



May 11, 2018

Honorable Holly Mitchell, Chair
Senate Budget and Fiscal Review Committee

Attention: Mr. Joe Stephenshaw, Staff Director (2)

Honorable Phil Ting, Chair
Assembly Budget Committee

Attention: Mr. Christian Griffith, Chief Consultant (2)

Addition of Various Budget Bill Items, Support, Various Departments within the California Environmental Protection Agency

Sacramento Headquarters Space Optimization Project—It is requested that various items be added in the amount of \$22,894,000 for Phase I of the California Environmental Protection Agency's Sacramento Headquarters Space Optimization Project. It is further requested that provisional language be added to make the funds available for encumbrance or expenditure until June 30, 2022 (see Attachment 1). The two-phase Project will increase capacity by up to 1,100 cubicles to accommodate additional personnel from various boards, departments, and offices under the Agency. Phase I will be funded by the Air Resources Board, the State Water Resources Control Board, the Department of Resources Recycling and Recovery, and the Office of Environmental and Health Hazard Assessment as follows:

- Air Resources Board—\$10,711,000 from the Air Pollution Control Fund
- State Water Resources Control Board—\$6,733,000 from various funds
- Department of Resources Recycling and Recovery—\$5,363,000 from various funds
- Office of Environmental and Health Hazard Assessment—\$87,000 from various funds

The effect of my requested action is reflected on the attachment.

If you have any questions or need additional information regarding this matter, please call Juliana Morozumi, Principal Program Budget Analyst, at (916) 324-0043.

MICHAEL COHEN
Director
By:

/s/ Amy M. Costa

AMY M. COSTA
Chief Deputy Director

Attachment

cc: On following page

cc: Honorable Ricardo Lara, Chair, Senate Appropriations Committee
Attention: Mr. Mark McKenzie, Staff Director
Honorable Jim Nielsen, Vice Chair, Senate Budget and Fiscal Review Committee
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Attention: Mr. Jay Dickenson, Chief Consultant
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Mr. Jason Sisney, Assembly Speaker's Office (2)
Ms. Cheri West, Deputy Chief of Staff, Policy, Assembly Republican Leader's Office
Mr. Jim Richardson, Policy and Fiscal Director, Assembly Republican Leader's Office
Mr. Matthew Rodriguez, Secretary, California Environmental Protection Agency
Mr. Eric Jarvis, Assistant Secretary, Fiscal and Administrative Programs, California
Environmental Protection Agency
Mr. Richard Corey, Executive Officer, Air Resources Board
Ms. Edie Chang, Deputy Executive Officer, Air Resources Board
Ms. Pam Biggins, Branch Chief, Budget, Contracts, and Grants Branch, Air Resources Board
Ms. Kelley Moss, Budget Officer, Air Resources Board
Ms. Eileen Sobeck, Executive Director, State Water Resources Control Board
Ms. Susan Montoya, Budget Officer, State Water Resources Control Board
Mr. Scott Smithline, Director, Department of Resources Recycling and Recovery
Mr. Ken DaRosa, Chief Deputy Director, Department of Resources Recycling and Recovery
Mr. Tom Estes, Deputy Director, Administration, Department of Resources Recycling and
Recovery
Ms. Sarah Keck, Chief, Fiscal Service Branch, Department of Resources Recycling and
Recovery
Ms. Lauren Zeise, Director, Office of Environmental Health Hazard Assessment
Ms. Susan Villa, Deputy Director, Administrative Services Division, Office of Environmental
Health Hazard Assessment
Mr. Mike Gyurics, Fiscal Officer, Fiscal Operations Branch, Office of Environmental Health
Hazard Assessment

3900-008-0115—For support of State Air Resources Board, payable from the Air Pollution Control Fund..... 10,711,000

Schedule:

(1) 3500-Mobile Source.....10,711,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

3940-008-0193—For support of State Water Resources Control Board, payable from the Waste Discharge Permit Fund..... 1,196,000

Schedule:

(1) 3560-Water Quality.....1,196,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

3940-008-0306—For support of State Water Resources Control Board, payable from the Safe Drinking Water Account..... 764,000

Schedule:

(1) 3565-Drinking Water Quality.....764,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

3940-008-0439—For support of State Water Resources Control Board, payable from the Underground Storage Tank Cleanup Fund 3,113,000

Schedule:

(1) 3560-Water Quality.....3,113,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

3940-008-3058—For support of State Water Resources Control Board, payable from the Water Rights Fund..... 1,660,000

Schedule:

(1) 3570-Water Rights.....1,660,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

3970-008-0100—For support of Department of Resources Recycling and Recovery, payable from the California Used Oil Recycling Fund..... 239,000
Schedule:

(1) 3700-Waste Reduction and Management.....239,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

3970-008-0106—For support of Department of Resources Recycling and Recovery, payable from the Department of Pesticide Regulation Fund..... 5,000
Schedule:

(1) 3710-Education and Environment Initiative.....5,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

3970-008-0133—For support of Department of Resources Recycling and Recovery, payable from the California Beverage Container Recycling Fund..... 2,041,000
Schedule:

(1) 3715-Beverage Container Recycling and Litter Reduction.....2,041,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

3970-008-0193—For support of Department of Resources Recycling and Recovery, payable from the Waste Discharge Permit Fund..... 19,000
Schedule:

