

Senate Bill No. 1307

CHAPTER 734

An act to amend Sections 116275, 116285, 116290, 116325, 116390, 116425, 116540, 116565, 116580, 116585, 116650, and 116880 of, to amend and renumber Section 116300 of, to add Sections 116286 and 116287 to, to add Chapter 4.5 (commencing with Section 116760) to Part 12 of Division 104 of, and to repeal and add Section 116875 of, the Health and Safety Code, and to add Section 13169 to the Water Code, relating to drinking water, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 6, 1997. Filed
with Secretary of State October 7, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1307, Costa. Public water systems.

(1) Existing law sets forth definitions governing the California Safe Drinking Water Act.

This bill would revise some of those definitions and would also require those definitions to govern a provision of law relating to certification of persons to supervise and operate water treatment plants.

(2) Existing law prohibits the California Safe Drinking Water Act from applying to certain irrigation canal systems or in areas where the water service rendered by a person is primarily agricultural.

This bill would delete those provisions on and after August 6, 1998.

(3) Existing law defines "service connection" for purposes of the California Safe Drinking Water Act and provides that if certain conditions apply, a connection to a system that delivers water by a constructed conveyance in other than a pipe is not a connection in determining if the system is a public water system.

This bill would prohibit certain water districts, as defined, from being considered to be a public water system if the State Department of Health Services makes a prescribed determination. For purposes of the above provisions under which determinations are made regarding whether a system or water district is a public water system, the bill would require the department to place certain requirements on affected water systems, utilize certain criteria in making determinations, and monitor and review certain conditions of a water system or water district periodically. The bill would authorize the department to prescribe reasonable, feasible, and cost-effective actions to be taken by water systems, water districts, and users subject to these provisions.

(4) Existing law authorizes the department to issue a citation to, and assess civil penalties upon, a public water system that violates the California Safe Drinking Water Act. Under these provisions a failure to comply with any citation or order issued for failure of the primary drinking water standard for turbidity or for violation of a secondary drinking water standard that the director determines may have a direct or immediate relationship to the welfare of the users is subject to a civil penalty not to exceed \$250 for each day that the violation continues beyond the date specified for correction in the citation.

This bill would increase this civil penalty to not exceed \$1,000.

(5) Existing law prohibits laboratories, other than laboratories operated by the department, from performing certain tests for any public water system without first obtaining a prescribed certificate, except for laboratories previously issued certificates.

This bill would delete that exception.

(6) Existing law authorizes the department to exempt any public water system from any maximum contaminant level or treatment technique requirement if it makes certain findings.

This bill would revise the findings the department is required to make as a condition of exempting any public water system from the containment level and treatment technique requirements.

(7) Existing law prohibits a public water system, in existence on January 1, 1991, from being granted a permit by the department to operate a public water system unless the system demonstrates that the water supplier possesses adequate financial capability to deliver pure, wholesome, and potable drinking water.

This bill would instead make that provision applicable to a public water system in existence on January 1, 1998, and would require the demonstration that the water supplier also possesses adequate managerial and technical capability.

(8) Existing law requires the department to submit a final invoice to certain public water systems for regulatory costs incurred prior to September 1 following the fiscal year the costs were incurred.

This bill would change that date to October 1 following the fiscal year the costs were incurred.

(9) Existing law requires the department to submit an invoice to a water system with respect to a request for an exemption, variance, or waiver within 90 days of the department's final decision.

This bill would change that date to prior to October 1 of the fiscal years following the fiscal year in which the department's decision was rendered and would include plan reviews in the requirement.

(10) Existing law requires the prevailing party to be awarded litigation costs in any court action brought to enforce the California Safe Drinking Water Act.

This bill would instead make that requirement applicable to any civil court action brought to enforce the California Safe Drinking Water Act.



(11) This bill would enact the Safe Drinking Water State Revolving Fund Law of 1997 and would authorize the department to administer the Safe Drinking Water State Revolving Fund, which would be established in the State Treasury and continuously appropriated to the department to provide, from moneys available for this purpose, grants or revolving fund loans for the design and construction of projects, as defined, for public water systems, as defined, that will enable suppliers, as defined, to meet safe drinking water standards, as defined. The bill would authorize the department to enter into an agreement with the federal government for federal contributions into the fund if the state has obtained or appropriated any required state matching funds and the department is prepared to commit to expenditure of any federal minimum amount in the fund. The bill would require federal funds deposited in the special accounts to be continuously appropriated to the department. The bill would require the department to submit a report at least once every 2 years to the policy and budget committees of the Legislature on the implementation of this law and expenditures from the fund.

The bill would authorize the department to adopt emergency regulations. The bill would require the department to establish criteria for projects to be eligible for funding. The bill would require the department to establish planning and preliminary engineering studies, project design, and construction costs eligible for funding. The bill would authorize the department to enter into contracts with applicants for grants for loans, under certain terms and conditions. The bill would govern use of moneys in the fund and would authorize the department to establish interest rates for loans from the fund. The bill would require the department, contingent upon receiving federal capitalization grant funds and in coordination with certain local, state, and federal agencies, to develop and implement a designated program to protect sources of drinking water. The bill would require the department to submit a report to the Legislature every 2 years on these activities.

(12) Existing law regulates the use and sale of solder containing more than certain amounts of lead and the use of lead pipe.

This bill would delete that provision. The bill would prohibit any person from using any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free, as defined, in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption, except as prescribed. The bill would prohibit introduction into commerce of any pipe, pipe or plumbing fitting, or fixture that is not lead free, except as prescribed. The bill would prohibit any person engaged in the business of selling plumbing supplies, except manufacturers, from selling solder or flux that is not lead free. The bill would prohibit any person from introducing into commerce any solder or flux that is not lead free,



except as prescribed. The bill would require the department to adopt building standards to implement those provisions.

(13) Under existing law, the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and each California regional water quality control board, as defined, have primary responsibility for the coordination and control of water quality.

The bill would authorize the board to develop and implement a groundwater protection program as provided under the federal Safe Drinking Water Act and any federal acts that amend or supplement that act. The bill would also provide that these provisions are not intended to expand the authority of the board as authorized under the Porter-Cologne Water Quality Control Act.

(14) The bill would make other technical changes.

(15) The 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 116275 of the Health and Safety Code is amended to read:

116275. As used in this chapter:

(a) “Contaminant” means any physical, chemical, biological, or radiological substance or matter in water.

(b) “Department” means the State Department of Health Services.

