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urgency measure

**STATE WATER RESOURCES CONTROL BOARD
OFFICE OF LEGISLATIVE AND PUBLIC AFFAIRS**

**1990 LEGISLATIVE SUMMARY
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ADMINISTRATION

Enacted

None

Vetoed

None

Failed Passage

AB 13 (Katz) General Obligation bonds: debt service limitation -
Would have prohibited the Treasurer from selling general obligation bonds in any amount which would require the payment of principal and interest on all outstanding bonds to exceed 5 percent of the General Fund expenditures for the preceding fiscal year.

AB 3222 (Isenberg) Public water systems: water control board fees -
Would have created a California Water Resources Control Fund, to receive all fees paid to the State Water Resources Control Board (State Board) and the Regional Water Quality Control Board (Regional Boards); would have imposed a specified fee on all diversions and extractions of water in the State; would have removed the \$10,000 ceiling on annual water quality fees; would have required public water systems with 200 or more connections to pay the Department of Health Services (DHS) an annual fee of \$.50 per connection. An earlier version of this bill, carried by Assemblymember Peace would have required counties with a population of more than 800,000 to require water meters for all new construction and to require meter retrofitting of all residential and commercial units by January 2000.

AB 4242 (W. Brown) Regional government - Would have created seven Regional Development and Infrastructure Agencies (Agencies), one for each of seven defined regions of the State (San Francisco Bay Region, San Diego Region, Los Angeles Region, South Central Coast Region, North Central Coast Region, Sacramento Valley Region, and Central Valley Region). The Agencies would have superseded a variety of existing regional agencies, including the Regional Boards.

ACA 1 (McClintock) State-mandated local programs - Would have authorized the Commission on State Mandates to suspend the duty of local governments to carry out State-mandated programs if the Commis-

sion finds that the State had not provided sufficient funding to local governments for those programs.

SB 2639 (Hart) Water quality control: regional boards - Would have restructured the Regional Boards by reducing membership from 9 to 7 and redrafting qualifications for appointment to a Regional Board.

AGRICULTURAL DRAINAGE

Enacted

AB 3279 (Costa) - Agricultural drainage loan program (Chapter 927, Statutes of 1990) - The State Board sponsored this bill. It authorizes the State Board to make a loan to the Panoche Drainage District, totaling \$600,000, to construct conveyance facilities to bypass agricultural drainage flows around the Grassland wetlands. Another \$19,008,000 is awarded to the Orange County Water District for constructing a ground water treatment plant for removing nitrates and pesticides from ground water. The City of Fresno also receives a \$4,008,000 loan to construct a treatment facility to remove the pesticide DBCP from local ground water supplies.

Vetoed

None

Failed Passage

AB 523 (Seastrand) San Joaquin Valley agricultural drain - Would have prohibited discharge of San Joaquin Valley agricultural drains to Morro Bay, Pacific Ocean between Monterey and Morro Bays, and associated tributary streams; would have sunset January 1, 1996.

OCEANS AND BAYS

Enacted

ACR 118 (Seastrand) Costal resources planning and management: Morro Bay (Resolution Chapter 58, Statutes of 1990) - Declares the Legisla-

ture's intent that a long term management plan be developed for Morro Bay and expresses the Legislature's support for the nomination of Morro Bay as a National Estuary under Clean Water Act Section 320.

AJR 43 (Lempert) Dredged material: ocean disposal (Resolution Chapter 30, Statutes of 1990) - Requests Congress and the President to direct the U. S. Corps of Engineers and the Environmental Protection Agency to determine the safety of dredged material to fisheries on the continental shelf, to select disposal sites off the continental shelf, and to cooperate fully with State agencies responsible for management of coastal waters in establishing safe sites for disposal of dredged material.

SB 1845 (Torres) Water quality: bay, estuary and ocean discharge fees (Chapter 1294, Statutes of 1990) - Requires the State Board to establish a schedule of fees to be assessed annually on all point and nonpoint dischargers to enclosed bays, estuaries, or the ocean; requires these fees to create incentives to reduce discharges to receiving waters and to be based on the discharger's relative threat to water quality; requires the State Board to set fees at an amount sufficient to fund the Bay Protection and Toxic Cleanup Program (Program); establishes a maximum total fee revenue of \$4 million per year, and a maximum per-discharger fee of \$30,000 per year; requires the State Board to report to the Legislature, by January 1, 1993 on its progress in implementing the Program and on the adequacy of fees (both in terms of the annual maximum revenue of \$4 million and the annual maximum fee of \$30,000); establishes these fees to be in addition to the annual fees the State Board collects (under Water Code Section 13260) to cover the costs of its ongoing water quality program; requires the fee revenue to be deposited in a new special fund, the Bay Protection and Toxic Cleanup Fund, which will be available for expenditures by the State Board upon appropriation by the Legislature; makes failure to pay a fee, when requested, a misdemeanor and makes non-payers subject to administrative civil liabilities; sunsets on January 1, 1994; authorizes use of the \$5 million appropriation from SB 475 (1989, Torres; Chapter 269, Statutes of 1989) to cover the costs of implementing the mandated fee system.

Vetoed

AB 478 (Bates) Water quality: coastal bays - Would have required the Regional Boards located along the coast to conduct unannounced inspections, at specified intervals, of NPDES waste discharges to specified bays; would have required the State Board to establish a schedule of fees to be paid by the dischargers to cover the costs of the mandated

inspections; would have created a new account in the General Fund to receive fees paid by these dischargers.

In vetoing AB 478, the Governor noted that Regional Boards already have adequate authority to conduct unannounced inspections of dischargers and that a mandated frequency of inspections would inappropriately interfere with the discretion and flexibility of the Regional Boards to direct their enforcement and compliance efforts.

AB 3748 (Sher) San Francisco Bay Conservation and Development: dredging - Would have required the San Francisco Bay Conservation and Development Commission (BCDC) to conduct studies on the effects of dredging in San Francisco Bay and to designate suitable sites for disposal of dredged material; would have authorized BCDC to enter into a memorandum of understanding with the U.S. Corps of Engineers and the EPA to integrate State dredging regulation programs with Federal programs.

In vetoing AB 3748, the Governor indicated that the studies required by the bill would unnecessarily duplicate current work by the Corps of Engineers on a long term management strategy for San Francisco Bay and that the Corps is the appropriate lead agency for development of this strategy.

Failed Passage

AB 1000 (Hayden) Water quality: ocean resources - Would have required the State Board to adopt a nonpoint source and stormwater management plan; to update the 1974 Water Quality Control Policy for Enclosed Bays and Estuaries (Policy) to include numerical water quality and sediment quality standards; and to coordinate State and local monitoring programs for bays and estuaries. Would have required the DHS to prepare a comprehensive plan for health risk assessments for marine pollution.

AJR 22 (Farr) Ocean boundaries: United States, coastal states - Would have asked Congress and the President to statutorily extend the ocean boundary of coastal states from 3 to 12 geographical miles offshore.

SB 1500 (Hart) Coastal resources: ocean, estuaries, and wetlands - Would have required the State Board to review the 1974 Water Quality Control Policy for Enclosed Bays and Estuaries to include numerical water quality and sediment quality standards; to submit a cleanup plan

for toxic hot spots to the Legislature by January 1, 1993; to amend NPDES permits in accordance with those standards; and, by January 1, 2000 to revoke all waivers from the Clean Water Act's secondary treatment requirement. Would have required NPDES dischargers to perform biomonitoring. Would have authorized publicly owned treatment works to impose fees to recover costs incurred to meet the bill's requirements on removal of toxic chemicals from sewage. Would have authorized citizen suits to enforce its provisions.

OIL SPILLS

Enacted

****SB 2040 (Keene) Oil spills (Chapter 1248, Statutes of 1990) - Formally establishes an oil spill response organization in the Department of Fish and Game (DFG), led by a Governor-appointed administrator for oil spill response; gives that organization regulatory and enforcement powers; provides that organization with funding through per-barrel assessments on oil moving through California ports; uses the same funding source to cover costs of oil spill response and cleanup and to pay for damages caused by oil spills. Of specific interest to the State and Regional Boards, this bill formally establishes the State Interagency Oil Spill Committee (SIOSC) and a subcommittee of SIOSC (the "Review Committee"), with the State Board as a member of each, charged with reviewing and commenting on all oil spill regulations and on amendments to the State oil spill contingency plans; clarifies that the new Oil Spill Response Trust Fund, rather than the State Water Pollution Cleanup and Abatement Account, is the funding source for response to oil spills in marine waters; requires that the amended contingency plan include an expedited decision making process for dispersant use in coastal waters, and mandates that testing programs for dispersant use elevate toxicity and effectiveness of the dispersants; reiterates that the DFG staff (in this case, the oil response administrator) has State authority over use of dispersants and oil spill cleanup agents, subject to regulations adopted by the State Board; directs the oil response administrator to study the use of dispersants, incineration, bioremediation, and other remedial measures for oil spills; requires the Office of Emergency Services (OES) to notify the appropriate Regional Board immediately upon receipt of information about an oil spill in marine waters; requires the Regional Boards to establish an "internal protocol" over communications regarding oil spills and to file that protocol with OES. Effective September 24, 1990.***

Vetoed

None

Failed Passage

AB 2603 (Lempert) Oil spills - Would have formally established a separate spill response organization in the Resources Agency, led by a Governor-appointed director; would have given that organization regulatory and enforcement powers; would have provided that organization with funding through per-barrel assessments on oil moving through California ports; would have used the same funding source to cover costs of oil spills response and cleanup and to pay for damages caused by oil spills.

