and other biological solids to land within the jurisdiction of that agency, including, but not limited to, the planning authority of the Delta Protection Commission, the resource management plan of which is required to be implemented by local government general plans.

SEC. 24. Section 13274 of the Water Code, as added by Section 13 of Chapter 814 of the Statutes of 1997, is amended and renumbered to read:

13275. (a) Notwithstanding any other law, a public water system regulated by the State Department of Public Health shall have the same legal rights and remedies against a responsible party, when the water supply used by that public water system is contaminated, as those of a private land owner whose groundwater has been contaminated.

(b) For purposes of this section, “responsible party” has the same meaning as defined in Section 25323.5 of the Health and Safety Code.

SEC. 25. Section 13285 of the Water Code is amended to read:

13285. (a) A discharge from a storage tank, pipeline, or other container of methyl tertiary-butyl ether (MTBE), or of any pollutant that contains MTBE, that poses a threat to drinking water, or to groundwater or surface water that may reasonably be used for drinking water, or to coastal waters shall be cleaned up to a level consistent with subdivisions (a) and (b) of Section 25296.10 of the Health and Safety Code.

(b) (1) A public water system, or its customers, shall not be responsible for remediation or treatment costs associated with MTBE, or a product that contains MTBE. However, the public water system may, as necessary, incur MTBE remediation and treatment costs and include those costs in its customer rates and charges that are necessary to comply with drinking water standards or directives of the State Department of Public Health or other lawful authority. Any public water system that incurs MTBE remediation or treatment costs may seek recovery of those costs



from parties responsible for the MTBE contamination, or from other available alternative sources of funds.

(2) If the public water system has included the costs of MTBE treatment and remediation in its customer rates and charges, and subsequently recovers all, or a portion of, its MTBE treatment and remediation costs from responsible parties or other available alternative sources of funds, it shall make an adjustment to its schedule of rates and charges to reflect the amount of funding received from responsible parties or other available alternative sources of funds for MTBE treatment or remediation.

(3) Paragraph (1) does not prevent the imposition of liability on any person for the discharge of MTBE if that liability is due to the conduct or status of that person independently of whether the person happens to be a customer of the public water system.

SEC. 26. Section 13291 of the Water Code is amended to read:

13291. (a) On or before January 1, 2004, the state board, in consultation with the State Department of Public Health, the California Coastal Commission, the California Conference of Directors of Environmental Health, counties, cities, and other interested parties, shall adopt regulations or standards for the permitting and operation of all of the following onsite sewage treatment systems in the state and shall apply those regulations or standards commencing six months after their adoptions:

- (1) Any system that is constructed or replaced.
- (2) Any system that is subject to a major repair.
- (3) Any system that pools or discharges to the surface.
- (4) Any system that, in the judgment of a regional board or authorized local agency, discharges waste that has the reasonable potential to cause a violation of water quality objectives, or to impair present or future beneficial uses of water, to cause pollution, nuisance, or contamination of the waters of the state.

(b) Regulations or standards adopted pursuant to subdivision (a), shall include, but shall not be limited to, all of the following:

- (1) Minimum operating requirements that may include siting, construction, and performance requirements.
- (2) Requirements for onsite sewage treatment systems adjacent to impaired waters identified pursuant to subdivision (d) of Section 303 of the Clean Water Act (33 U.S.C. Sec. 1313(d)).

(3) Requirements authorizing a qualified local agency to implement those requirements adopted under this chapter within its jurisdiction if that local agency requests that authorization.

(4) Requirements for corrective action when onsite sewage treatment systems fail to meet the requirements or standards.

(5) Minimum requirements for monitoring used to determine system or systems performance, if applicable.

(6) Exemption criteria to be established by regional boards.

(7) Requirements for determining a system that is subject to a major repair, as provided in paragraph (2) of subdivision (a).

(c) This chapter does not diminish or otherwise affect the authority of a local agency to carry out laws, other than this chapter, that relate to onsite sewage treatment systems.

(d) This chapter does not preempt any regional board or local agency from adopting or retaining standards for onsite sewage treatment systems that are more protective of the public health or the environment than this chapter.

(e) Each regional board shall incorporate the regulations or standards adopted pursuant to subdivisions (a) and (b) into the appropriate regional water quality control plans.

SEC. 27. The heading of Article 1 (commencing with Section 13300) of Chapter 5 of Division 7 of the Water Code is amended to read:

#### Article 1. Administrative Enforcement and Remedies

SEC. 28. Section 13304.1 of the Water Code is amended to read:

13304.1. (a) A groundwater cleanup system that commences operation on or after January 1, 2002, and that is required to obtain a discharge permit from the regional board pursuant to the regional board's jurisdiction, and that discharges treated groundwater to surface water or groundwater, shall treat the groundwater to standards approved by the regional board, consistent with this division and taking into account the beneficial uses of the receiving water and the location of the discharge and the method by which the discharge takes place.