(c) “Primary drinking water standards” means:

(1) Maximum levels of contaminants that, in the judgment of the department, may have an adverse effect on the health of persons.

(2) Specific treatment techniques adopted by the department in lieu of maximum contaminant levels pursuant to subdivision (j) of Section 116365.

(3) The monitoring and reporting requirements as specified in regulations adopted by the department that pertain to maximum contaminant levels.

(d) “Secondary drinking water standards” means standards that specify maximum contaminant levels that, in the judgment of the department, are necessary to protect the public welfare. Secondary drinking water standards may apply to any contaminant in drinking water that may adversely affect the odor or appearance of the water and may cause a substantial number of persons served by the public water system to discontinue its use, or that may otherwise adversely affect the public welfare. Regulations establishing secondary drinking water standards may vary according to geographic and other circumstances and may apply to any contaminant in drinking water that adversely affects the taste, odor, or appearance of the



water when the standards are necessary to assure a supply of pure, wholesome, and potable water.

(e) “Human consumption” means the use of water for drinking, bathing or showering, hand washing, or oral hygiene.

(f) “Maximum contaminant level” means the maximum permissible level of a contaminant in water.

(g) “Person” means an individual, corporation, company, association, partnership, limited liability company, municipality, public utility, or other public body or institution.

(h) “Public water system” means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. A public water system includes the following:

(1) Any collection, treatment, storage, and distribution facilities under control of the operator of the system which are used primarily in connection with the system.

(2) Any collection or pretreatment storage facilities not under the control of the operator that are used primarily in connection with the system.

(3) Any water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption.

(i) “Community water system” means a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents of the area served by the system.

(j) “Noncommunity water system” means a public water system that is not a community water system.

(k) “Nontransient noncommunity water system” means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year.

(l) “Local health officer” means a local health officer appointed pursuant to Section 101000 or a local comprehensive health agency designated by the board of supervisors pursuant to Section 101275 to carry out the drinking water program.

(m) “Significant rise in the bacterial count of water” means a rise in the bacterial count of water that the department determines, by regulation, represents an immediate danger to the health of water users.

(n) “State small water system” means a system for the provision of piped water to the public for human consumption that serves at least five, but not more than 14, service connections and does not regularly serve drinking water to more than an average of 25 individuals daily for more than 60 days out of the year.



(o) “Transient noncommunity water system” means a noncommunity water system that does not regularly serve at least 25 of the same persons over six months per year.

(p) “User” means any person using water for domestic purposes. User does not include any person processing, selling, or serving water or operating a public water system.

(q) “Waterworks standards” means regulations adopted by the department that take cognizance of the latest available “Standards of Minimum Requirements for Safe Practice in the Production and Delivery of Water for Domestic Use” adopted by the California section of the American Water Works Association.

(r) “Local primacy agency” means any local health officer that has applied for and received primacy delegation from the department pursuant to Section 116330.

(s) “Service connection” means the point of connection between the customer’s piping or constructed conveyance, and the water system’s meter, service pipe, or constructed conveyance. A connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection in determining if the system is a public water system if any of the following apply:

(1) The water is used exclusively for purposes other than residential uses, consisting of drinking, bathing, and cooking or other similar uses.

(2) The department determines that alternative water to achieve the equivalent level of public health protection provided by the applicable primary drinking water regulation is provided for residential or similar uses for drinking and cooking.

(3) The department determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a passthrough entity, or the user to achieve the equivalent level of protection provided by the applicable primary drinking water regulations.

(t) “Resident” means a person who physically occupies, whether by ownership, rental, lease or other means, the same dwelling for at least 60 days of the year.

SEC. 2. Section 116285 of the Health and Safety Code is amended to read:

116285. Before August 6, 1998, this chapter shall not apply to an irrigation canal system if the owner or operator of the system certifies to the department, and notifies each user, in writing, that the water is untreated and is being furnished or supplied solely for agricultural purposes to either of the following:

(a) A user where the user receives the water, by pipe or otherwise, directly from the irrigation canal system.



(b) A person who owns or operates an integrated pipe system where the person receives the water, by pipe or otherwise, directly from the irrigation canal system.

“Irrigation canal system,” as used in this section, means a system of water conveyance facilities, including pipes, tunnels, canals, conduits, pumping plants and related facilities operated to furnish or supply water for agricultural purposes where a substantial portion of the facilities is open to the atmosphere.

SEC. 3. Section 116286 is added to the Health and Safety Code, to read:

116286. (a) A water district, as defined in subdivision (b), in existence prior to May 18, 1994, that provides primarily agricultural services through a piped water system with only incidental residential or similar uses shall not be considered to be a public water system if the department determines that either of the following applies:

(1) The system or the residential or similar users of the system certify to the system that they are providing alternative water for residential or similar uses for drinking water and cooking to achieve the equivalent level of public health protection provided by the applicable primary drinking water regulations.

(2) The water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a passthrough entity, or the user to achieve the equivalent level of protection provided by the applicable primary drinking water regulations.

(b) For purposes of this section, “water district” means any district or other political subdivision, other than a city or county, a primary function of which is irrigation, reclamation, or drainage of land.

SEC. 4. Section 116287 is added to the Health and Safety Code, to read:

116287. (a) The department, in implementing subdivision (s) of Section 116275 and Section 116286, shall place requirements on affected public water systems and water districts that are consistent with this chapter and the guidelines established by the United States Environmental Protection Agency for implementing comparable provisions of the federal Safe Drinking Water Act of 1996.

(b) The department, in making the determinations specified in paragraphs (2) and (3) of subdivision (s) of Section 116275 and subdivisions (a) and (b) of Section 116286, shall utilize criteria that are consistent with this chapter and those used by the United States Environmental Protection Agency in administering the comparable provisions of the federal Safe Drinking Water Act.

(c) The department shall periodically monitor and review the conditions under which a public water system, or a water district as defined in subdivision (b) of Section 116286, has met the



requirements of this chapter pursuant to subdivision (s) of Section 116275 or Section 116286, or pursuant to the federal act, to ensure that the conditions continue to be met.

(d) The department may prescribe reasonable, feasible, and cost-effective actions to be taken by a public water system, water district, as defined in subdivision (b) of Section 116286, or users subject to subdivision (s) of Section 126275 or Section 116286 to ensure that alternative water or treated water provided by the water systems, water districts, or users pursuant to Section 116275 or 116286 will not be injurious to health.