AB 3941 (Seastrand) Oil spills: Department of Fish and Game - Would have required the DFG to establish a separate office to implement this oil spill law; would have formally established the SIOSC to include the State Board and one representative for the Regional Boards, collectively; would have required the DFG to create harbor safety committees for San Diego, Los Angeles/Long Beach, Port Hueneme, and for San Francisco, San Pablo, Suisun, and Humboldt Bays; would have required persons handling more than 10,000 barrels of oil annually to prepare an oil spill prevention and response contingency plan; and would have established a \$30 million oil spill prevention and response account, to be financed by a fee on each barrel of oil passing through marine terminals in the State.

SB 1482 (Keene) Public resources: oil spills - Would have expanded the State's role in preventing and responding to spills of oil from oil tankers and other ships; would have formalized the role of the DFG as lead State agency for oil spill response; would have mandated reporting of spills and compliance with spill plans by the oil industry; would have expanded the role of the State Lands Commission (Commission) regarding oil spill prevention and response; would have created the Oil Spill Prevention and Response Fund; would have required oil tanker operators and marine terminal operators to obtain proof of financial responsibility; would have established the scope of the Commission authority to include all offshore oil facilities.

PROPOSITION 65

****SB 65 (Kopp) Discharge prohibition (Chapter 407, Statutes of 1990) -***

Subject to voter approval, SB 65 requires public water systems, local and State government agencies and, to the extent permitted by Federal law, Federal agencies to comply with the warning and discharge prohibition requirements of Proposition 65. As approved by the voters in November 1986, existing law currently exempts public agencies under this prohibition. Specifically, SB 65 requires public agencies to warn individuals when they are exposed to listed chemicals and to refrain from releasing listed chemicals into drinking water sources. This measure also holds public agencies liable for the same civil penalties assessed against private entities under Proposition 65. This measure will be placed before the voters on the November 6, 1990 ballot as Proposition 141.

Vetoed

None

Failed Passage

AB 42 (Jones) Warning requirements - This bill would have revised the warning requirement contained in Proposition 65 for chemicals listed by the Governor as causing reproductive toxicity. AB 42 was similar to AB 2714 (Jones) of 1988, which did not pass out of the Assembly.

AB 2123 (Tanner) Scientific Advisory Panel - Would have established a new Office of Science Policy and Risk Assessment within State government. This Office would have replaced the Scientific Advisory Panel created by Proposition 65 for the review of hazardous chemicals. The Office would have also undertaken new responsibilities for conducting and reviewing health risk assessments.

RECLAMATION

Enacted

AB 2217 (Baker) Freeways: landscape irrigation: reclaimed water (Chapter 369, Statutes of 1990) - Addresses use of reclaimed water for landscape irrigation along freeways; expands the geographic scope, to statewide, of the current requirement that Caltrans use drought resistant landscaping; deletes a requirement that Caltrans conduct a demonstration project on the use of reclaimed water for freeway landscape irrigation and on the use of freeway right-of-way for transmission of reclaimed water to other users besides Caltrans itself; requires Caltrans to

permit local public agencies and privately-owned water utilities to place transmission lines for reclaimed water in freeway right-of-way.

AB 2681 (Kelley) Water reclamation office (Chapter 836, Statutes of 1990) - Authorizes the Department of Water Resources (DWR) to assist local agencies and public utilities with their applications for funding and permits for water reclamation projects; requires the DWR to consult and cooperate with the State Board during the application and approval process.

AB 4328 (Baker) Water reclamation: wildlife refuges (Chapter 1646, Statutes of 1990) - Directs the State Board to survey water and sewage reclamation plants to identify which plants would produce water suitable for use in central valley wildlife refuges; requires the study to include information on predicted quantities of reclaimed water available for use in wildlife refuges through the year 2000 and on the quality of water that would be produced; requires a report to the Legislature and Governor by January 1, 1992.

ACR 106 (Kelley) Water reclamation projects study (Resolution Chapter 61, Statutes of 1990) - Requests the State Board to submit a report to the Legislature on reclamation loan processing, to explain current application procedures for reclamation loans and to describe the average processing time for an application from submittal to final action; requests that the report include a description of how the State Board could expedite the loan application process by modifying or eliminating application procedures or approval procedures; requests the report within one year from passage of the resolution.

Vetoed

None

Failed Passage

None

SAN FRANCISCO BAY AND DELTA

Enacted

SCR 55 (Boatwright) Delta water quality (Resolution Chapter 39,

Statutes of 1990 - Urges the State Board and the DHS to study the quality of drinking water from the Delta, with emphasis on trihalomethane precursors contributed by agricultural drainage and salt intrusion; requests submission of a report to the Legislature by June 30, 1991.

SJR 26 (McCorquodale) Bureau of Reclamation sale of water (Resolution Chapter 126, Statutes of 1990) - Requests the Bureau to halt new sales of water from the Central Valley Project and to complete, by January 1, 1994 studies on the need for water to mitigate adverse impacts of the Central Valley Project on fisheries.

Vetoed

SB 372 (C. Green) Water quality control plans - Would have required the State and Regional Boards to include data on total program costs and funding sources in water quality control plans for the San Francisco Bay Delta Estuary.

In vetoing SB 372, the Governor noted that the State Board is already considering economic impacts in its Bay-Delta proceedings and that the marginal benefit from the information required by this bill would not justify the additional cost of developing that information.

Failed Passage

AB 67 (N. Waters) American River: water quality: bonds - Would have enacted a \$200 million general obligation bond act, to be ratified by the voters, to finance the costs of design and development of benefits associated with construction of a multipurpose dam on the American River at Auburn. Would have required first use of water stored by the dam to provide flows in the lower American River for fisheries and recreational purposes; second use would be to provide flows in the Delta for water quality, fish and wildlife, and recreation; and third use would be for other uses under contract.

AB 1433 (Burton) Water quality standards: San Francisco Bay - Would have declared State policy to be that, in any proceeding to establish water quality standards for the Bay and Delta Estuary, the State Board may establish standards specifically for protection of beneficial uses of the Bay.

AB 2210 (Campbell) Bay-Delta Estuary protection - Would have declared State policy to protect and preserve all reasonable and benefi-

cial uses of the Bay and Delta Estuary and its tributaries; would have required the DWR to operate the State Water Project to mitigate any negative impacts on the Bay and Delta Estuary from the project; would have required the DWR, when determining the availability of water for export from the Bay and Delta Estuary, to ensure that the project is operated to protect all reasonable and beneficial uses.

AB 2872 (Costa) Bay-Delta hearings - Would have required the State Board to conduct a study of the direct and indirect economic and financial impacts of alternative actions by the State Board in the Bay-Delta proceeding; would have required the study to address the agricultural economy in the export area, the agricultural economy in other areas of the State, other production sectors directly or indirectly linked to agriculture, consumers of California farm products, and the public sector in the State; would have required the use of "linked models," input-output models, and State/local fiscal models for the study methodology; would have required the study to be conducted as case studies of subregions, and would have required Board actions; would have required the State Board to base the estimates on probable response to changed conditions in water supply and water quality and would have to account for constraints (institutional, economic, and physical) on farmers' production choices; would have required the State Board to consult on the study with a new advisory committee consisting of participants in the Bay-Delta proceeding, interested State and local agencies, and "knowledgeable individuals".

SB 277 (Kopp) Water quality: San Francisco Bay - Would have required the State Board to study factors which affect or appear to affect beneficial uses of the San Francisco Bay; to develop a monitoring program for the Bay; to appoint an advisory committee; and to submit a report to the Legislature. Would have required the San Francisco Bay Regional Board to impose fees on NPDES dischargers to pay for the monitoring program.

SB 405 (Ayala) Water quality standards: State and Federal projects - Would have required the State Board to develop "without project" water quality standards for San Francisco Bay-Delta Estuary; if the State Board determined that higher water quality standards were necessary, would have required upstream depleters to assume responsibility for maintenance of difference in levels and would require the State Board to determine each depleter's responsibility.

SB 614 (Doolittle) Water flows: San Francisco Bay-Delta Estuary

Would have prohibited the State Board from placing new terms or conditions on existing water rights that would require Delta flows greater than those in effect on January 1, 1989; would have sunset in November 1990 if SB 1721 (Ayala) fails passage by the voters.

SB 1712 (Ayala) Auburn dam water quality protection bonds - Would have enacted a \$1.2 billion general obligation bond act, to be ratified by the voters for construction of a multipurpose dam on the American River at Auburn. Would have required first use of water stored by the dam to satisfy State Board requirements for the San Francisco Bay-Delta Estuary; second use would be for water needs of the area immediately surrounding the dam; third use would be for export.

SB 2173 (Kopp) Water quality: San Francisco Bay - Would have directed the DFG to develop and coordinate a research and monitoring program for protection of beneficial uses of San Francisco Bay; would have created two new advisory committees to assist the DFG in this research and monitoring program; would have required the State Board to conduct hearings on the DFG's annual reports on the program; and would have required the State Board to impose fees on dischargers and water right holders to fund the program.

SEWAGE TREATMENT

Enacted

AB 1312 (Filante) Water: state bonds (Chapter 919, Statutes of 1990) - An omnibus general obligation bond act for water resources projects for voter approval in the November, 1990 General Election (Proposition 148). If approved, the bill will authorize sale of \$380 million in general obligation bonds. From that amount, the State Board would receive appropriations of up to \$95 million for water reclamation, \$30 million for water problems along with international border with Mexico, \$20 million for grants to small communities for construction of sewage plants, and \$20 million for loans for treatment of contaminated ground water.

SB 2559 (L. Greene) Housing: high density: mass transit (Chapter 1304, Statutes of 1990) - Requires the State Board to "consider" applications for funding for wastewater treatment facilities when those facilities serve cities and counties that are part of a demonstration program testing the effect of high-density housing near mass transit stations.