(b) In making its determination of the applicable water quality standards to be achieved by the operator of a groundwater cleanup system that commences operation on or after January 1, 2002, that

draws groundwater from an aquifer that is currently being used, or has been used at any time since 1979 as a source of drinking water supply by the owner or operator of a public water system, and that discharges treated groundwater to surface water or groundwater from which a public water system draws drinking water, the regional board shall consult with the affected groundwater management entity, if any, affected public water systems, and the State Department of Public Health to ensure that the discharge, spreading, or injection of the treated groundwater will not adversely affect the beneficial uses of any groundwater basin or surface water body that is or may be used by a public water system for the provision of drinking water.

SEC. 29. The heading of Article 2 (commencing with Section 13320) of Chapter 5 of Division 7 of the Water Code is amended to read:

Article 2. Administrative Review by the State Board

SEC. 30. Section 13320 of the Water Code is amended to read:

13320. (a) Within 30 days of any action or failure to act by a regional board under subdivision (c) of Section 13225, Article 4 (commencing with Section 13260) of Chapter 4, Chapter 5 (commencing with Section 13300), Chapter 5.5 (commencing with Section 13370), Chapter 5.9 (commencing with Section 13399.25), or Chapter 7 (commencing with Section 13500), an aggrieved person may petition the state board to review that action or failure to act. In case of a failure to act, the 30-day period shall commence upon the refusal of the regional board to act, or 60 days after request has been made to the regional board to act. The state board may, on its own motion, at any time, review the regional board's action or failure to act.

(b) The evidence before the state board shall consist of the record before the regional board, and any other relevant evidence which, in the judgment of the state board, should be considered to effectuate and implement the policies of this division.

(c) The state board may find that the action of the regional board, or the failure of the regional board to act, was appropriate and proper. Upon finding that the action of the regional board, or the failure of the regional board to act, was inappropriate or improper, the state board may direct that the appropriate action be taken by

the regional board, refer the matter to another state agency having jurisdiction, take the appropriate action itself, or take any combination of those actions. In taking any action, the state board is vested with all the powers of the regional boards under this division.

(d) If a waste discharge in one region affects the waters in another region and there is any disagreement between the regional boards involved as to the requirements that should be established, either regional board may submit the disagreement to the state board, which shall determine the applicable requirements.

(e) If a petition for state board review of a regional board action on waste discharge requirements includes a request for a stay of the waste discharge requirements, the state board shall act on the requested stay portion of the petition within 60 days of accepting the petition. The board may order any stay to be in effect from the effective date of the waste discharge requirements.

SEC. 31. Section 13330 of the Water Code is amended to read:

13330. (a) Not later than 30 days from the date of service of a copy of a decision or order issued by the state board under this division, other than a decision or order issued pursuant to Article 7 (commencing with Section 13550) of Chapter 7, any aggrieved party may file with the superior court a petition for writ of mandate for review thereof. An aggrieved party must file a petition for reconsideration with the state board to exhaust that party's administrative remedies only if the initial decision or order is issued under authority delegated to an officer or employee of the state board and the state board by regulation has authorized a petition for reconsideration.

(b) A party aggrieved by a final decision or order of a regional board subject to review under Section 13320 may obtain review of the decision or order of the regional board in the superior court by filing in the court a petition for writ of mandate not later than 30 days from the date on which the state board denies review.

(c) The time for filing an action or proceeding subject to Section 21167 of the Public Resources Code for a person who seeks review of the regional board's decision or order under Section 13320, or who seeks reconsideration under a state board regulation authorizing a petition for reconsideration, shall commence upon the state board's completion of that review or reconsideration.

(d) If no aggrieved party petitions for writ of mandate within the time provided by this section, a decision or order of the state board or a regional board shall not be subject to review by any court.

(e) Except as otherwise provided herein, Section 1094.5 of the Code of Civil Procedure shall govern proceedings for which petitions are filed pursuant to this section. For the purposes of subdivision (c) of Section 1094.5 of the Code of Civil Procedure, the court shall exercise its independent judgment on the evidence in any case involving the judicial review of a decision or order of the state board issued under Section 13320, or a decision or order of a regional board for which the state board denies review under Section 13320, other than a decision or order issued under Section 13323.

(f) A party aggrieved by a decision or order issued by the state board under Article 7 (commencing with Section 13550) of Chapter 7 may petition for reconsideration or judicial review in accordance with Chapter 4 (commencing with Section 1120) of Part 1 of Division 2.