SEC. 5. Section 116290 of the Health and Safety Code is amended to read:

116290. Before August 6, 1998, in areas where the water service rendered by a person is primarily agricultural, and domestic service is only incidental thereto, this chapter shall not apply except in specific areas in which the department has found its application to be necessary for the protection of the public health and has given written notice thereof to the person furnishing or supplying water in the area.

The department may prescribe reasonable and feasible action to be taken by those persons or the users to insure that their domestic water will not be injurious to health.

SEC. 6. Section 116300 of the Health and Safety Code is amended and renumbered to read:

116270. The Legislature finds and declares all of the following:

(a) Every citizen of California has the right to pure and safe drinking water.

(b) Feasible and affordable technologies are available and shall be used to remove toxic contaminants from public water supplies.

(c) According to the State Department of Health Services, over 95 percent of all large public water systems in California are in compliance with health-based action levels established by the department for various contaminants.

(d) It is the policy of the state to reduce to the lowest level feasible all concentrations of toxic chemicals that when present in drinking water may cause cancer, birth defects, and other chronic diseases.

(e) This chapter is intended to ensure that the water delivered by public water systems of this state shall at all times be pure, wholesome, and potable. This chapter provides the means to accomplish this objective.

(f) It is the intent of the Legislature to improve laws governing drinking water quality, to improve upon the minimum requirements of the federal Safe Drinking Water Act Amendments of 1996, to establish primary drinking water standards that are at least as stringent as those established under the federal Safe Drinking Water Act, and to establish a program under this chapter that is more protective of public health than the minimum federal requirements.



(g) It is the further intent of the Legislature to establish a drinking water regulatory program within the State Department of Health Services in order to provide for the orderly and efficient delivery of safe drinking water within the state and to give the establishment of drinking water standards and public health goals greater emphasis and visibility within the state department.

SEC. 7. Section 116325 of the Health and Safety Code is amended to read:

116325. The department shall be responsible for ensuring that all public water systems are operated in compliance with this chapter and any regulations adopted hereunder. The department shall directly enforce this chapter for all public water systems except as set forth in Section 116500.

SEC. 8. Section 116390 of the Health and Safety Code is amended to read:

116390. (a) No laboratory, other than a laboratory operated by the department, shall perform tests required pursuant to this chapter for any public water system without first obtaining a certificate issued by the department pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101.

(b) No person or public entity of the state shall contract with a laboratory for environmental analyses for which the state department requires certification pursuant to this section, unless the laboratory holds a valid certificate.

SEC. 9. Section 116425 of the Health and Safety Code is amended to read:

116425. (a) The department may exempt any public water system from any maximum contaminant level or treatment technique requirement if it finds all the following:

(1) The public water system was in operation, or had applied for a permit to operate, on the effective date of the maximum contaminant level or treatment technique requirement.

(2) Due to compelling factors, which may include either of the following factors, the public water system is unable to comply with the maximum contaminant level or treatment technique requirement or to implement measures to develop an alternative water supply:

(A) Economic factors.

(B) The entire service area of the public water system consists of a disadvantaged community, as defined under Section 1452(d) of the federal Safe Drinking Water Act (42 U.S.C. Sec. 300g-5), and meets the affordability criteria established by the department, after review and public hearing.

(3) The granting of the exemption will not result in an unreasonable risk to health.

(4) Management or restructuring changes, or both, cannot reasonably be made that will result in compliance with this chapter



or, if compliance cannot be achieved, improve the quality of the drinking water.

(b) If the department grants a public water system an exemption for a primary drinking water standard under subdivision (a), the department shall prescribe, at the time an exemption is granted, a schedule for both of the following:

(1) Compliance by the public water system with each contaminant level or treatment technique requirement for which the exemption was granted.

(2) Implementation by the public water system of interim control measures the department may require for each contaminant or treatment technique requirement for which the exemption was granted.

(c) Any schedule prescribed by the department pursuant to this section shall require compliance by the public water system with each contaminant level or treatment technique requirement for which the exemption was granted within 12 months from the granting of the exemption.

(d) The final date for compliance with any schedule issued pursuant to this section may be extended by the department for a period not to exceed three years from the date of the granting of the exemption if the department finds all of the following:

(1) The system cannot meet the standard without capital improvements that cannot be completed prior to the date established pursuant to Section 1412(b)(1) of the federal Safe Drinking Water Act (42 U.S.C. 300g-(b)(1)).

(2) In the case of a system that needs financial assistance for the necessary improvements, the system has entered into an agreement to obtain the financial assistance or the system has entered into an enforceable agreement to become part of a regional public water system.

(3) The system is taking all practicable steps to meet the standard.

(e) In the case of a system that does not serve more than a population of 3,300 and that needs financial assistance for the necessary improvements, an exemption granted pursuant to paragraph (2) of subdivision (d) shall not exceed a total of six years.

(f) Prior to the granting of an exemption pursuant to this section, the department shall provide notice and an opportunity for a public hearing. Notice of any public hearing held pursuant to this section shall be given by the department in writing to the public water system seeking the exemption and to the public as provided in Section 6061 of the Government Code. A public hearing provided pursuant to this subdivision is not an adjudicative hearing and is not required to comply with Section 100171.

(g) A public water system may not receive an exemption under this section if the system is granted a variance pursuant to Section 116430.



(h) Unless the department has already granted an exemption pursuant to subdivision (a), the department may exempt a public water system from compliance with a maximum containment level or treatment technique requirement for up to two years if the department finds, and continues to find, that a plan submitted by the water system may reasonably be expected to bring the water system into compliance by any of the following means:

(1) The physical consolidation of the system with one or more other systems.

(2) The consolidation of significant management and administrative functions of the system with one or more other systems.

(3) The transfer of ownership of the system.

SEC. 10. Section 116540 of the Health and Safety Code is amended to read:

116540. Following completion of the investigation and satisfaction of the requirements of subdivisions (a) and (b), the department shall issue or deny the permit. The department may impose permit conditions, requirements for system improvements, and time schedules as it deems necessary to assure a reliable and adequate supply of water at all times that is pure, wholesome, potable, and does not endanger the health of consumers.

(a) No public water system that was not in existence on January 1, 1998, shall be granted a permit unless the system demonstrates to the department that the water supplier possesses adequate financial, managerial, and technical capability to assure the delivery of pure, wholesome, and potable drinking water. This section shall also apply to any change of ownership of a public water system that occurs after January 1, 1998.