Vetoed

None

Failed Passage

SB 961 (Maddy) California and Baja California Enterprise Zone Authority - Would have created the California and Baja California Enterprise Zone Authority, with power to issue revenue bonds and to finance projects, including sewer and wastewater treatment projects.

SB 1054 (Bergeson) Water pollution control: revenue bonds - This bill was sponsored by the State Board. It would have authorized the State Board to issue \$250 million annually in revenue bonds from 1990 through 1999 to finance construction of publicly owned treatment works, to finance projects to control nonpoint sources of pollution, and to finance projects for estuary enhancement.

SB 1332 (Presley) Subregional planning - Would have required the State Board to give preference to local agencies which have participated in subregional planning when selecting wastewater treatment projects for funding.

SB 2688 (Rogers) Sanitation systems: discharge of dissolved solids - Would have limited the authority of local agencies to prohibit or restrict discharge of dissolved solids, and by extension, the use of water softeners; would have allowed local agencies to regulate discharges of dissolved solids, subject to several conditions: (1) that the agency first identify every source (industrial, commercial, or residential) of dissolved solids (salts); (2) that the limitation apply to each source; (3) that that limitation be "in the same proportion" as the contribution from that source; and (4) that any fees for discharging brines shall be proportional to the amount of brine discharged, compared to the total discharges of brines; would have revoked any existing local regulation of discharge of brines, unless that regulation conformed to the bill's requirements.

SOLID WASTE LANDFILLS

Enacted

****AB 1820 (Sher) Solid waste disposal: sludge study (Chapter 145, Statutes of 1990)*** - As a followup to the 1989 solid waste reorganization,

several trailer bills were introduced this year to correct technical problems and address remaining unresolved issues. AB 1820 is one of these trailer bills and makes adjustments to the structure of the Integrated Waste Management Board (IWMB) and the statutory responsibilities of individual board members. Also expands the definition of "solid wastes" to include certain types of inert wastes. Finally, the bill requires the IWMB, in conjunction with the State Board and the DHS, to prepare a study by March 1, 1991 on various issues related to the disposal of sewage sludge. This law became effective on June 19, 1990.

SB 2139 (Davis) Vehicle theft: prevention (Chapter 1670, Statutes of 1990) - Authorizes the DMV to collect fees for vehicle theft prevention program. In earlier amended versions of SB 2139, this measure would have allowed a city directly impacted by the future construction of a solid waste landfill to approve or disapprove the proposed location if one or more active landfills was within the sphere of influence of a city or was within two and one-half miles of the city boundary; and the landfill poses a significant environmental impact on the city.

**AB 2758 (Eastin) Solid waste landfills: cemeteries (Chapter 183, Statutes of 1990)* - Exempts cemetery landfills accepting only grass clippings, floral wastes, or onsite soils from the requirements of the Solid Waste Disposal Site Hazard Reduction Act of 1987. The Act created a coordinated closure and post-closure plan review process in which landfill operators prepare a single closure and post-closure plan for both the State Board and the IWMB. Similar exemptions have been placed into law for mining wastes (Chapter 1319, Statutes of 1987) and nonhazardous wood waste (Chapter 72, Statutes of 1989). This law became effective June 29, 1990.

AB 4032 (Harvey) Solid waste landfills: methane gas (Chapter 688, Statutes of 1990) - Requires the Integrated Waste Management Board to adopt regulations, in consultation with the Air Resources Board (ARB) and the Air Pollution Control Officers Association, governing the monitoring and control of subsurface migration of landfill gases. Owners and operators of solid waste landfills are required to report monitoring data and perform site inventories and evaluations of the facility for the subsurface migration of gases.

**SB 937 (Vuich) Waste management reorganization (Chapter 35, Statutes of 1990)* - A waste management reorganization bill. Several measures from 1989 made amendments to similar sections of law,

causing problems with chaptering out of certain provisions. SB 937 would correct many of these chaptering out problems, as well as correct drafting and technical errors. Those sections of law changed by SB 937 primarily affect the IWMB. This law became effective on March 30, 1990.

SB 2486 (Rogers) Solid waste landfills: small cities (Chapter 1361, Statutes of 1990) - Exempts a solid waste disposal site owned by a small city in Kings County from the requirement to prepare a SWAT report, solid waste air quality assessment, and a closure and postclosure plan. To qualify for the exemption created by SB 2486 the city has to meet the following requirements: have a population less than 20,000 the landfill must receive less than 20,000 tons annually; the nearest aquifer is 250 feet below the landfill; the highest aquifer is not potable; and the site receives less than 12 inches of rainfall annually. If all of the conditions described in SB 2486 are met, the city would be exempted from conducting further assessment tests for seven years, or longer, if specified by the Regional Board. This measure was sponsored by the City of Avenal.

Vetoed

None

Failed Passage

AB 3651 (Eastin) Solid waste landfills: financial responsibility - Would have clarified that the owner or operator of a solid waste landfill is required to certify to the IWMB that a trust fund or equivalent financial arrangement has been made to pay for the closure and postclosure maintenance costs of a facility.

SB 429 (Torres) Waste management reorganization - Would have abolished the Waste Management Board and created a new five-person board for overseeing the disposal of solid wastes in the State.

SB 699 (Ayala) State lands: sludge disposal - Would have authorized use of State lands for disposal of sludge and related materials.

SB 1893 (Ayala) Solid waste landfills: composting - Would have redefined compost, as used by the IWMB, to include wastes separated at a centralized facility and which expressly includes certain organic materials, such as sewage sludge. Also, would have included sewage sludge in the calculation of materials in a waste stream that must be diverted by a local agency.

SB 2910 (Calderon) Solid waste landfills: SWAT program - Would have required each county to conduct a public hearing to obtain public comments on the results of a solid waste assessment test (SWAT) report. Would have prohibited cities which did not complete specified environmental testing or planning requirements from receiving financial aid from the IWMB. Would have allowed local governments to apply for a loan, up to 50 percent, from the IWMB to pay for the costs of preparing a SWAT report. Would have required operators who did submit a SWAT report to the Regional Board by January 1, 1991 to pay for the State Boards costs of implementing the SWAT program.

TOXIC AND HAZARDOUS WASTE

Enacted

AB 109 (Hayden) Medical wastes: disposal regulation (Chapter 1613, Statutes of 1990) - Creates a new program, the Medical Waste Management Act, for the regulation and control of medical wastes. Authorizes local agencies to establish medical waste management programs. The DHS is responsible for designating the official local enforcement agency. The DHS will function as the enforcement agency for offsite treatment facilities and for those local agencies that do not elect to participate in the medical waste management program. Both the DHS and local agencies are authorized to collect specified fees from generators to administer the program. The measure also requires certain small quantity generators of medical waste to take specified steps to manage their medical wastes. This bill is a companion measure to AB 1641.

***AB 563 (Hannigan) Pesticide disposal: farmers (Chapter 1173, Statutes of 1990)** - Upon the approval of the DFA, counties can establish a program for the collection of banned, unregistered, or outdated agricultural hazardous wastes and pesticides. This program will also regulate the transportation of wastes to and from the collection sites. The county collection program is exempt from the hazardous waste fee and permitting requirements of the DHS. This program will sunset on January 1, 1993. This law became effective September 24, 1990.

AB 1641 (Mojonnier) Medical waste: disposal regulation (Chapter 1614, Statutes of 1990) - Creates new controls on the disposal of medical wastes. Requires large medical waste generators to register with local agencies by April 1, 1991 and imposes recordkeeping, treatment, and

storage requirements on these generators, and places specific requirements on the transportation of such wastes. This measure gives local agencies the power to take enforcement actions against medical waste generators. This bill is a companion measure to AB 109.

****AB 2610 (O'Connell) Hazardous waste cleanups: local districts (Chapter 175, Statutes of 1990)*** - Allows a community service district to be established to finance the cleanup of hazardous wastes. Upon 2/3 voter approval, a community services district can be created at the local level and may issue bonds or levy special taxes to finance designated public utility facilities and services. Other examples of community services districts include those which finance fire protection services, recreational programs, libraries, and flood protection. Under AB 2610, a community services district can finance the acquisition, improvement, or maintenance of property for the purposes of cleaning up hazardous wastes. This law became effective on June 26, 1990.

AB 2834 (Quackenbush) Hazardous waste: RCRA consistency (Chapter 1686, Statutes of 1990) - Makes numerous amendments to the hazardous waste laws implemented by the DHS to bring California law into compliance with Federal law. Specifically, AB 2834 makes the DHS hazardous waste regulations applicable whenever hazardous waste is managed; allows all the DHS regulations to be enforced by both the DHS and local governments; allows the DHS to request relevant hazardous waste information from facility operators when needed; alters the variance process for the hazardous waste land treatment law administered by the DHS; modifies the permit requirements for construction of new Class I facilities; and revises the definition of recyclable material in the hazardous waste laws.

****AB 3018 (Tanner) Hazardous waste cleanup: employee safety (Chapter 1188, Statutes of 1990)*** - Requires that a health and safety conference be held for all hazardous substance removal jobs before actual work begins. Those attending would include the site owner or contracting agency, the cleanup contractor, and the employees of the contractor. This bill is intended to assure the safety of workers on hazardous waste removal jobs. AB 3018 also specifies that the Federal occupational safety standards would be used in California until the Cal-OSHA Standards Board adopts standards for the State. This law became effective on September 24, 1990.