(g) For purposes of this section, a decision or order includes a final action in an adjudicative proceeding and an action subject to Section 11352 of the Government Code, but does not include an action subject to Section 11353 of the Government Code or the adoption, amendment, or repeal of a regulation under Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 32. Section 13376 of the Water Code is amended to read:

13376. A person who discharges pollutants or proposes to discharge pollutants to the navigable waters of the United States within the jurisdiction of this state or a person who discharges dredged or fill material or proposes to discharge dredged or fill material into the navigable waters of the United States within the jurisdiction of this state shall file a report of the discharge in compliance with the procedures set forth in Section 13260. Unless required by the state board or a regional board, a report need not be filed under this section for discharges that are not subject to the permit application requirements of the Federal Water Pollution Control Act, as amended. A person who proposes to discharge pollutants or dredged or fill material or to operate a publicly owned treatment works or other treatment works treating domestic sewage

shall file a report at least 180 days in advance of the date on which it is desired to commence the discharge of pollutants or dredged or fill material or the operation of the treatment works. A person who owns or operates a publicly owned treatment works or other treatment works treating domestic sewage, which treatment works commenced operation before January 1, 1988, and does not discharge to navigable waters of the United States, shall file a report within 45 days of a written request by a regional board or the state board, or within 45 days after the state has an approved permit program for the use and disposal of sewage sludge, whichever occurs earlier. The discharge of pollutants or dredged or fill material or the operation of a publicly owned treatment works or other treatment works treating domestic sewage by any person, except as authorized by waste discharge requirements or dredged or fill material permits, is prohibited. This prohibition does not apply to discharges or operations if a state or federal permit is not required under the Federal Water Pollution Control Act, as amended.

SEC. 33. Section 13392 of the Water Code is amended to read:

13392. The state board and the regional boards, in consultation with the State Department of Public Health and the Department of Fish and Game, shall develop and maintain a comprehensive program to (1) identify and characterize toxic hot spots, as defined in Section 13391.5, (2) plan for the cleanup or other appropriate remedial or mitigating actions at the sites, and (3) amend water quality control plans and policies to incorporate strategies to prevent the creation of new toxic hot spots and the further pollution of existing hot spots. As part of this program, the state board and regional boards shall, to the extent feasible, identify specific discharges or waste management practices that contribute to the creation of toxic hot spots, and shall develop appropriate prevention strategies, including, but not limited to, adoption of more stringent waste discharge requirements, onshore remedial actions, adoption of regulations to control source pollutants, and development of new programs to reduce urban and agricultural runoff.

SEC. 34. Section 13392.5 of the Water Code is amended to read:

13392.5. (a) Each regional board that has regulatory authority for one or more enclosed bays or estuaries shall, on or before January 30, 1994, develop for each enclosed bay or estuary, a

consolidated data base that identifies and describes all known and potential toxic hot spots. Each regional board shall, in consultation with the state board, also develop an ongoing monitoring and surveillance program that includes, but is not limited to, the following components:

(1) Establishment of a monitoring and surveillance task force that includes representation from agencies, including, but not limited to, the State Department of Public Health and the Department of Fish and Game, that routinely monitor water quality, sediment, and aquatic life.

(2) Suggested guidelines to promote standardized analytical methodologies and consistency in data reporting.

(3) Identification of additional monitoring and analyses that are needed to develop a complete toxic hot spot assessment for each enclosed bay and estuary.

(b) Each regional board shall make available to state and local agencies and the public all information contained in the consolidated data base, as well as the results of new monitoring and surveillance data.

SEC. 35. Section 13395.5 of the Water Code is amended to read:

13395.5. The state board may enter into contracts and other agreements for the purpose of evaluating or demonstrating methods for the removal, treatment, or stabilization of contaminated bottom sediment. For the purpose of preparing health risk assessments pursuant to Section 13393, the state board shall enter into contracts or agreements with the State Department of Public Health, or with other state or local agencies, subject to the approval of the State Department of Public Health. The costs incurred for work conducted by other state agencies, including, but not limited to, the State Department of Public Health and the Department of Fish and Game, pursuant to this chapter shall be reimbursed according to the terms of an interagency agreement between the state board and the agency.

SEC. 36. Section 13396.7 of the Water Code is amended to read:

13396.7. (a) The state board, in consultation with the State Department of Public Health, shall contract with an independent contractor to conduct a study to determine the adverse health effects of urban runoff on swimmers at urban beaches. The contract shall

include a provision that requires the study to be conducted as prescribed in the study proposal approved by the Santa Monica Bay Restoration Project. The study shall be paid for by using available resources or state funds appropriated in the annual Budget Act.

(b) It is the intent of the Legislature that the state board and the State Department of Public Health use the results of the study undertaken pursuant to subdivision (a) to establish recreational water quality standards.

SEC. 37. Section 13426 of the Water Code is amended to read:

13426. The state board, subject to approval by the Director of Finance, may agree to provide a guarantee pursuant to this article for all or a specified part of the proposed local agency bond issue upon making, after consultation with the State Department of Public Health, all of the following determinations:

(a) The facilities proposed by an applicant are necessary to the health or welfare of the inhabitants of the state and are consistent with water quality control plans adopted by regional boards.

(b) The proposed facilities meet the needs of the applicant.

(c) The proposed bond issue and plan repayment are sound and feasible.

(d) In the case of facilities proposed under paragraph (2) of subdivision (c) of Section 13400, the facilities will produce recycled water and the applicant has adopted a feasible program for the use of the facilities. The state board may adopt criteria for ranking and setting priorities among applicants for those guarantees.