(b) No permit under this chapter shall be issued to an association organized under Title 3 (commencing with Section 20000) of Division 3 of the Corporations Code. This section shall not apply to unincorporated associations that as of December 31, 1990, are holders of a permit issued under this chapter.

SEC. 11. Section 116565 of the Health and Safety Code is amended to read:

116565. (a) Each public water system serving 1,000 or more service connections and any public water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption, shall reimburse the department for actual cost incurred by the department for conducting those activities mandated by this chapter relating to the issuance of domestic water supply permits, inspections, monitoring, surveillance, and water quality evaluation that relate to that specific public water system. The amount of reimbursement shall be sufficient to pay, but in no event shall exceed, the department's actual cost in conducting these activities.



(b) Each public water system serving less than 1,000 service connections shall pay an annual drinking water operating fee to the department as set forth in this subdivision for costs incurred by the department for conducting those activities mandated by this chapter relating to inspections, monitoring, surveillance, and water quality evaluation relating to public water systems. The total amount of fees shall be sufficient to pay, but in no event shall exceed, the department's actual cost in conducting these activities. Notwithstanding adjustment of actual fees collected pursuant to Section 100425 as authorized pursuant to subdivision (d) of Section 106590, the maximum amount that shall be paid annually by a public water system pursuant to this section shall not exceed the following:

Type of public water system	Fee
15– 24 service connections	\$250
25– 99 service connections	\$400
100–499 service connections	\$500
500–999 service connections	\$700
Noncommunity water systems pursuant to paragraph (1) of subdivision (j) of Section 116275	\$350
Noncommunity water systems exempted pursuant to Section 116282	\$100

(c) For purposes of determining the fees provided for in subdivision (a), the department shall maintain a record of its actual costs for pursuing the activities specified in subdivision (a) relative to each system required to pay the fees. The fee charged each system shall reflect the department's actual cost, or in the case of a local primacy agency the local primacy agency's actual cost, of conducting the specified activities.

(d) The department shall submit an invoice for cost reimbursement for the activities specified in subdivision (a) to the public water systems no more than twice a year.

(1) The department shall submit one estimated cost invoice to public water systems serving 1,000 or more service connections and any public water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption. This invoice shall include the actual hours expended during the first six months of the fiscal year. The hourly cost rate used to determine the amount of the estimated cost invoice shall be the rate for the previous fiscal year.

(2) The department shall submit a final invoice to the public water system prior to October 1 following the fiscal year that the costs were



incurred. The invoice shall indicate the total hours expended during the fiscal year, the reasons for the expenditure, the hourly cost rate of the department for the fiscal year, the estimated cost invoice, and payments received. The amount of the final invoice shall be determined using the total hours expended during the fiscal year and the actual hourly cost rate of the department for the fiscal year. The payment of the estimated invoice, exclusive of late penalty, if any, shall be credited toward the final invoice amount.

(3) Payment of the invoice issued pursuant to paragraphs (1) and (2) shall be made within 90 days of the date of the invoice. Failure to pay the amount of the invoice within 90 days shall result in a 10-percent late penalty that shall be paid in addition to the invoiced amount.

(e) Any public water system under the jurisdiction of a local primacy agency shall pay the fees specified in this section to the local primacy agency in lieu of the department. This section shall not preclude a local health officer from imposing additional fees pursuant to Section 101325.

SEC. 12. Section 116580 of the Health and Safety Code is amended to read:

116580. (a) Each public water system that requests an exemption, plan review, variance, or waiver of any applicable requirement of this chapter or any regulation adopted pursuant to this chapter, shall reimburse the department for actual costs incurred by the department in processing the request.

(b) The department shall submit an invoice to the water system prior to October 1 of the fiscal year following the fiscal year in which the department's decision was rendered with respect to the request for a plan review, exemption, variance, or waiver. The invoice shall indicate the number of hours expended by the department and the department's hourly cost rate. Payment of the fee shall be made within 120 days of the date of the invoice. The department may revoke any approval of a request for an exemption, variance, or waiver for failure to pay the required fees.

(c) Notwithstanding subdivisions (a) and (b), requests for, and reimbursement of actual costs for, an exemption, variance, or waiver for public water systems under the jurisdiction of the local primacy agency shall, instead, be submitted to the local primacy agency pursuant to subdivision (c) of Section 116595.

SEC. 13. Section 116585 of the Health and Safety Code is amended to read:

116585. In any civil court action brought to enforce this chapter, the prevailing party or parties shall be awarded litigation costs, including, but not limited to, salaries, benefits, travel expenses, operating equipment, administrative, overhead, other litigation costs, and attorney's fees, as determined by the court. Litigation costs awarded to the department by the court shall be deposited into the



Safe Drinking Water Account. Litigation costs awarded to a local primacy agency by the court shall be used by that local primacy agency to offset the local primacy agency's litigation costs.

SEC. 14. Section 116650 of the Health and Safety Code is amended to read:

116650. (a) If the department determines that a public water system is in violation of this chapter or any regulation, permit, standard, or order issued or adopted thereunder, the department may issue a citation to the public water system. The citation shall be served upon the public water system personally or by registered mail.

(b) Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the statutory provision, standard, order, or regulation alleged to have been violated.

(c) For continuing violations, the citation shall fix the earliest feasible time for elimination or correction of the condition constituting the violation where appropriate. If the public water system fails to correct a violation within the time specified in the citation, the department may assess a civil penalty as specified in subdivision (e).

(d) For a noncontinuing violation of primary drinking standards, other than turbidity, the department may assess in the citation a civil penalty as specified in subdivision (e).

(e) Citations issued pursuant to this section shall be classified according to the nature of the violation or the failure to comply. The department shall specify the classification in the citation and may assess civil penalties for each classification as follows:

(1) For violation of a primary drinking standard, other than turbidity, an amount not to exceed one thousand dollars (\$1,000) for each day that the violation occurred for noncontinuing violations or for each day that the violation continues beyond the date specified for correction in the citation.

(2) For failure to comply with any citation or order issued for failure of the primary drinking water standard for turbidity or for violation of a secondary drinking water standard that the director determines may have a direct or immediate relationship to the welfare of the users, an amount not to exceed one thousand dollars (\$1,000) for each day that the violation continues beyond the date specified for correction in the citation.

(3) For failure to comply with any citation or order issued for noncompliance with any department regulation or order, other than a primary or secondary drinking water standard, an amount not to exceed two hundred dollars (\$200) per day for each day the violation continues beyond the date specified for correction in the citation.