****AB 3061 (Tanner) Ground water pollution: San Gabriel Valley (Chapter***

1624, Statutes of 1990) - Requires the DHS to report to the Legislature and the Governor annually, beginning January 1992 on the progress of cleanup and enforcement actions for San Gabriel Valley ground water pollution sites. The bill also reappropriates \$1.1 million from the General Fund (contingency reserve for economic uncertainties) to the DHS for installation of a water treatment system for Valley County Water District in Baldwin Park. This law became effective September 30, 1990.

AB 3193 (Polanco) Hazardous waste liability: redevelopment agencies (Chapter 1113, Statutes of 1990) - Relieves redevelopment agencies from cleanup liability if they cleanup hazardous wastes in a redevelopment project area in accordance with a remedial action plan or cleanup plan approved by the DHS or Regional Board, as appropriate. In addition to the redevelopment agency, specified subsequent purchasers of the property and lenders will be immune from liability under AB 3193. The immunity only extends to a release identified in the cleanup plan but does not apply to any subsequent releases, the cleanup contractor, or anyone who obtained Regional Board or DHS approval through fraud or misrepresentation. A mechanism is set up for redevelopment agencies to conduct cleanup in redevelopment areas, consistent with State and Federal laws, and pursue responsible parties for cost recovery after cleanup is completed. Finally, the State Board and the DHS will submit a report to the Legislature by June 30, 1993 on the actions of redevelopment agencies to cleanup hazardous wastes under this bill.

AB 3676 (Cortese) Hazardous wastes: reporting requirements (Chapter 537, Statutes of 1990) - Shifts the responsibility of collecting various information on hazardous waste sites from the Governor's Office of Planning and Research (OPR) to the Environmental Affairs Agency (EAA). The State Board has been routinely providing information on underground tank leaks, solid waste landfill leaks, and specified enforcement actions to OPR. This law amends an earlier program (Chapter 1048, Statutes of 1986) which requires State agencies to annually submit lists of locations of hazardous waste sites to OPR for consolidation. These master lists are intended to inform developers if toxic pollution is present prior to purchasing or developing property.

ACR 166 (Polanco) Hazardous waste cleanups: military facilities (Resolution Chapter 147, Statutes of 1990) - Requires the DHS to develop environmental cleanup standards and guidelines for use by local governments in facility reuse planning for those California military bases scheduled for closure. The DHS is directed to submit these standards and guidelines to the Governor, Legislature, and Secretary of Defense by

July 31, 1991.

Vetoed

AB 1728 (Katz) Hazardous waste data base - This measure would have implemented the recommendations contained in a report to the Legislature prepared by the EAA in September 1986. Specifically, this bill would have required the EAA, in cooperation with State and local agencies, to conduct the following tasks: identify all Federal, State, and local hazardous material data bases; establish systems and procedures for collecting and storing hazardous material data; explore options for consolidating and streamlining reporting requirements; maintain a data base of general information for use by the public and government agencies; develop a standard system for classifying hazardous materials; and prepare a report to the Legislature by July 1, 1991. This bill would have required government agencies, including the State Board, to make hazardous waste data available to the EAA upon request.

The Governor believed that the bill established a duplicative, burdensome, and unnecessary program by subjecting businesses to new and unwarranted chemical reporting requirements. The Governor was also concerned that the bill would serve as a disincentive to businesses while doing nothing to further improve the quality of the environment.

AB 2982 (Tanner) Hazardous waste cleanups: small businesses - Would have required the State Board and the DHS to jointly conduct a series of public workshops to develop a technical guidance manual containing policies and procedures to be followed by both agencies when overseeing hazardous waste cleanups conducted by small businesses. The State Board and the DHS would have been required to complete the manual by July 1, 1991. Participation in the public workshops by other State agencies and interested small business associations would be encouraged under the provisions of AB 2982. The first workshop would have been set for January 15, 1991.

The Governor was concerned that the bill would result in separate standards for the cleanup of hazardous waste sites owned by small businesses and could give preferential treatment to site owners based solely on the size of their business.

AB 3477 (Peace) Hazardous waste siting: indian lands - Would have made legislative findings that recognize the three-part test specified in the U.S. Supreme Court decision (*Rice v. Rehner*) and would further find that waste disposal facilities on Indian lands are subject to State and

Federal environmental laws. Specifically, if a facility adversely affects, or may adversely affect, the environment or public health outside the boundaries of Indian lands, the DHS could have prohibited disposal at a hazardous waste facility until such time that a permit had been obtained and the facility complied with all applicable State and Federal laws. The IWMB would have been authorized to make a similar determination regarding the disposal of nonhazardous wastes at solid waste facilities. Except for Imperial County and Sonoma Counties, AB 3477 would have exempted counties with populations less than 125,000 from the requirements of this bill.

The Governor was concerned that the bill would conflict with Federal law and was of questionable constitutionality. The Governor believes that the Federal government, through the Bureau of Indian Affairs and the EPA, exercises plenary control over waste disposal on Indian lands.

SB 1804 (Torres) Hazardous waste disposal: incinerator ash - Existing law created a "presumption" that once an initial laboratory test was made, that municipal incinerator ash is nonhazardous and will remain so until significant changes are made in the way an incinerator is operated. SB 1804 would have removed the language that allowed incinerator ash to remain nonhazardous until a facility's operations changed. Absent the codified presumption that ash could remain nonhazardous, incinerator operators and the DHS would have had to undertake more individual assessments of incinerator ash to determine whether the ash is hazardous or nonhazardous.

The Governor believes that the bill imposes unnecessary and inappropriate requirements on existing facilities in an ex post facto manner. The Governor was also concerned that the bill would impose injurious levels of cost on facilities that are already working to comply with required treatments and procedures to render their ash nonhazardous.

SB 1817 (Roberti) Hazardous waste emissions: source reduction - This bill would have enacted the Toxic Air Pollution Prevention Act of 1990 and created a new, comprehensive program for reducing pollutants released to the air. Certain facilities would have been required to prepare pollution prevention audit and plan to be submitted to an air pollution control district for review. Facility owners would have been required to prepare pollution prevention audit and plan to be submitted to an air pollution control district for review. Facility owners would have been required to conduct an audit and prepare a plan every four years. The ARB would have a direct role in implementing this program,

including the adoption of regulations and a fee schedule. SB 1817 was a companion measure to SB 1816, which failed passage.

The Governor noted that the intent of SB 1817 was worthy, but was concerned that businesses that are required to use certain chemicals would have to undertake costly audits and plans, even if the use of those chemicals did not result in the release of toxic air emissions or a public health risk. The Governor believed that this would result in an economic hardship on many California companies, particularly small and medium sized businesses.

Failed Passage

AB 262 (Tanner) Hazardous waste loan program - Would have transferred \$5 million from the California Superfund program to fund a loan program for small businesses to pay for cleanup costs at Superfund sites. The loans would have been available to those businesses that enter into an enforceable agreement with the DHS. The loan could be used to pay for remedial action plans, site investigations, characterization reports, or actual site cleanup. The Department of Commerce would have been responsible for administering the loan program.

AB 937 (Costa) Class I facility compliance - Would have declared that the costs incurred by Fresno County related to implementation of the State Board's Waste Discharge to Land regulations are fully reimbursable by the Commission on State Mandates. The bill would also transfer \$1 million from the DHS' Hazardous Waste Control Account to Fresno County to cover the costs of complying with Subchapter 15. This bill was an attempt to obtain money for Fresno County for the work done at Blue Hills Class I Disposal Facility to comply with State water quality laws.

AB 2229 (Polanco) Hazardous waste cleanup: redevelopment agencies - Would have allowed redevelopment agencies to take any actions necessary for redevelopment purposes to cleanup the hazardous waste site or to prevent any discharge from affecting a project area including entering into a cooperative agreement with a Regional Board or the DHS. If a Regional Board discover pollution on or near a redevelopment area, they would be required to notify the redevelopment agency. The redevelopment agency would then have assumed responsibility for enforcing any waste discharge requirements and cleanup at the site. AB 2229 would also have provided immunity for redevelopment agencies conducting cleanup from third-party liability, resulting from a hazardous waste release or any actions taken to cleanup the site. This immunity would



The Legislative Pro

SENATE

SENATOR
introduces bill

POLICY
COMMITTEE

ASSEMBLY

ASSEMBLY
FLOOR VOTE
roll call vote:
41 votes (normal bill)
54 votes (urgency bill)
(appropriation)

RETURNED TO SENATE:
with amendments | without amendments

Senate concurs
—
Senate refuses concurrence

Conference committee
Senate 3 members
Assembly 3 members

Senate and Assembly at conference report

POST-FLOOR ACTIVITY

Process

NOTE: This chart depicts the flow of a bill originating in the Senate. Except for minor differences the process is similar if originating in the Assembly.