SEC. 38. Section 13442 of the Water Code is amended to read:

13442. Upon application by a public agency with authority to clean up a waste or abate the effects thereof, the state board may order moneys to be paid from the account to the agency to assist it in cleaning up the waste or abating its effects on waters of the state. The agency shall not become liable to the state board for repayment of those moneys, but this shall not be a defense to an action brought pursuant to subdivision (c) of Section 13304 for the recovery of moneys paid under this section.

SEC. 39. Section 13521 of the Water Code is amended to read:

13521. The State Department of Public Health shall establish uniform statewide recycling criteria for each varying type of use



of recycled water where the use involves the protection of public health.

SEC. 40. Section 13522 of the Water Code is amended to read:

13522. (a) If the State Department of Public Health or a local health officer finds that a contamination exists as a result of the use of recycled water, the department or local health officer shall order the contamination abated in accordance with the procedure provided for in Chapter 6 (commencing with Section 5400) of Part 3 of Division 5 of the Health and Safety Code.

(b) The use of recycled water in accordance with the uniform statewide recycling criteria established pursuant to Section 13521, for the purpose of this section, does not cause, constitute, or contribute to, any form of contamination, unless the department or the regional board determines that contamination exists.

SEC. 41. Section 13523 of the Water Code is amended to read:

13523. (a) Each regional board, after consulting with and receiving the recommendations of the State Department of Public Health and any party who has requested in writing to be consulted, and after any necessary hearing, shall, if in the judgment of the board, it is necessary to protect the public health, safety, or welfare, prescribe water reclamation requirements for water that is used or proposed to be used as recycled water.

(b) The requirements may be placed upon the person recycling water, the user, or both. The requirements shall be established in conformance with the uniform statewide recycling criteria established pursuant to Section 13521. The regional board may require the submission of a preconstruction report for the purpose of determining compliance with the uniform statewide recycling criteria. The requirements for a use of recycled water not addressed by the uniform statewide recycling criteria shall be considered on a case-by-case basis.

SEC. 42. Section 13523.1 of the Water Code is amended to read:

13523.1. (a) Each regional board, after consulting with, and receiving the recommendations of, the State Department of Public Health and any party who has requested in writing to be consulted, with the consent of the proposed permittee, and after any necessary hearing, may, in lieu of issuing waste discharge requirements pursuant to Section 13263 or water recycling requirements pursuant to Section 13523 for a user of recycled water, issue a master

recycling permit to a supplier or distributor, or both, of recycled water.

(b) A master recycling permit shall include, at least, all of the following:

(1) Waste discharge requirements, adopted pursuant to Article 4 (commencing with Section 13260) of Chapter 4.

(2) A requirement that the permittee comply with the uniform statewide recycling criteria established pursuant to Section 13521. Permit conditions for a use of recycled water not addressed by the uniform statewide water recycling criteria shall be considered on a case-by-case basis.

(3) A requirement that the permittee establish and enforce rules or regulations for recycled water users, governing the design and construction of recycled water use facilities and the use of recycled water, in accordance with the uniform statewide recycling criteria established pursuant to Section 13521.

(4) A requirement that the permittee submit a quarterly report summarizing recycled water use, including the total amount of recycled water supplied, the total number of recycled water use sites, and the locations of those sites, including the names of the hydrologic areas underlying the recycled water use sites.

(5) A requirement that the permittee conduct periodic inspections of the facilities of the recycled water users to monitor compliance by the users with the uniform statewide recycling criteria established pursuant to Section 13521 and the requirements of the master recycling permit.

(6) Any other requirements determined to be appropriate by the regional board.

SEC. 43. Section 13528 of the Water Code is amended to read:

13528. This chapter shall not be construed as affecting the powers of the State Department of Public Health.

SEC. 44. Section 13540 of the Water Code is amended to read:

13540. (a) A person shall not construct, maintain, or use any waste well extending to or into a subterranean water-bearing stratum that is used or intended to be used as, or is suitable for, a source of water supply for domestic purposes.

(b) (1) Notwithstanding subdivision (a), when a regional board finds that water quality considerations do not preclude controlled recharge of the stratum by direct injection, and when the State Department of Public Health, following a public hearing, finds the

proposed recharge will not degrade the quality of water in the receiving aquifer as a source of water supply for domestic purposes, recycled water may be injected by a well into the stratum. The State Department of Public Health may make and enforce any regulations pertaining to this subdivision as it deems proper.

(2) This section shall not be construed to do either or both of the following:

(A) Affect the authority of the state board or regional boards to prescribe and enforce requirements for the discharge.

(B) Preempt the exercise by a water district of its existing ordinance authority to impose or implement stricter standards for protecting groundwater quality in the receiving aquifer.

(c) If the State Department of Public Health makes the findings provided for in subdivision (b), the department shall consider the state board's Statement of Policy with Respect to Maintaining High Quality of Waters in California, as set forth in Resolution 68-16, dated October 28, 1968, and shall also consider current and potential future public health consequences of the controlled recharge.