SEC. 15. Chapter 4.5 (commencing with Section 116760) is added to Part 12 of Division 104 of the Health and Safety Code, to read:



CHAPTER 4.5. SAFE DRINKING WATER STATE REVOLVING FUND LAW
OF 1997

Article 1. Short Title

116760. This chapter shall be known and may be cited as the Safe Drinking Water State Revolving Fund Law of 1997.

Article 2. Legislative Findings of Necessity and Cause for Action

116760.10. The Legislature hereby finds and declares all of the following:

(a) The department has discovered toxic contaminants and new pathogenic organisms, including cryptosporidium, in many of California's public drinking water systems.

(b) Many of the contaminants in California's drinking water supplies are known to cause, or are suspected of causing, cancer, birth defects, and other serious illnesses.

(c) It is unlikely that the contamination problems of small public water systems can be solved without financial assistance from the state.

(d) The protection of the health, safety, and welfare of the people of California requires that the water supplied for domestic purposes be at all times pure, wholesome, and potable. It is in the interest of the people that the state of California provide technical and financial assistance to ensure a safe, dependable, and potable supply of water for domestic purposes and that water is available in adequate quantity at sufficient pressure for health, cleanliness, and other domestic purposes.

(e) It is the intent of the Legislature to provide for the upgrading of existing public water supply systems to ensure that all domestic water supplies meet safe drinking water standards and other requirements established under Chapter 4 (commencing with Section 116270).

(f) (1) The extent of the current risk to public health from contamination in drinking water creates a compelling need to upgrade existing public water systems. The demand for financial assistance to enable public water systems to meet drinking water standards and regulations exceeds funds available from the Safe Drinking Water State Revolving Fund.

(2) A project whose primary purpose is to supply or attract growth shall not be eligible to receive assistance from the Safe Drinking Water State Revolving Fund.

(3) A project whose primary purpose is to enable a public water system to improve public health protection by complying with drinking water standards and regulations and that also includes components to accommodate a reasonable amount of growth over its



useful life shall be eligible for assistance from the Safe Drinking Water State Revolving Fund, but the project shall receive priority based on the component to meet drinking water standards pursuant to Section 116760.70. The department shall expressly consider the effort of the applicant to secure funds other than those available from the Safe Drinking Water State Revolving Fund in establishing the priority listing for funding pursuant to Article 4 (commencing with Section 116760.50).

(4) After projects have been prioritized for funding into priority list categories pursuant to the requirements of Section 116760.70, within each category, projects that do not include a component of growth, shall receive priority for funding over projects that have a component to accommodate a reasonable amount of growth.

(g) The Legislature further finds and declares that regional solutions to water contamination problems are often more effective, efficient, and economical than solutions designed to address solely the problems of a single small public water system, and it is in the interest of the people of the State of California to encourage the consolidation of the management and the facilities of small water systems to enable those systems to better address their water contamination problems.

(h) The protection of drinking water sources is essential to ensuring that the people of California are provided with pure, wholesome, and potable drinking water.

(i) That coordination among local, state, and federal public health and environmental management programs be undertaken to ensure that sources of drinking water are protected while avoiding duplication of effort and reducing program costs.

(j) It is necessary that a source water protection program be implemented for the purposes of delineating, assessing, and protecting drinking water sources throughout the state and that federal funds be utilized pursuant to the federal Safe Drinking Water Act (42 U.S.C. Sec. 300j et seq.) to carry out that program.

(k) It is in the interest of the people of the state to provide funds for a perpetual Safe Drinking Water State Revolving Fund that may be combined with similar federal funding to the extent the funding is authorized pursuant to the federal Safe Drinking Water Act (42 U.S.C. Sec. 300j et seq.).

(l) This chapter shall govern implementation of the Safe Drinking Water State Revolving Fund, and shall be implemented in a manner that is consistent with the federal Safe Drinking Water Act, and, to the extent authorized under the federal act, in a manner that is consistent with the California Safe Drinking Water Act, Chapter 4 (commencing with Section 116275).



Article 3. Safe Drinking Water State Revolving Fund

116760.20. Unless the context otherwise requires, the following definitions govern the construction of this chapter:

(a) “Cost-effective project” means a project that achieves an acceptable result at the most reasonable cost.

(b) “Department” means the State Department of Health Services.

(c) “Federal Safe Drinking Water Act” or “federal act” means the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.) and acts amendatory thereof or supplemental thereto.

(d) “Fund” means the Safe Drinking Water State Revolving Fund created by Section 116760.30.

(e) “Funding” means a loan or grant, or both, awarded under this chapter.

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

(g) “Project” means proposed facilities for the construction, improvement, or rehabilitation of a public water system, and may include all items set forth in Section 116761 as necessary to carry out the purposes of this chapter. It also may include refinancing loans, annexation or consolidation of water systems, source water assessments, source water protection, and other activities specified under the federal act.

(h) “Public agency” means any city, county, city and county, district, or joint powers authority, that owns or operates a public water system.

(i) “Public water system” or “public water supply system” means a system for the provision to the public of water for human consumption, as defined in Chapter 4 (commencing with Section 116270), as it may be amended from time to time.

(j) “Reasonable amount of growth” means an increase in growth not to exceed 10 percent of the design capacity needed, based on peak flow, to serve the water demand in existence at the time plans and specifications for the project are approved by the department, over the 20-year useful life of a project. For projects other than the construction of treatment plants including, but not limited to, storage facilities, pipes, pumps, and similar equipment, where the 10-percent allowable growth cannot be adhered to due to the sizes of equipment or materials available, the project shall be limited to the next available larger size.

(k) “Safe drinking water standards” means those standards established pursuant to Chapter 4 (commencing with Section 116270), as they may now or hereafter be amended.



(l) “Supplier” means any persons, partnership, corporation, association, public agency, or other entity that owns or operates a public water system.

116760.30. (a) There is hereby created in the State Treasury the Safe Drinking Water State Revolving Fund for the purpose of implementing this chapter, and, notwithstanding Section 13340 of the Government Code, the fund is hereby continuously appropriated, without regard to fiscal years, to the department to provide, from moneys available for this purpose, grants or revolving fund loans for the design and construction of projects for public water systems that will enable suppliers to meet safe drinking water standards. The department shall be responsible for administering the fund.

(b) The department shall report at least once every two years to the policy and budget committees of the Legislature on the implementation of this chapter and expenditures from the fund. The report shall describe the numbers and types of projects funded, the reduction in risks to public health from contaminants in drinking water provided through the funding of the projects, and the criteria used by the department to determine funding priorities.