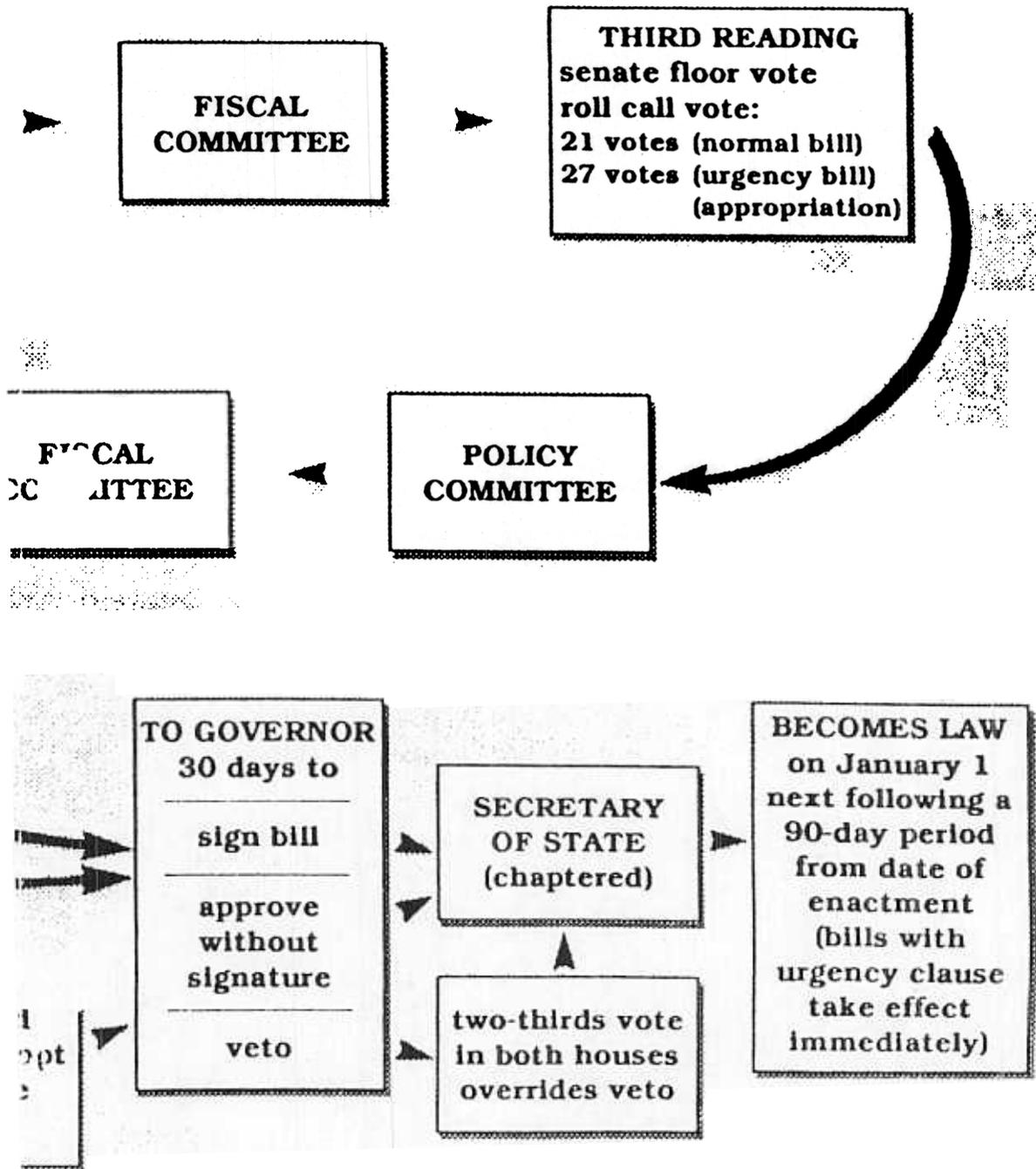


FIGURE A

have extended to individuals who purchase the property and to persons who finance the cost of cleanup. This measure was the predecessor to AB 3193.

AB 2905 (Hughes) Hazardous waste pollution: school construction - Would have required the State Board or DHS, as appropriate, within 90 days of receiving a request from a school district to prepare a remedial action plan for a potential school construction site.

AB 3629 (Wright) Hazardous waste reorganization - Would have shifted several of the hazardous waste regulatory programs currently administered by the DHS and the State Board to the newly formed IWMB. In addition, this bill would have expressly created in statute the Environmental Affairs Agency and would have included the EAA, the ARB, the State Board, and the IWMB. The State Board programs that would be moved to the IWMB included the underground tank program and the above ground tank program.

SB 415 (Torres) Water quality enforcement - Would have made technical modifications to the criminal penalty provisions of the Porter-Cologne Act relating to felony offenses. Would have revised some of the criminal penalties associated with imprisonment by specifying the length of imprisonment in a county jail versus the State prison (up to one year in county jail or three years in State prison). The monetary penalties imposed for criminal violations would not have been changed by SB 415.

SB 517 (Hart) Class I disposal facilities - This bill would have required the DHS to prohibit a Class I disposal facility from operating, if the Regional Board determined that hazardous wastes had migrated, or threaten to migrate, outside the facility boundaries, until the discharger conducted a cleanup operation to remove the threat. The DHS would have determined, after cleanup operations were completed, if the facility would be allowed to reopen for business. If the DHS determined that the facility should not continue to operate, then all hazardous waste activity at the facility would have ceased and the discharger would have been required to proceed with closure of the facility.

SB 1816 (Roberti) Hazardous waste disposal: source reduction - SB 1816 would have created the Toxic Discharge Prevention Act of 1990 and established a source reduction planning process to reduce the generation of pollutants discharged into the waters of the State. Under SB 1816, the State Board would have been responsible for adopting regulations to implement the program; adopt a standard format for the plans by

January 1, 1992; establish a technical and research assistance program to help dischargers reduce toxic water pollutants; and prepare self-conducted audit forms for small businesses. Beginning in 1993 dischargers would have been required to prepare a plan and update the plan every four years, complete with a self-assessment progress report. Each Regional Board would have been asked to identify 20 pollutants that affect water quality in their regions. Anyone having included one of the 20 pollutants in their plan would have been required to submit Plan to the appropriate Regional Board. This bill was a companion measure to SB 1817, which was vetoed by the Governor.

SB 1843 (Torres) Hazardous waste liability: banks - Would have allowed lenders to bring an action (other than foreclosure) against debtors whose property has been polluted by hazardous wastes. By creating an additional remedy to foreclosure, SB 1843 would have allowed banks and financial institutions to obtain civil monetary judgement against the landowner without securing interest in the property. Presently, a lending institution that forecloses on a property assumes ownership of that property, and if hazardous wastes are involved, the lending institution could be held liable for cleanup as the new landowner.

SB 2773 (Torres) Hazardous waste reorganization - SB 2773 would have created a new cabinet-level State agency, the Environmental Protection Agency, to replace the present EAA. Those State agencies that would have been placed under the authority and direction of the EPA include the State and Regional Boards, the ARB, IWMB, and a newly created Toxic Substances Control Department (TSCD). SB 2773 would have essentially increased the powers of the EPA to oversee the various environmental State agencies and in some cases would have shifted individual hazardous waste programs among the affected environmental State agencies. Of particular note, the State Board's role in the underground tank program would have been given to the new TSCD. The State Board's involvement in the underground tank program includes drafting regulations, implementing the local agency oversight program, and providing technical assistance to local agencies.

SCR 112 (Torres) Hazardous waste cleanup: San Gabriel Valley - SCR 112 would have required the State Board and the Los Angeles Regional Board to assume responsibility for the expeditious cleanup of toxic pollution in the Valley. The State and Los Angeles Regional Board would have been further charged with the responsibility to prepare a cleanup plan for the Legislature by March 1, 1991. This plan would have presented a unified management approach to cleanup; proposed a

cleanup budget; encouraged utilization of existing programs and authorities to speed cleanup; proposed measures for aggressive enforcement actions; and proposed alternatives for financing cleanup. By August 1, 1991 the State Board would have been required to submit recommendations to the Legislature to assure that basin water management practices (i.e., extractions) do not adversely affect water quality or interfere with cleanup operations.

UNDERGROUND TANKS

Enacted

AB 2110 (Wright) Hazardous waste: reporting requirements and fees (Chapter 1424, Statutes of 1990) - Makes several changes to the hazardous waste facility fee program administered by the DHS. In earlier amended versions of AB 2110, the measure would establish a small business loan program within the State Board to pay for the costs of underground tank cleanups. The program would give the highest priority for loan funds to those sites polluting drinking water supplies.

***AB 2730 (LaFollette) Underground tank insurance: public hearing (Chapter 1217, Statutes of 1990)** - Requires the Insurance Commissioner, within 45 days after enactment of this measure, to hold a special public hearing on the availability of environmental impairment liability insurance. The Insurance Commissioner is directed to investigate the need for an environmental insurance program which could satisfy the financial responsibility requirements of both State and Federal law. After holding a public hearing, the Insurance Commissioner will report to the Governor and Legislature by July 1, 1991 of any findings or recommendations. This law became effective on September 24, 1990.

AB 3560 (Sher) Underground tank cleanup: oversight (Chapter 1574, Statutes of 1990) - This measure is sponsored by the State Board. Specifically, adds back into law the local agency oversight program that sunset, and was repealed from law, on January 1, 1990. Several changes were made to the original oversight program to allow for its continuation and expansion to other local agencies. AB 3560 allows the State Board to enter into agreements with local agencies to participate in the oversight program. Those local agencies under an agreement receive funding for their reasonable cleanup oversight costs. Tank owners are liable for oversight costs, but their liability is limited to 150 percent of the total amount of site-specific oversight costs. It further limits to \$115 per

hour the site-specific oversight costs for which a local agency may be reimbursed. It also limits the amount of administrative and technical assistance costs for which a Regional or State Board may be reimbursed to \$35 for each hour of site-specific oversight.