SEC. 45. Section 13552.4 of the Water Code is amended to read:

13552.4. (a) Any public agency, including a state agency, city, county, city and county, district, or any other political subdivision of the state, may require the use of recycled water for irrigation of residential landscaping, if all of the following requirements are met:

(1) Recycled water, for this use, is available to the user and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

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

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

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

(1) New subdivisions for which the building permit is issued on or after March 15, 1994, or, if a building permit is not required, new structures for which construction begins on or after March 15, 1994, for which the State Department of Public Health has approved the use of recycled water.

(2) Any residence that is retrofitted to permit the use of recycled water for landscape irrigation and for which the State Department of Public Health has approved the use of recycled water.

(c) (1) Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to any project that only involves the repiping, redesign, or use of recycled water for irrigation of residential landscaping necessary to comply with a requirement prescribed by a public agency under subdivision (a).

(2) The exemption in paragraph (1) does not apply to any project to develop recycled water, to construct conveyance facilities for recycled water, or any other project not specified in this subdivision.

SEC. 46. Section 13553 of the Water Code is amended to read:

13553. (a) The Legislature hereby finds and declares that the use of potable domestic water for toilet and urinal flushing in structures is a waste or an unreasonable use of water within the meaning of Section 2 of Article X of the California Constitution if recycled water, for these uses, is available to the user and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(b) The state board may require a public agency or person subject to this section to furnish any information that may be relevant to making the determination required in subdivision (a).

(c) For purposes of this section and Section 13554, “structure” or “structures” means commercial, retail, and office buildings, theaters, auditoriums, condominium projects, schools, hotels, apartments, barracks, dormitories, jails, prisons, and reformatories, and other structures as determined by the State Department of Public Health.

(d) Recycled water may be used in condominium projects, as defined in Section 1351 of the Civil Code, subject to all of the following conditions:

(1) Prior to the indoor use of recycled water in any condominium project, the agency delivering the recycled water to the condominium project shall file a report with, and receive written approval of the report from, the State Department of Public Health. The report shall be consistent with the provisions of Title 22 of the California Code of Regulations generally applicable to dual-plumbed structures and shall include all the following:

(A) That potable water service to each condominium project will be provided with a backflow protection device approved by the State Department of Public Health to protect the agency's public water system, as defined in Section 116275 of the Health and Safety Code. The backflow protection device approved by the State Department of Public Health shall be inspected and tested annually by a person certified in the inspection of backflow prevention devices.

(B) That any plumbing modifications in the condominium unit or any physical alteration of the structure will be done in compliance with state and local plumbing codes.

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

(D) That recycled water lines will be color coded consistent with current statutes and regulations.

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

(3) The condominium's declaration, as defined in Section 1351 of the Civil Code, shall provide that the laws and regulations governing recycled water apply, shall not permit any exceptions to those laws and regulations, shall incorporate the report described in paragraph (1), and shall contain the following statement:

**“NOTICE OF USE OF RECYCLED WATER**

This property is approved by the State Department of Public Health for the use of recycled water for toilet and urinal flushing. This water is not potable, is not suitable for indoor purposes other than toilet and urinal flushing purposes, and requires dual plumbing. Alterations and modifications to the plumbing system require a permit and are prohibited without first consulting with the appropriate local building code enforcement agency and your property management company or homeowners' association to ensure that the recycled water is not mixed with the drinking water.”

(e) The State Department of Public Health may adopt regulations as necessary to assist in the implementation of this section.

(f) This section shall only apply to condominium projects that are created, within the meaning of Section 1352 of the Civil Code, on or after January 1, 2008.

(g) This section and Section 13554 do not apply to a pilot program adopted pursuant to Section 13553.1.

SEC. 47. Section 13576 of the Water Code is amended to read:

13576. The Legislature hereby makes the following findings and declarations:

(a) The State of California is subject to periodic drought conditions.

(b) The development of traditional water resources in California has not kept pace with the state's population, which is growing at the rate of over 700,000 per year and which is anticipated to reach 36,000,000 by the year 2010.

(c) There is a need for a reliable source of water for uses not related to the supply of potable water to protect investments in agriculture, greenbelts, and recreation and to replenish groundwater basins, and protect and enhance fisheries, wildlife habitat, and riparian areas.

(d) The environmental benefits of recycled water include a reduced demand for water in the Sacramento-San Joaquin Delta that is otherwise needed to maintain water quality, reduced discharge of waste into the ocean, and the enhancement of groundwater basins, recreation, fisheries, and wetlands.

(e) The use of recycled water has proven to be safe from a public health standpoint, and the State Department of Public Health is updating regulations for the use of recycled water.

(f) The use of recycled water is a cost-effective, reliable method of helping to meet California's water supply needs.

(g) The development of the infrastructure to distribute recycled water will provide jobs and enhance the economy of the state.

(h) Retail water suppliers and recycled water producers and wholesalers should promote the substitution of recycled water for potable water and imported water in order to maximize the appropriate cost-effective use of recycled water in California.

(i) Recycled water producers, retail water suppliers, and entities responsible for groundwater replenishment should cooperate in joint technical, economic, and environmental studies, as

appropriate, to determine the feasibility of providing recycled water service.