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

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

(b) Accept federal contributions to the fund.

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

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

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

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

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

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

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

(j) Charge public water systems that elect to provide matching funds a fee to cover the actual cost of obtaining the federal funds



pursuant to Section 1452(e) of the federal act (42 U.S.C.A. Sec. 300j-12) and to process the loan application. The fee shall be waived by the department if sufficient funds to cover those costs are available from other sources.

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

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

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

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

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

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

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

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

(n) Determine on behalf of the state whether sufficient progress is being made toward compliance with the enforceable deadlines, goals, and requirements of the federal act and the California Safe Drinking Water Act, Chapter 4 (commencing with Section 116275).

116760.41. Moneys in the fund and the special accounts may be expended for additional purposes provided in the federal act.

116760.42. (a) The department may enter into an agreement with the federal government for federal contributions to the fund only if both of the following apply:

(1) The state has obtained or appropriated any required state matching funds.

(2) The department is prepared to commit to expenditure of any minimum amount in the fund in the manner required by the federal act.

(b) Any agreement between the department and the federal government shall contain those provisions, terms, and conditions required by the federal act, and any implementing federal rules, regulations, guidelines, and policies, including, but not limited to, agreement to the following:



(1) Moneys in the fund shall be expended in an expeditious and timely manner.

(2) All moneys in the fund as a result of federal capitalization grants shall be expended to ensure sufficient progress is being made toward compliance with the enforceable deadlines, goals, and requirements of the federal act, including any applicable compliance deadlines.

(3) Federal funds deposited in the special accounts are continuously appropriated for use by the department as allowed by federal law. Any unexpended funds in the special accounts shall be carried over into subsequent years for use by the department.

116760.43. (a) The department may adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code necessary or convenient to implement this chapter and to meet requirements pursuant to the federal act.

(b) The adoption of any emergency regulations that are filed with the Office of Administrative Law within 18 months of the effective date of this act shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

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

Article 4. Establishment and Utilization of Priority List for Funding

116760.50. The department shall establish criteria that shall be met for projects to be eligible for consideration for funding under this chapter. The criteria shall include all of the following:

(a) All preliminary design work for a defined project that will enable the applicant to supply water that meets safe drinking water standards, including a cost estimate for the project, shall be completed.

(b) A legal entity shall exist that has the authority to enter into contracts and incur debt on behalf of the community to be served and owns the public water system or has the right to operate the public water system under a lease with a term of at least 20 years, unless otherwise authorized by the department. If the proposed project is funded by a loan under this chapter, the department may require the applicant to secure a lease for the full term of the loan if the loan exceeds 20 years.

(c) The applicant shall hold all necessary water rights.

(d) The applicant shall have completed any review required pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code)



and the guidelines adopted pursuant thereto, and have included plans for compliance with that act in its preliminary plans for the project.

(e) The applicant has assembled sufficient financial data to establish its ability to complete the proposed project and to establish the amount of debt financing it can undertake.

116760.60. The department shall notify suppliers that may be eligible for funding pursuant to this chapter of the purposes of this chapter and the regulations established by the department.

116760.70. (a) The department, after public notice and hearing, shall, from time to time, establish a priority list of proposed projects to be considered for funding under this chapter. In doing so, the department shall determine if improvement or rehabilitation of the public water system is necessary to provide pure, wholesome, and potable water in adequate quantity at sufficient pressure for health, cleanliness, and other domestic purposes. The department shall establish criteria for placing public water systems on the priority list for funding which shall include criteria for priority list categories. Priority shall be given to projects that meet all of the following requirements:

(1) Address the most serious risk to human health.

(2) Are necessary to ensure compliance with requirements of Chapter 4 (commencing with Section 116270) including requirements for filtration.

(3) Assist systems most in need on a per household basis according to affordability criteria.

(b) The department may, in establishing a new priority list, merge those proposed projects from the existing priority list into the new priority list.

(c) In establishing the priority list, the department shall consider the system's implementation of an ongoing source water protection program or wellhead protection program.

(d) In establishing the priority list categories and the priority for funding projects, the department shall carry out the intent of the Legislature pursuant to subdivisions (e) and (f) of Section 116760.10 and do all of the following:

(1) Give priority to upgrade an existing system to meet drinking water standards.

(2) After giving priority pursuant to paragraph (1), consider whether the applicant has sought other funds when providing funding for a project to upgrade an existing system and to accommodate a reasonable amount of growth.

(e) Consideration of an applicant's eligibility for funding shall initially be based on the priority list in effect at the time the application is received and the project's ability to proceed. If a new priority list is established during the time the application is under consideration, but before the applicant receives a letter of



commitment, the department may consider the applicant's eligibility for funding based on either the old or new priority list.

(f) The department may change the ranking of a specific project on the priority lists at any time following the publication of the list if information, that was not available at the time of the publication of the list, is provided that justifies the change in the ranking of the project.

(g) The department shall provide one or more public hearings on the Intended Use Plan, the priority list, and the criteria for placing public water systems on the priority list. The department shall provide notice of the Intended Use Plan, criteria, and priority list not less than 30 days before the public hearing. The Intended Use Plan, criteria, and priority list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The department shall conduct duly noticed public hearings and workshops around the state to encourage the involvement and active input of public and affected parties, including, but not limited to, water utilities, local government, public interest, environmental, and consumer groups, public health groups, land conservation interests, health care providers, groups representing vulnerable populations, groups representing business and agricultural interests, and members of the general public, in the development and periodic updating of the Intended Use Plan and the priority list.

(h) The requirements of this section do not constitute an adjudicatory proceeding as defined in Section 11405.20 of the Government Code and Section 11410.10 of the Government Code is not applicable.

116760.79. Applications for funding under this chapter shall be made in the form and with the supporting material prescribed by the department.

116760.80. (a) The department shall determine, based on applications received, whether a particular applicant meets the criteria to be eligible for consideration.

(b) If the applicant does not meet the criteria, it may be considered for planning and preliminary engineering study funding. Applicants successfully completing a study are eligible for consideration for project design and construction funding after their study is completed and they have met the criteria to be eligible for consideration for project design and construction funding.

116760.90. (a) The department shall not approve an application for funding unless the department determines that the proposed study or project is necessary to enable the applicant to meet safe drinking water standards, and is consistent with an adopted countywide plan, if any. The department may refuse to fund a study or project if it determines that the purposes of this chapter may more economically and efficiently be met by means other than the



proposed study or project. The department shall not approve an application for funding a project with a primary purpose to supply or attract future growth. The department may limit funding to costs necessary to enable suppliers to meet primary drinking water standards, as defined in Chapter 4 (commencing with Section 116270).