**SB 2004 (Keene) Underground tank cleanup: Trust Fund (Chapter 1366, Statutes of 1990) - SB 2004 is a "trailer bill" for SB 299 (Chapter 1442, Statutes of 1989) and corrects several funding and technical problems that were not addressed in 1989. These changes include deleting the \$200/tank fee and substituting a storage fee (\$.006 cent per gallon of petroleum placed into a tank); providing for prepayment of claims; reduces the deductible from \$50,000 to \$10,000; expands the Cleanup Fund to include third-party liability claims; requires the licensing of underground tank installers; and appropriates \$4 million to the Department of Commerce for their loan program.*

Vetoed

None

Failed Passage

AB 975 (LaFollette) Underground tank insurance program - Would have created a fund for providing insurance to owners of petroleum tanks against the expense of cleanup and third-party liability. The State Board, along with other State agencies, would sit on the Board of Directors and be responsible for administering the insurance program. The program would have been funded by a combination of fees and premiums. AB 975 would also have created a loan program to assist petroleum tank owners with the costs of repairing, upgrading, or replacing of tanks to meet State and Federal requirements. This program would have been limited to small businesses demonstrating financial hardship and would have been administered by the State Board. The State Board would have been required by January 1, 1993 to prepare a long term study for the Legislature on the insurance and loan programs.

AB 1244 (LaFollette) Financial responsibility - Would have required tank owners to show evidence of financial responsibility to pay for the costs of cleanup and third-party liability costs caused by a leaking underground tank. The level of financial responsibility required under AB 1244 would have been consistent with Federal regulations.

AB 2291 (Chandler) State mandated costs - Would have deemed a local

agency to have met the State Controller's audit requirements for appropriate expenditure of State funds for implementing the underground tank program, if the local agency demonstrated that it spent more money implementing the underground tank program than it received from the State or from local fees authorized by the underground tank law.

WATER QUALITY

Enacted

AB 1375 (Costa) Local agency: bond debt financing (Chapter 1177, Statutes of 1990) - This measure authorizes cities and counties to secure payment of general obligation bonds through specified methods. Previous versions of AB 1375 contained language relating to water quality bonds. The language relating to local government was amended into AB 1375 at the end of the legislative session and the water quality language was placed in AB 1312 which will be before the voters as Proposition 148.

AB 3551 (Sher) Mining operations: reclamation plans (Chapter 1097, Statutes of 1990) - Significantly strengthens the provisions of the Surface Mining and Reclamation Act (SMARA) to provide for the increased regulation of surface mining operations. This law strengthens SMARA by imposing additional requirements on mine operators including, annual inspections, cease and desist orders, annual reports, financial sureties, civil penalties, land use permits, and management plans. This bill was introduced in response to a Department of Conservation study which found that the majority of surface mining operations in California do not comply with the requirements of SMARA.

AB 3559 (Cortese) Vessels: harbors and materials (Chapter 1428, Statutes of 1990) - Requires every vessel pumpout facility to display a notice identifying the local enforcement agency (usually the local health department) to be contacted in case the facility is not operating properly; clarifies that the exemption of private residence dockage from Regional Board requirements for installation of vessel pumpout facilities exists only when the Regional Board (rather than any other party) determines that vessel pumpout facilities are conveniently available.

****AB 3603 (Costa) San Joaquin River management program (Chapter 1068, Statutes of 1990)*** - Creates a large advisory council and directs that council to prepare a management program for the San Joaquin River; sunsets January 1, 1995. Effective September 19, 1990.

SB 1999 (Bergeson) Water quality: New River (Chapter 1322, Statutes of 1990) - Directs the State Board to conduct a two-year pilot project of the effectiveness of wetlands treatment for improving water quality in the New River; appropriates \$100,000 from the General Fund to the State Board for this pilot program.

SB 2016 (C. Green) Water replenishment districts (Chapter 389, Statutes of 1990) - Authorizes a water replenishment district to take any action, within or outside the district, to prevent contaminants from entering the ground water supplies of the district, to remove contaminants from ground water supplies, and to determine which persons are responsible for those contaminants; explicitly includes capital expenditures and legal actions as permissible activities of water replenishment districts; authorizes a water replenishment district to sue parties responsible for contamination and to institute legal proceedings for recovery from "governmental insurance funds"; explicitly lists the district's expenditures for prevention of contamination, for removal of contamination, for studies to determine the location of contaminants, and for attorneys fees and court costs, as amounts that could be recovered; declares that the availability of cost recovery would not preclude injunctive relief; authorizes the district to exercise eminent domain powers to carry out the protection functions specified in the bill; requires water replenishment districts, before imposing any fee or charge to support these protection functions, to include engineering estimates in its annual engineering survey and report; requires the districts to make an annual finding on whether contamination exists or threatens the district's ground water supplies, whether the district should take action to correct any contamination, how much any such action would cost, and how large a replenishment fee would have to be to cover the estimated costs.

SB 2580 (Mello) Monterey County flood control (Chapter 1159, Statutes of 1990) - Repeals a 1947 special district act which created the Monterey County Flood Control and Water Conservation District and reenacts those provisions to create a Monterey County Water Resources Agency (Agency), with expanded powers: authority to prevent ground water extractions which harm the ground water basin; to prevent export of ground water from the Salinas River Groundwater Basin; to impose a water reclamation charge on persons extracting water from the Salinas River Groundwater Basin (to be used to pay for planning, design, construction, operation, and maintenance of wastewater reclamation facilities); and to take "appropriate steps" to prevent or deter seawater intrusion into a ground water basin within the Agency's jurisdiction.

SB 2601 (Keene) Forests: Harvest inspections (Chapter 1600, Statutes of 1990) - Makes several changes to the timber harvesting laws implemented by the DFFP. Specifically, provides that an initial inspection need not be made when filing a timber harvesting plan, if the DFFP determines that the inspection would not add any substantive information that is necessary to enforce the Z'Berg-Nejedly Forest Practice Act. The Regional Boards and DFG often accompany the DFFP on these inspections.

Vetoed

AB 2395 (Sher) Global warming - Would have created an interagency task force to coordinate State planning and research on global warming including a representative from the State Board on the task force.

In vetoing AB 2395, the Governor noted that the California Energy Commission already has studies underway and that global warming is more appropriately addressed on a national or international level.

AB 2672 (N. Waters) Highways: deicing - Would have required Caltrans to adopt a deicing policy for State highways by July 1, 1991, to include a scheduled plan for reducing the use of salt as a primary deicing agent on routes in areas (specifically, the Lake Tahoe area) suffering from environmental damage due to salt use; would have required the policy to include an analysis of water quality impacts from use of salt and other deicing agents.

In vetoing AB 2672, the Governor noted that Caltrans adopted a revised snow removal and deicing policy in October, 1989, that this policy reduced salt use by 60 percent in the 1989-90 winter, and that Caltrans should have more time to study the effects of this new policy before devoting more resources to revising it.

AB 3426 (Eastin) Water planning - Would have created a 22-member Water Planning Task Force (Task Force) to evaluate California's major, long term water problems and to attempt to find consensus on methods to resolve those problems.

In vetoing AB 3426, the Governor indicated that the bill was unnecessary, in that current law directs DWR and the California Water Commission to engage in long-range water resources planning.

AB 3884 (Epple) Environmental quality: impact reports - Would have

required that public notices under CEQA include a description of the proposed use of a project and would have required extraordinary notice procedures for projects involving the storage of hazardous materials or acutely hazardous materials when the quantity of materials to be stored is large enough to require development of business plan for emergency response.

In vetoing AB 3884, the Governor indicated that the bill would result in significant cost increases for local and State agencies without a corresponding increase in public safety.

Failed Passage

AB 417 (Connelly) Pesticide regulation - Would have rewritten a number of statutes concerning the regulation of pesticides. The DFA would have retained authority to regulate pesticides, but the authority would be exercised in compliance with other agency regulations. The State Board would have been responsible for the distribution and registration of pesticides to the extent that such pesticides would impair water quality.

AB 827 (Bader) Industrial waste: entry into sewer systems - Would have increased the maximum civil penalty for violation of local agency pretreatment requirements from \$6,000 per day to \$10,000 per day; would have removed the requirement that the violation be intentional or negligent.

AB 1234 (Killea) Water pollution control: penalties - Would have required the State Board to spend all monetary penalties collected from public agency wastewater dischargers for violation of the Porter-Cologne Act exclusively on mitigating damage caused by the discharger and on construction of facilities.

AB 1598 (Peace) International border cleanup - Would have enacted a \$150 million General Obligation bond law for wastewater and toxics cleanup on the international border; would appropriate \$5 million from the General Fund to the State Board for start-up costs of facilities and for emergency cleanup in Imperial County.

AB 1709 (Campbell) Water pollution abatement - Would have expanded allowable uses to the State Water Pollution Cleanup and Abatement Account to include rehabilitation of creeks and watersheds and implementation of pretreatment programs; would have directed the

State Board to try to return a significant portion of revenues to the originating region; and would have directed the State Board to develop procedures and policies for expenditure of funds from the Account.

AB 3281 (Harvey) Kern County: water contamination - Would have appropriated \$2.15 million from the General Fund to Kern County for construction of water supply lines from the City of Shafter water system into several surrounding rural areas.