(j) Retail water suppliers and recycled water producers and wholesalers should be encouraged to enter into contracts to facilitate the service of recycled and potable water by the retail water suppliers in their service areas in the most efficient and cost-effective manner.

(k) Recycled water producers and wholesalers and entities responsible for groundwater replenishment should be encouraged to enter into contracts to facilitate the use of recycled water for groundwater replenishment if recycled water is available and the authorities having jurisdiction approve its use.

(l) Wholesale prices set by recycled water producers and recycled water wholesalers, and rates that retail water suppliers are authorized to charge for recycled water, should reflect an equitable sharing of the costs and benefits associated with the development and use of recycled water.

SEC. 48. Section 13578 of the Water Code is amended to read:

13578. (a) In order to achieve the statewide goal for recycled water use established in Section 13577 and to implement the Governor's Advisory Drought Planning Panel Critical Water Shortage Contingency Plan recommendations, Section F2, as submitted December 29, 2000, the department shall identify and report to the Legislature on opportunities for increasing the use of recycled water, as defined in paragraph (3) of subdivision (b) of Section 13575, and identify constraints and impediments, including the level of state financial assistance available for project construction, to increasing the use of recycled water.

(b) The department shall convene a task force, to be known as the 2002 Recycled Water Task Force, to advise the department in implementation of subdivision (a), including making recommendations to the Legislature regarding the following:

(1) How to further the use of recycled water in industrial and commercial applications, including, but not limited to, those applications set forth in Section 13552.8. The task force shall evaluate the current regulatory framework of state and local rules, regulations, ordinances, and permits to identify the obstacles and disincentives to industrial and commercial reuse. Issues to be investigated include, but are not limited to, applicability of visual inspections instead of pressure tests for cross-connections between

potable and nonpotable water systems, dual piping trenching restrictions, fire suppression system design, and backflow protections.

(2) Changes in the Uniform Plumbing Code, published by the International Association of Plumbing and Mechanical Officials, that are appropriate to facilitate the use of recycled water in industrial and commercial settings. The department shall make recommendations to the California Building Standards Commission with regard to suggested revisions to the California Plumbing Code necessary to incorporate the changes identified by the task force.

(3) Changes in state statutes or the current regulatory framework of state and local rules, regulations, ordinances, and permits appropriate to increase the use of recycled water for commercial laundries and toilet and urinal flushing in structures including, but not limited to, those defined in subdivision (c) of Section 13553. The department shall identify financial incentives to help offset the cost of retrofitting privately and publicly owned structures.

(4) The need to reconvene the California Potable Reuse Committee established by the department in 1993 or convene a successor committee to update the committee's finding that planned indirect potable reuse of recycled water by augmentation of surface water supplies would not adversely affect drinking water quality if certain conditions were met.

(5) The need to augment state water supplies using water use efficiency strategies identified in the CALFED Bay-Delta Program. In its report pursuant to subdivision (a), the department shall identify ways to coordinate with CALFED to assist local communities in educating the public with regard to the statewide water supply benefits of local recycling projects and the level of public health protection ensured by compliance with the uniform statewide water recycling criteria developed by the State Department of Public Health in accordance with Section 13521.

(6) Impediments or constraints, other than water rights, related to increasing the use of recycled water in applications for agricultural, environmental, or irrigation uses, as determined by the department.

(c) (1) The task force shall be convened by the department and be comprised of one representative from each of the following state agencies:

(A) The department.



- (B) The State Department of Public Health.
- (C) The state board.
- (D) The California Environmental Protection Agency.
- (E) The CALFED Bay-Delta Program.
- (F) The Department of Food and Agriculture.
- (G) The California Building Standards Commission.
- (H) The University of California.
- (I) The Natural Resources Agency.

(2) The task force shall also include one representative from a recognized environmental advocacy group and one representative from a consumer advocacy group, as determined by the department, and one representative of local agency health officers, one representative of urban water wholesalers, one representative from a groundwater management entity, one representative of water districts, one representative from a nonprofit association of public and private members created to further the use of recycled water, one representative of commercial real estate, one representative of land development, one representative of industrial interests, and at least two representatives from each of the following as defined in Section 13575:

- (A) Recycled water producer.
- (B) Recycled water wholesaler.
- (C) Retail water supplier.

(d) The department and the task force shall report to the Legislature not later than July 1, 2003.

(e) The department shall carry out the duties of this section only to the extent that funds pursuant to Section 79145, enacted as part of the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act (Division 26 (commencing with Section 79000)), are made available for the purposes of this section.

SEC. 49. Section 13580.9 of the Water Code is amended to read:

13580.9. (a) Notwithstanding any other law, and except as otherwise previously provided for in a contract agreed to by the customer and the City of West Covina, if the purchaser, contractor, or lessee of, or successor to, all or a portion of the water utility owned by the City of West Covina is a retail water supplier that is regulated by the Public Utilities Commission, rates for recycled or nonpotable water service to a closed hazardous waste and solid waste facility located within the boundaries of the City of West

Covina for the purposes of irrigation, recreation, or dust suppression or any other use at that facility shall be established in accordance with subdivisions (a) to (e), inclusive, of Section 13580.7, and if there is a failure to agree on the terms and conditions of a recycled or nonpotable water supply agreement for the delivery of water for those purposes by that purchaser, contractor, lessee, or successor, Section 13581 shall apply.