(b) With respect to applications for funding of project design and construction, the department shall also determine all of the following:

(1) Upon completion of the project, the applicant will be able to supply water that meets safe drinking water standards.

(2) The project is cost-effective.

(3) If the entire project is not to be funded under this chapter, the department shall specify which costs are eligible for funding.

Article 5. Project Eligibility, Funding, and Contracts

116761. Planning and preliminary engineering studies, project design, and construction costs eligible for funding under this chapter shall be established by the department and may include any of the following:

(a) Reasonable costs for the construction, improvement, or rehabilitation of facilities of the public water system, which may include water supply, treatment works, and all or part of a water distribution system, if necessary to carry out the purposes of this chapter.

(b) Reasonable costs associated with the consolidation of water systems, including, but not limited to, reasonable facility fees, connection fees, or similar charges.

(c) Reasonable costs of purchasing water systems, water rights, or watershed lands.

(d) Operation and maintenance costs only to the extent they are used in the startup and testing of the completed project. All other operation and maintenance costs shall be the responsibility of the supplier and shall not be considered as part of the project costs.

(e) Reasonable costs of establishing eligibility for funding under this chapter that were incurred before the department entered into a commitment to fund the project under this chapter.

(f) The acquisition of real property or interests therein only if the acquisition is integral to a project, and as otherwise limited in the federal act.

116761.20. (a) Planning and preliminary engineering studies, project design, and construction costs may be funded under this chapter by loans, or, in the case of public agencies, by grants or a combination of grants and loans.

(b) The department shall determine what portion of the full costs the public agency is capable of repaying and authorize funding in the



form of a loan for that amount. The department shall authorize a grant only to the extent the department finds the public agency is unable to repay the full costs of a loan.

(c) At the request of the department, the Public Utilities Commission shall submit comments concerning the ability of suppliers, subject to its jurisdiction, to finance the project from other sources and to repay the loan.

116761.21. Not more than 30 percent and not less than 15 percent, provided that there are projects eligible for funding as prescribed in Section 116760.70, of the total amount deposited in the fund may be expended for grants. This amount shall be limited to disadvantaged communities specified in Section 1452(d) of the federal act (42 U.S.C.A. Sec. 300j-12).

116761.22. Loans for project design and construction shall be repaid over a term not longer than the useful life of the project constructed or 20 years, whichever is shorter, except as provided in the federal act.

116761.23. (a) The maximum amount of a grant permitted under this chapter for the planning and preliminary engineering studies, design, and construction of a single project is one million dollars (\$1,000,000).

(b) Total funding under this article for planning and preliminary engineering studies, project design, and construction costs of a single project, whether in the form of a loan or a grant, or both, shall be determined by an assessment of affordability using criteria established by the department.

116761.24. Not less than 15 percent of the total amount deposited in the fund shall be expended for providing loans and grants to public water systems that regularly serve fewer than 10,000 persons to the extent those funds can be obligated for eligible projects.

116761.40. The failure or inability of any public water system to receive funds under this chapter or any other loan or grant program or any delay in obtaining the funds shall not alter the obligation of the system to comply in a timely manner with all applicable drinking water standards and requirements of the California Safe Drinking Water Act or the federal act.

Article 6. Contracts for Project Funding

116761.50. (a) The department may enter into contracts with applicants for grants or loans for the purposes set forth in this chapter. Any contract entered into pursuant to this section shall include only terms and conditions consistent with this chapter and the regulations established under this chapter.

(b) The contract shall include all of the following terms and conditions that are applicable:

- (1) An estimate of the reasonable cost of the project or study.



(2) An agreement by the department to loan or grant, or loan and grant, the applicant an amount that equals the portion of the costs found by the department to be eligible for a state loan or grant. The agreement may provide for disbursement of funds during the progress of the study or construction, or following completion of the study or construction, as agreed by the parties.

(3) An agreement by the applicant to proceed expeditiously with the project or study.

(4) An agreement by the applicant to commence operations of the project upon completion of the project, and to properly operate and maintain the project in accordance with the applicable provisions of law.

(5) In the case of a loan, an agreement by the applicant to repay the state, over a period not to exceed the useful life of the project or 20 years, whichever is shorter, except as provided in the federal act, or in the case of a study, over a period not to exceed five years, all of the following:

(A) The amount of the loan.

(B) The administrative fee specified in subdivision (a) of Section 116761.70.

(C) Interest on the principal, which is the amount of the loan plus the administrative fee.

(6) In the case of a grant, an agreement by the public agency to operate and maintain the water system for a period of 20 years, unless otherwise authorized by the department.

(c) The contract may include any of the following terms and conditions:

(1) An agreement by the supplier to adopt a fee structure that provides for the proper maintenance and operations of the project and includes a sinking fund for repair and replacement of the facilities in cases where appropriate. The fee structure shall also provide an acceptable dedicated source of revenue for the repayment of the amount of the loan, and the payment of administrative fees and interest.

(2) If the entire project is not funded pursuant to this chapter, the department may include a provision requiring the applicant to share the cost of the project or obtain funding from other sources.

(d) The department may require applicants to provide security for loan contracts.

116761.60. All funding received under this chapter shall be expended by the applicant within three years of the execution of the contract with the department or its designee. The three-year period may be extended, with the approval of the department, until five years after the date the original contract, not including amendments, was executed.



Article 7. Safe Drinking Water State Revolving Fund
Management

116761.62. (a) To the extent permitted by federal and state law, moneys in the fund may be expended to rebate to the federal government all arbitrage profits required by the federal Tax Reform Act of 1986 (P.L. 99-514) or any amendment thereof or supplement thereto. To the extent that this expenditure of the moneys in the fund is prohibited by federal or state law, any rebates required by federal law shall be paid from the General Fund or other sources, upon appropriation by the Legislature.

(b) Notwithstanding any other provisions of law or regulation, the department may enter into contracts or may procure those services and equipment that may be necessary to ensure prompt and complete compliance with any provisions relating to the fund imposed by either the federal Tax Reform Act of 1986 (P.L. 99-514) or the federal Safe Drinking Water Act.