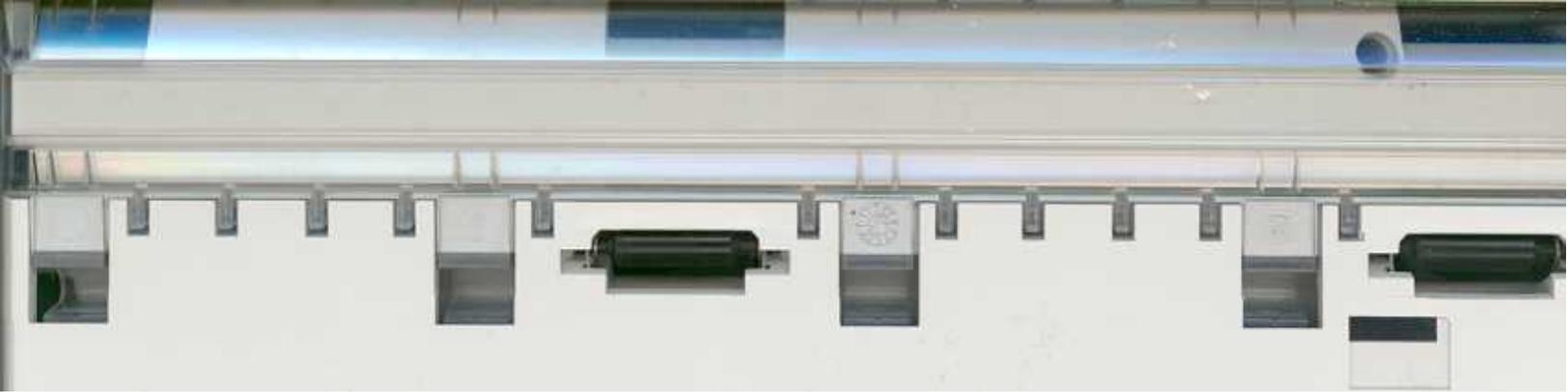
AB 3639 (Speier) Selenium: additives: study - Would have required the State Board, in conjunction with the DHS, to survey existing data on selenium content of agricultural wastewater to determine if EPA or State Board standards for selenium in that wastewater are being exceeded; would have required the DHS, in conjunction with DFA, to study possible human health impacts of selenium additives to animal and poultry feed, with a report to the Legislature due January 1, 1993; would have appropriated \$150,000 from the General Fund to the DHS for the additives study.

AB 4067 (Lempert) Testimony: privileges - Would have clarified that the immunity available to persons compelled to testify or produce evidence in a Board investigation, inquiry, or hearing is use immunity, rather than immunity from all prosecution.

SB 663 (Bergeson) New and Alamo Rivers: appropriation - Would have appropriated \$250,000 from the General Fund to the State Board for allocation to Colorado River Basin Regional Board for a phase II workplan for New and Alamo Rivers, with the workplan due January 1, 1991.

SB 1194 (Marks) Ports and harbors: oil tankers - Would have required oil tankers entering California bays or harbors to be escorted by tug-boats; would have created civil monetary penalties for violations of this requirement, to be imposed judicially; and would have provided that one-half of the fines be deposited in the State Water Pollution Cleanup and Abatement Account.

B 1482 (Keene) Public resources: oil spills - Would expand the State's role in preventing and responding to spills of oil from oil tankers and other ships; would formalize the role of the DFG as lead State agency for oil spill response; would mandate reporting of spills and compliance with spill plans by the oil industry; would expand the role of the State Lands Commission (Commission) regarding oil spill prevention and



response; would create the Oil Spill Prevention and Response Fund; would require oil tanker operators and marine terminal operators to obtain proof of financial responsibility; would establish the scope of the Commission authority to include all offshore oil facilities.

SB 1743 (Ayala) Pesticides: aldicarb - Would have prohibited the use of Aldicarb on any lands overlying the Chino and Bunker Hill ground water basins or any lands overlying ground water basins in Los Angeles County.

SB 1884 (Torres) Aboveground crude oil storage tanks: drug testing - Would have authorized aboveground oil storage tank owners or operators who employ five or more employees to develop and maintain a drug testing program. The program would have applied only to employees in "critical" positions, as defined in the bill.

SB 2267 (Russell) Aboveground crude oil storage tanks - Would have extended, from August 1989 to December 1990, the exemption from State preemption of local aboveground oil storage tank ordinances.

SB 2278 (Rosenthal) Environmental impact report: notification procedures - Would have required use of two separate notification procedures for public notice of preparation of an environmental impact report or negative declaration.

WATER RIGHTS AND SUPPLY

Enacted

AB 2538 (Hansen) Water rights (Chapter 230, Statutes of 1990) - This State Board Sponsored bill extends the deadlines for State Board action on petitions for reconsideration of statutory adjudications and applications for water rights so that the State Board's 60-day response period begins at the close of the 30-day petition period, rather than the date on which the petitioner files for reconsideration.

AB 2661 (Klehs) Water management planning (Chapter 355, Statutes of 1990) - Removes the sunset date in the Urban Water Management Planning Act, requires urban water agencies to include a discussion of water metering in their water management plans, and requires formal approval of each agency's plan by the agency's governing body.

AB 2827 (Kelley) Water rights: temporary changes: wholesale water

agencies (Chapter 681, Statutes of 1990) - Specifies that judicial review is available for both denials and approvals of petitions for temporary changes in water rights due to transfer; explicitly establishes that the right to petition the court for review to the material in the State Board's administrative record on the transfer petition; authorizes the reviewing court to broaden the scope of review to include additional relevant evidence if the State Board improperly excluded that evidence from the record or if, in the exercise of due diligence, the evidence could not have been produced; also authorizes public agencies which contract with the DWR for water from the State Water Project to sell water on a retail level.

AB 3616 (Kelley) Water: agricultural efficient water management (Chapter 739, Statutes of 1990) - Requires the DWR to periodically review potentially efficient water management practices for agricultural uses of water to determine which practices are feasible to achieve water conservation; authorizes DWR to carry out cooperative studies on effectiveness and efficiency of water management practices; requires DWR to establish an advisory committee on agricultural water management practices and to consult with that committee in conducting its periodic reviews and cooperative studies; requires DWR to offer technical consultation and training in agricultural water management practices.

AB 1839 (Doolittle) Honey Lake Valley groundwater management (Chapter 1045, Statutes of 1990) - Establishes the boundaries of the Honey Lake Valley Groundwater Management District (District); authorizes the District to enter into joint powers agreements with Lassen County; requires any joint powers agreements between the District and Washoe County or the State of Nevada to include Lassen County; authorizes the District to adjust any limitation on ground water extraction to account for prior industrial use of ground water and the need for water supply for continued operation of the industrial enterprise.

SB 2580 (Mello) Monterey County flood control (Chapter 1159, Statutes of 1990) - Repeals a 1947 special district act which created the Monterey County Flood Control and Water Conservation District and re-enacts those provisions to create a Monterey County Water Resources Agency (Agency), with expanded powers: authority to prevent ground water extractions which harm the ground water basin; to prevent export of ground water from the Salinas River Groundwater Basin; to impose a water reclamation charge on persons extracting water from the Salinas River Groundwater Basin (to be used to pay for planning, design, construction, operation, and maintenance of wastewater reclamation

facilities); and to take "appropriate steps" to prevent or deter seawater intrusion into a ground water basin within the Agency's jurisdiction.

Vetoed

AB 2264 (Costa) Groundwater management: Kern county water agency - Would have authorized local agencies providing water services and whose jurisdiction includes one of 11 overdrafted round water basins to establish ground water management programs. Also see AB 2871 (Costa).

In vetoing AB 2264, the Governor noted that he had vetoed a similar bill in 1988, that the provisions of AB 2264 regarding ground water management are overly broad, and that a more appropriate solution to overdraft situations would be for local agencies to petition the Legislature for specific authority on a case-by-case basis.

AB 3426 (Eastin) Water planning - Would have created a 22-member Water Planning Task Force to evaluate California's major, long term water problems and to attempt to find consensus on methods to resolve those problems.

In vetoing AB 3426, the Governor indicated that the bill was unnecessary, in that current law directs the DWR and the California Water Commission to engage in long range water resources planning.

AB 3884 (Epple) Environmental quality: impact reports - Would have required that public notices under CEQA include a description of the proposed use of a project and would have required extraordinary notice procedures for projects involving the storage of hazardous materials or acutely hazardous materials when the quantity of materials to be stored is large enough to require development of business plan for emergency response.

In vetoing AB 3884, the Governor indicated that the bill would result in significant cost increases for local and State agencies without a corresponding increase in public safety.

Failed Passage

AB 1300 (Kelley) Water meters - Would have required water purveyors to require installation of water meters on all new water service, beginning January 1, 1992; would have required the State Board to establish

standards for water meters; would have required the user of water to pay for the water meter installation costs; would have authorized the water purveyor to assess charges for those costs.

AB 1846 (Costa) Public trust jurisdiction - Would have given the State Board exclusive initial jurisdiction over legal actions to modify water rights under the public trust doctrine or the State Constitution's prohibition on waste and unreasonable use of water; would have limited the scope of judicial review of State Board actions.

AB 2871 (Costa) Groundwater management - Would have authorized local agencies (cities, counties, special districts) which provide water services and whose jurisdiction includes one of 11 overdrafted ground water basins to establish programs for the management of ground water resources within the water service area; would have authorized the local agency to assess fees on the extraction of ground water to pay for the ground water management program; would have authorized the local agency to exercise any of the powers of a water replenishment district. The bill listed the following ground water basins as overdrafted (and cites DWR Bulletin 118-80 as the source for such identification): Paraja Valley Basin; Cuyama Valley Basin; Ventura Central Basin; Eastern San Joaquin County Basin; Chowchilla Basin; Madera Basin; Kings Basin; Tehama Basin; Tulare Lake Basin; Tule Lake Basin, and Kern County Basin.

AB 3142 (Filante) Water conservation - Would have authorized public water supply agencies to encourage water conservation through rate structure design, specifically including incentives for reduction in water use and penalties for excessive water use.

AB 3278 (Costa) Water rights: conservation - Would have protected a statutory water right for surface water from reversion if the water right holder used ground water as a substitute for surface water available under the water right; would have authorized the transfer of surface water, for which ground water is substituted, subject to existing requirements for temporary or long term transfers.

AB 3281 (Harvey) Kern County: water contamination - Would have appropriated \$2.15 million from the General Fund to Kern County for construction of water supply lines from the City of Shafter water system into several surrounding rural areas.