(b) For the purpose of this section, nonpotable water that is not the result of the treatment of waste shall be treated as the equivalent of recycled water if it is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefor considered a valuable resource, if the use of that water will not adversely affect downstream water rights, degrade water quality, or be injurious to plant life, fish, or wildlife, as provided by statute or by regulations of the State Department of Public Health and the state board or a regional board, as appropriate.

SEC. 50. Section 13627 of the Water Code is amended to read:

13627. (a) Supervisors and operators of those wastewater treatment plants described in paragraph (1) or (2) of subdivision (b) of Section 13625 shall possess a certificate of appropriate grade. Subject to the approval of regulations by the state board, supervisors and operators of those wastewater treatment plants described in paragraph (3) of subdivision (b) of Section 13625 shall possess certificates of the appropriate grade. All certificates shall be issued in accordance with, and to the extent recommended by the advisory committee and required by, regulations adopted by the state board. The state board shall develop and specify in its regulations the training necessary to qualify a supervisor or operator for certification for each type and class of plant. The state board may accept experience in lieu of qualification training. For supervisors and operators of water recycling treatment plants, the state board may approve use of a water treatment plant operator of appropriate grade certified by the State Department of Public Health pursuant to Article 3 (commencing with Section 106875) of Chapter 4 of Part 1 of Division 104 of the Health and Safety Code in lieu of a wastewater treatment plant operator certified by the state board, provided that the state board may refuse to approve use of an operator certified by the department or may suspend or revoke its approval of the use of an operator certified by the department if the operator commits any of the prohibited acts

described in Article 7 (commencing with Section 3710) of Chapter 26 of Division 3 of Title 23 of the California Code of Regulations.

(b) The regional water quality control board, with jurisdiction for issuing and ensuring compliance with applicable water reclamation or waste discharge requirements, shall notify the department in writing if, pursuant to an inspection conducted under Section 13267, the regional board makes a determination that there are reasonable grounds for not issuing, or for suspending or revoking, the certificate of a certified water treatment plant operator who is operating or supervising the operation of a water recycling treatment plant. The department shall make its determination regarding the issuance, suspension, or revocation of a certificate in accordance with Section 106876 of the Health and Safety Code.

(c) For purposes of this section, “water recycling treatment plant” means a treatment plant that receives and further treats secondary or tertiary effluent, or both, from a wastewater treatment plant.

(d) A person employed as a wastewater treatment plant supervisor or operator on the effective date of regulations adopted pursuant to this chapter shall be issued an appropriate certificate if the person meets the training, education, and experience requirements prescribed by regulations.

(e) The state board may refuse to grant, suspend, or revoke any certificate issued by the state board to operate a wastewater treatment plant, or may place on probation, or reprimand, the certificate holder upon any reasonable ground, including, but not limited to, all of the following reasons:

(1) Submitting false or misleading information on an application for a certificate.

(2) The employment of fraud or deception in the course of operating the wastewater treatment plant.

(3) A certificate holder’s failure to use reasonable care or judgment in the operation of the plant.

(4) A certificate holder’s inability to perform operating duties properly.

(5) Willfully or negligently violating, or causing, or allowing the violation of, waste discharge requirements or permits issued pursuant to the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.).

(f) The state board shall conduct all proceedings for the refusal to grant a certificate, and suspension or revocation of a certificate, pursuant to subdivision (e), in accordance with the rules adopted pursuant to Section 185.

SEC. 51. Section 13627.4 of the Water Code is amended to read:

13627.4. (a) The state board may administratively impose the civil liability described in Section 13627.1, 13627.2, or 13627.3 in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5.

(b) A remedy under this chapter is in addition to, and does not supersede or limit, any other remedy, civil or criminal, except that liability is not recoverable against an operator under subdivision (c) of Section 13627.1 for a violation for which liability is recovered against the operator under Section 13350 or 13385.

SEC. 52. Section 13755 of the Water Code is amended to read:

13755. This chapter does not affect the powers and duties of the State Department of Public Health with respect to water and water systems pursuant to Chapter 4 (commencing with Section 116270) of Part 12 of Division 104 of the Health and Safety Code. Every person shall comply with this chapter and any regulation adopted pursuant thereto, in addition to standards adopted by any city or county.

SEC. 53. Section 13800 of the Water Code is amended to read:

13800. The department, after the studies and investigations pursuant to Section 231 as it finds necessary, on determining that water well, cathodic protection well, and monitoring well construction, maintenance, abandonment, and destruction standards are needed in an area to protect the quality of water used or that may be used for any beneficial use, shall so report to the appropriate regional water quality control board and to the State Department of Public Health. The report shall contain the recommended standards for water well, cathodic protection well, and monitoring well construction, maintenance, abandonment, and destruction as, in the department's opinion, are necessary to protect the quality of any affected water.