116761.65. (a) The department shall annually establish the interest rate for loans made pursuant to this chapter at 50 percent of the average interest rate, computed by the true interest cost method, paid by the state on general obligation bonds issued in the prior calendar year. All loans made pursuant to this chapter shall carry the interest rate established for the calendar year in which the funds are committed to the loan, as of the date of the letter of commitment. The interest rate set for each loan shall be applied throughout the repayment period of the loan. Interest on the loan shall not be deferred.

(b) Notwithstanding subdivision (a), if the loan applicant is a public water system that is a disadvantaged community or provides matching funds, the interest rate on the loan shall be zero percent.

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

(b) Charges incurred by the Attorney General in protection of the state's interest in the use of repayment of grant and loan funds under this chapter shall be paid. These charges shall not be paid from funds allocated for administrative purposes, but shall be treated as a program expense not to exceed one-half of 1 percent of the total amount deposited in the fund.

116761.80. (a) The department may expend money repaid to the state pursuant to any contract executed under Section 116761.50 as necessary for the administration of contracts entered into by the department under this chapter, but those expenditures may not in



any year exceed 1.5 percent of the amount of principal and interest projected to be paid to the state in that year pursuant to this chapter.

(b) Charges incurred by the Attorney General in protecting the state's interest in the use of funds and repayment of funds under this chapter may be paid by the department from these funds, but those charges may not exceed one-half of 1 percent of the amount of principal and interest projected to be paid to the state in that year pursuant to this chapter.

(c) Any of these sums unexpended by the department at the end of any year shall automatically revert to the fund.

116761.85. Except as provided in Section 116761.80, all money repaid to the state pursuant to any contract executed under subdivision (a) of Section 116761.50, including interest payments and all interest earned on or accruing to any moneys in the fund, shall be deposited in the fund and shall be available in perpetuity, for expenditure for the purposes and uses permitted by this chapter and the federal act.

116761.86. To the extent amounts in the fund are not required for current obligation or expenditure, those amounts shall be invested in interest bearing obligations, and the interest earned shall become part of the fund.

Article 8. Source Water Protection Program

116762.60. (a) The department shall, contingent upon receiving federal capitalization grant funds, develop and implement a program to protect sources of drinking water. In carrying out this program, the department shall coordinate with local, state, and federal agencies that have public health and environmental management programs to ensure an effective implementation of the program while avoiding duplication of effort and reducing program costs. The program shall include the following:

(1) A source water assessment program to delineate and assess the drinking water supplies of public drinking water systems pursuant to Section 1453 of the federal act.

(2) A wellhead protection program to protect drinking water wells from contamination pursuant to Section 1428 of the federal act.

(3) Pursuant to Section 1452(k) of the federal act, the department shall set aside federal capitalization grant funds sufficient to carry out paragraphs (1) and (2) of subdivision (a).

(b) The department shall set aside federal capitalization grant funds to provide assistance to water systems pursuant to Section 1452(k) of the federal act for the following source water protection activities, to the extent that those activities are proposed:

(1) To acquire land or a conservation easement if the purpose of the acquisition is to protect the source water of the system from



contamination and to ensure compliance with primary drinking water regulations.

(2) To implement local, voluntary source water protection measures to protect source water in areas delineated pursuant to Section 1453 of the federal act, in order to facilitate compliance with primary drinking water regulations applicable to the water system under Section 1412 of the federal act or otherwise significantly further the health protection objectives of the federal and state acts.

(3) To carry out a voluntary, incentive-based source water quality protection partnership pursuant to Section 1454 of the federal act.

(c) The department shall conduct duly noticed public hearings, public workshops, focus groups, or meetings around the state to encourage the involvement and active input of public and affected parties in the development and periodic updating of the source water protection program adopted pursuant to this article. The notices shall contain basic information about the program in an understandable format and shall notify widely representative groups, including, but not limited to, federal, state, and local governmental agencies, water utilities, public interest, environmental, and consumer groups, public health groups, land conservation groups, health care providers, groups representing vulnerable populations, groups representing business and agricultural interests, and members of the general public. In addition, the department shall convene a technical advisory committee and a citizens' advisory committee made up of those representative groups to provide advice and direction on program development and implementation.

(d) The department shall submit a report to the Legislature every two years on its activities under this section. The report shall contain a description of each program for which funds have been set aside under this section, the effectiveness of each program in carrying out the intent of the federal and state acts, and an accounting of the amount of set aside funds used.

SEC. 16. Section 116875 of the Health and Safety Code is repealed.

SEC. 17. Section 116875 is added to the Health and Safety Code, to read:

116875. (a) No person shall use any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption, except when necessary for the repair of leaded joints of cast iron pipes.

(b) No person shall introduce into commerce any pipe, pipe or plumbing fitting, or fixture, that is not lead free, except for a pipe that is used in manufacturing or industrial processing.

(c) No person engaged in the business of selling plumbing supplies, except manufacturers, shall sell solder or flux that is not lead free.



(d) No person shall introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.

(e) For the purposes of this section, “lead free” means not more than 0.2 percent lead when used with respect to solder and flux and not more than 8 percent when used with respect to pipes and pipe fittings. With respect to plumbing fittings and fixtures, “lead free” means not more than 4 percent by dry weight after August 6, 2002, unless the department has adopted a standard, based on health effects, for the leaching of lead.

SEC. 18. Section 116880 of the Health and Safety Code is amended to read:

116880. The department shall adopt building standards to implement Section 116875. The standards shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and shall be published in the State Building Standards Code located in Title 24 of the California Code of Regulations. The standards shall be enforced by the appropriate state and local building and health officials.

SEC. 19. Section 13169 is added to the Water Code, to read:

13169. (a) The state board is authorized to develop and implement a groundwater protection program as provided under the Safe Drinking Water Act, Section 300 and following of Title 42 of the United States Code, and any federal act that amends or supplements the Safe Drinking Water Act. The authority of the state board under this section includes, but is not limited to, the following:

(1) To apply for and accept state groundwater protection grants from the federal government.

(2) To take any additional action as may be necessary or appropriate to assure that the state’s groundwater protection program complies with any federal regulations issued pursuant to the Safe Drinking Water Act or any federal act that amends or supplements the Safe Drinking Water Act.

(b) Nothing in this section is intended to expand the authority of the state board as authorized under the Porter-Cologne Water Quality Control Act (Div. 7 (commencing with Sec. 13000) Wat. C.).

SEC. 20. 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 revise the law regulating drinking water in the state as soon as possible, and in order that the Safe Drinking Water State Revolving Fund Law of 1997 be available to public water systems, it is necessary that this act take effect immediately.