SB 98 (Sher) Water rights - Would have requested Congress and the

President to modify the Federal Power Act and the Public Utilities Regulatory Policies Act to revise Federal Energy Regulatory Commission procedures which conflict with States' water rights and water quality laws. FERC procedures were upheld by the U.S. Supreme court in the Rock Creek case (California v. Federal Energy Regulatory Commission).

SB 312 (Boatwright) Water service: meters - Would have required all water purveyors to require installation of water meters on all new water connections made after January 1, 1991; would have required the State Board to set standards for water meters and to certify meters for use in the State.

SB 835 (Rosenthal) Environmental quality - Would have codified an existing regulatory requirement that lead agencies under CEQA prepare a written explanation of the overriding considerations that justify approval of a project with unmitigated environmental impacts.

SB 2278 (Rosenthal) Environmental impact report: notification procedures - Would have required use of two separate notification procedures for public notice of preparation of an environmental impact report or negative declaration.

SCA 24 (Nielsen) Water resources development - Would have required a two-thirds vote in each house of the Legislature for passage of measures to directly or indirectly modify area-of-origin protection statutes.

SCA 28 (Doolittle) Water resources development - Would have required a two-thirds vote in each house of the Legislature for passage of measures to directly or indirectly modify area-of-origin protection statutes.

WETLANDS

Enacted

AB 4325 (Baker) Inland wetlands conservation (Chapter 1645, Statutes of 1990) - Creates an Inlands Wetlands Conservation Fund (Fund), under the control of the Wildlife Conservation Board. The Fund will receive an appropriation of up to \$2 million per year as authorized by Proposition 117 (1990 Primary Election), primarily from tobacco tax revenues. The Wildlife Conservation Board (WCB) is authorized to use the Fund: (1) to make grants or loans to nonprofit organizations or State or local govern-

ments for wetlands acquisition, restoration, or enhancement, and (2) to acquire former wetlands and upland areas and to restore them. The WCB will have to give preference, in awarding grants or loans, to projects with secure sources of water and to projects for wintering habitat in the central valley. The WCB is also authorized to lease out nonwetlands habitat to nonprofit organizations and State and local governments for restoration. The WCB is also authorized to sell or exchange wetlands to these same organizations, provided the new owners agree to keep the land as wetlands in perpetuity.

AB 4328 (Baker) Water reclamation: wildlife refuges (Chapter 1646, Statutes of 1990) - Directs the State Board to survey water and sewage reclamation plants to identify which plants would produce water suitable for use in central valley wildlife refuges; requires the study to include information on predicted quantities of reclaimed water available for use in wildlife refuges through the year 2000 and on the quality of water that would be produced; requires a report to the Legislature and Governor by January 1, 1992.

ACR 107 (Campbell) San Francisco Bay wetlands (Resolution Chapter 73, Statutes of 1990) - Urges the Governor to nominate San Francisco Bay wetlands as a "wetlands of international importance" under the 1971 Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar Convention).

SB 1999 (Bergeson) Water quality: New River (Chapter 1322, Statutes of 1990) - Directs the State Board to conduct a two-year pilot project of the effectiveness of wetlands treatment for improving water quality in the New River; appropriates \$100,000 from the General Fund to the State Board for this pilot project.

Vetoed

SB 344 (McCorquodale) Wetlands - Would have declared the State's goal to increase the total acreage of wetlands within the Central Valley; would have authorized the Wildlife Conservation Board to purchase land to create wetlands mitigation banks; would have established procedures for creation of privately owned wetlands, which could be used as credit against wetland loss in an adjacent urban area.

In vetoing SB 344, the Governor indicated that the bill contains several provisions which are disadvantageous to an effective wetlands program (e.g., the limitation to Corps-approved projects on the 3-to-1 mitigation ratio), that the

DFG is preparing a more flexible set of mitigation guidelines, and that the bill would create an unfunded program.

AB 4326 (Isenberg) State-owned wetlands - Would have required the DFG to survey State-owned wetlands and nonwetlands suitable for restoration that are larger than 100 acres and in the Sacramento or San Joaquin Valleys and to report to the Legislature on the survey by June 30, 1991.

In vetoing AB 4326, the Governor indicated that it is more prudent to leave the priority for the mandated study to the discretion of the DFG, particularly when their study is compared to other, ongoing DFG activities relating to protecting and restoring wetlands.

Failed Passage

AB 2496 (Harvey) Wetlands - Would have defined "wetlands" for all State and local government purposes; would have authorized the Wildlife Conservation Board to acquire land for wetlands mitigation banks; would have declared State goals to be no overall net loss of wetlands in the State and increasing the quantity and quality of wetland through voluntary agreements between private property owners and government agencies.

AB 4231 (Sher) Environmental quality: wetlands - Would have established objectives under the California Environmental Quality Act (CEQA) of no net loss of wetland acreage or of wetland habitat value.

AB 4327 (Isenberg) Wetlands mitigation - Would have required the Secretary of the Resources Agency to prepare a report to the Legislature by July 1, 1992 on wetlands in California. The report would have included a data base on existing wetlands, an assessment of the effectiveness of current State and Federal wetlands programs in protecting or restoring wetlands, a study of the feasibility of the State securing delegation of wetlands permitting authority under Clean Water Act Section 404, a determination of the biological implications of adoption of alternative legal definitions of "wetlands," a determination of the desirability of adopting a single definition in California, identification of methods to encourage landowners to create or maintain wetlands, and identification of methods to improve enforcement of laws regulating wetlands conversions. The bill would have required the Secretary to establish a Wetlands Study Advisory Committee, to be chaired by the Director of the DFG. The bill would have prohibited lead agencies under CEQA from

carrying out a project begun on or after January 1, 1991 which would result in net loss of wetlands acreage or habitat values.

AB 2530 (Marks) Wetlands protection - Would have prohibited alteration of wetlands except upon issuance of a wetlands alteration permit by DFG; would have required Regional Boards to confer with the DFG before issuing waste discharge requirements (WDRs) for a discharge that would alter wetlands; would have prohibited the Regional Board from issuing WDRs unless the DFG found the discharge not to be inconsistent with the wetlands alteration permit.

PROPOSITIONS

June 5, 1990 ballot

Note: No significant water issues were proposed or enacted at the election.

November 6, 1990 ballot

Prop 128 Environmental Protection Act of 1990 (Sponsored by several environmental organizations and elected State officials) - The proposition would make sweeping changes to environmental laws and programs in California. The proposition would restrict the use of pesticides and transfer the pesticide regulatory program from the Department of Food and Agriculture (DFA) to the DHS; take steps to reduce the amount of greenhouse gas emissions; require the planting trees for development projects; finance the purchase of, and limits the cutting of ancient redwood forests; establish programs to protect the ozone layer; create programs for recycling paper products; create programs for coastal protection, including oil spill response; establish a new elected office of the Environmental Advocate; and make several changes to the State Board's water quality regulation programs regarding bays, estuaries, and coastal waters.

Prop 130 Forest and Wildlife Protection and Bond Act of 1990 (Sponsored by several environmental organizations) - This proposition would make several changes related to the management and regulation of forest resources. Specifically, the proposition would finance the purchase of forest property, in particular ancient forests; prohibit the clearcutting of forests, with some exceptions; revise the timber harvesting plan process administered by the Department of Forestry and Fire Protection (DFFP); place prohibitions on the export of lumber to foreign countries; require

landowners to pay fees to support the timber harvesting programs administered by the DFFP; establish a program to assist unemployed timber industry employees; and change the membership of the Board of Forestry.

Prop 135 The Consumer Pesticide Enforcement Act for Food, Water, and Worker Safety (Sponsored by the agricultural industry) - This proposition would make several changes associated with the regulation of pesticides, including issues related to public health and water quality. This proposition would create a Food Safety Branch within the DFA; re-enact several provisions of existing law regarding the regulation of pesticides; require the DFA to conduct various studies and reports; create a program to protect agricultural workers from pesticides; appropriate funds for native pest management research projects; and require the State Board to adopt statewide water quality objectives for pesticides. This proposition is intended as a countermeasure to Proposition 128.

Prop 138 Global Warming and Clearcutting Reduction, Wildlife Protection and Reforestation Act of 1990 (Sponsored by the timber harvesting industry) - This proposition would make several changes related to the management and harvesting of forest resources. Specifically, the proposition would finance programs for the reforestation of public and private lands; limit timber harvesting practices on specified private timberlands; require timberland, wildlife, and global warming studies; and urge Congress to ban timber exports. This proposition is intended as a countermeasure to Proposition 128.

Prop 141 Toxic Chemical Discharge (SB 65, Kopp) - This proposition was placed on the ballot by the enactment of SB 65. Specifically, this proposition would require public water systems, local and State government agencies and, to the extent permitted by Federal law, Federal agencies to comply with the warning and discharge prohibition requirements of Proposition 65. As approved by the voters in November 1986, existing law exempts public agencies under this prohibition. Specifically, the proposition would require public agencies to warn individuals when they are exposed to listed chemicals and to refrain from releasing listed chemicals into drinking water sources. This measure would also hold public agencies liable for the same civil penalties assessed against private entities under Proposition 65.

Prop 148 Water Resources Bond Act of 1990 (AB 1312, Filante) - This proposition was placed on the ballot by the enactment of AB 1312. Specifically, this proposition would place a general obligation bond act

for water resources projects on the ballot for voter approval. If approved, the proposition will authorize sale of \$380 million in general obligation bonds. From that amount, the State Board would receive appropriations of up to \$95 million for water reclamation, \$30 million for water problems along the international border with Mexico, \$20 million for grants to small communities for construction of sewage plants, and \$20 million for loans for treatment of contaminated ground water.