SEC. 54. Section 13801 of the Water Code is amended to read:

13801. (a) The regional board, upon receipt of a report from the department pursuant to Section 13800, shall hold a public hearing on the need to establish well standards for the area

involved. The regional board may hold a public hearing with respect to any area regardless of whether a report has been received from the department if it has information that standards may be needed.

(b) Notwithstanding subdivision (a), the state board shall, not later than September 1, 1989, adopt a model water well, cathodic protection well, and monitoring well drilling and abandonment ordinance implementing the standards for water well construction, maintenance, and abandonment contained in Bulletin 74-81 of the department. If the model ordinance is not adopted by this date, the state board shall report to the Legislature as to the reasons for the delay. The state board shall circulate the model ordinances to all cities and counties.

(c) Notwithstanding any other law, each county, city, or water agency, where appropriate, shall, not later than January 15, 1990, adopt a water well, cathodic protection well, and monitoring well drilling and abandonment ordinance that meets or exceeds the standards contained in Bulletin 74-81. Where a water agency that has permit authority over well drilling within the agency adopts a water well, cathodic protection well, and monitoring well drilling and abandonment ordinance that meets or exceeds the standards contained in Bulletin 74-81, a county or city shall not be required to adopt an ordinance for the same area.

(d) If a county, city, or water agency, where appropriate, fails to adopt an ordinance establishing water well, cathodic protection well, and monitoring well drilling and abandonment standards, the model ordinance adopted by the state board pursuant to subdivision (b) shall take effect on February 15, 1990, and shall be enforced by the county or city and have the same force and effect as if adopted as a county or city ordinance.

(e) The minimum standards recommended by the department and adopted by the state board or local agencies for the construction, maintenance, abandonment, or destruction of monitoring wells or class 1 hazardous injection wells shall not be construed to limit, abridge, or supersede the powers or duties of the State Department of Public Health in their application of standards to the construction, maintenance, abandonment, or destruction of monitoring wells or class 1 hazardous injection wells at facilities that treat, store, or dispose of hazardous waste or at any site where the State Department of Public Health is the lead

agency responsible for investigation and remedial action at that site, as long as the standards used by the State Department of Public Health meet or exceed those in effect by any city, county, or water agency where appropriate, responsible for developing ordinances for the area in question.

SEC. 55. Section 13903 of the Water Code is amended to read:

13903. Each regional board shall notify each affected city or county, the State Department of Public Health and the Department of Boating and Waterways of areas of inadequate regulation by ordinance of discharges of waste from houseboats and shall recommend provisions necessary to control the discharges of waste from houseboats into the waters.

SEC. 56. Section 13904 of the Water Code is amended to read:

13904. Each affected city or county shall within 120 days of receipt of the notice from the regional board, adopt an ordinance for control of discharges of waste from houseboats within the area for which notice was given by the board. A copy of the ordinance shall be sent to the regional board on its adoption and the regional board shall transmit the ordinance to the state board, the State Department of Public Health and the Department of Boating and Waterways.

SEC. 57. Section 13952.1 of the Water Code is amended to read:

13952.1. (a) Notwithstanding Section 13951, the South Tahoe Public Utility District may provide recycled water only to prevent the destruction of its Luther Pass recycled water pump station from a catastrophic fire if all of the following conditions are met:

(1) The district submits an engineering report to the Lahontan Regional Board and the State Department of Public Health, as required by that regional board and that department.

(2) The Lahontan Regional Board, the State Department of Public Health, and the Tahoe Regional Planning Agency authorize the use of recycled water, and the specified area or areas in the immediate vicinity of the pump station where that recycled water may be used, only to prevent the destruction of the district's Luther Pass recycled water pump station from a catastrophic fire.

(3) The fire incident commander authorizes the use of the recycled water to prevent the destruction of the district's Luther Pass recycled water pump station from a catastrophic fire, as authorized pursuant to this section.

(b) For purposes of this section, “catastrophic fire” means a condition exists that will result in severe harm to life, property, and the environment if the use of recycled water as authorized pursuant to this section is not used, and all other methods to extinguish the fire have been exhausted.

SEC. 58. Pursuant to Section 13201 of the Water Code, the Governor appoints, and the Legislature confirms, members to the California regional water quality control boards. These members serve staggered four-year terms in conformance with Section 13202 of the Water Code and the legislation establishing the various positions on the California regional water quality control boards. As a result of the enactment of Chapter 1299 of the Statutes of 1959, two of the positions on each California regional water quality control board were established with an expiration date of September 17 of the year in which the position expires. The other positions on each California regional water quality control board have a September 30 expiration date in the various years in which they expire. For consistency and efficiency, the Legislature hereby extends to September 30, 2014, the terms of the two positions on each California regional water quality control board that would otherwise expire on September 17, 2014.



















Approved \_\_\_\_\_, 2010

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*Governor*