(1) 3710-Education and Environment Initiative.....19,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

3970-008-0226—For support of Department of Resources Recycling and Recovery, payable from the California Tire Recycling Management Fund..... 615,000
Schedule:

(1) 3700-Waste Reduction and Management.....615,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

3970-008-0281—For support of Department of Resources Recycling and Recovery, payable from the Recycling Market Development Revolving Loan Subaccount, Integrated Waste Management Account..... 29,000

Schedule:

(1) 3700-Waste Reduction and Management.....29,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

3970-008-0386—For support of Department of Resources Recycling and Recovery, payable from the Solid Waste Disposal Site Cleanup Trust Fund..... 33,000

Schedule:

(1) 3700-Waste Reduction and Management.....33,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

3970-008-0387—For support of Department of Resources Recycling and Recovery, payable from the Integrated Waste Management Account, Integrated Waste Management Fund 2,090,000

Schedule:

(1) 3700-Waste Reduction and Management.....2,050,000

(2) 3710-Education and Environment Initiative..... 40,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

3970-008-0679—For support of Department of Resources Recycling and Recovery, payable from the State Water Quality Control Fund..... 29,000

Schedule:

(1) 3710-Education and Environment Initiative.....29,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

3970-008-3065—For support of Department of Resources Recycling and Recovery, payable from the Electronic Waste Recovery and Recycling Account, Integrated Waste Management Fund..... 263,000

Schedule:

(1) 3700-Waste Reduction and Management.....263,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

3980-008-0001—For support of Office of Environmental Health Hazard Assessment..... 27,000

Schedule:

(1) 3730-Health Risk Assessment.....27,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

3980-008-0044—For support of Office of Environmental Health Hazard Assessment, payable from the Motor Vehicle Account, State Transportation Fund..... 19,000

Schedule:

(1) 3730-Health Risk Assessment.....19,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

3980-008-0106—For support of Office of Environmental Health Hazard Assessment, payable from the Department of Pesticide Regulation Fund..... 11,000

Schedule:

(1) 3730-Health Risk Assessment.....11,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

3980-008-0115—For support of Office of Environmental Health Hazard Assessment, payable from the Air Pollution Control Fund..... 6,000

Schedule:

(1) 3730-Health Risk Assessment.....6,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

3980-008-0140—For support of Office of Environmental Health Hazard Assessment, payable from the California Environmental License Plate Fund..... 7,000

Schedule:

(1) 3730-Health Risk Assessment.....7,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

3980-008-3056—For support of Office of Environmental Health Hazard Assessment, payable from the Safe Drinking Water and Toxic Enforcement Fund..... 17,000

Schedule:

(1) 3730-Health Risk Assessment.....17,000

Provisions:

1. The funds appropriated in this item shall be used for the California Environmental Protection Agency Sacramento Headquarters Space Optimization Project.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.



May 11, 2018

Honorable Holly Mitchell, Chair
Senate Budget and Fiscal Review Committee

Attention: Mr. Joe Stephenshaw, Staff Director (2)

Honorable Phil Ting, Chair
Assembly Budget Committee

Attention: Mr. Christian Griffith, Chief Consultant (2)

Addition of Budget Bill Items 3900-101-0001 and 3900-491, Local Assistance, and Trailer Bill Language, Air Resources Board

Agricultural Diesel Engine Replacement and Upgrades—It is requested that Item 3900-101-0001 be added in the amount of \$30 million one-time for agricultural diesel engine replacements and upgrades. It is further requested that provisional language be added to make this item available for encumbrance or expenditure until June 30, 2020 (see Attachment 1). This proposal will provide incentives for farmers and agricultural businesses to replace existing diesel, agricultural vehicles and equipment with the cleanest available diesel or advanced technologies. Emissions from agricultural equipment are a significant source of air pollution, especially in the San Joaquin Valley, and reducing these emissions is critical for meeting federal ozone and particulate matter air quality standards. Combined with \$102 million provided in the proposed Cap and Trade Expenditure Plan, the Budget provides a total of \$132 million for this program.

Reappropriation: Greenhouse Gas Reduction Fund—It is requested that Item 3900-491 be added to reappropriate the unexpended balance of Greenhouse Gas Reduction Fund from Provision 2 of Item 3900-101-3228, Budget Act of 2016, as added by Chapter 370, Statutes of 2016 (AB 1613). It is further requested that provisional language be added to make the funds available for encumbrance or expenditure until June 30, 2020 (see Attachment 2). This proposal will allow the Enhanced Fleet Modernization Program Plus-Up Program and the Equity Pilot Program to continue to provide incentives for low-income California drivers to retire and replace high-polluting vehicles with cleaner vehicles, provide car sharing options to low-income communities, and provide reliable commute options for agricultural workers.

Trailer Bill Language—It is requested that trailer bill language be adopted to authorize the Air Board to make advance payments to grantees under certain conditions (see Attachment 3). Chapter 249, Statutes of 2017 (AB 109) authorized advanced payments for fiscal year 2017-18 appropriations. This language will authorize the Air Board to make advanced payments on a permanent basis, with appropriate accountability and verification requirements.

The effect of my requested action is reflected on the attachment.

If you have any questions or need additional information regarding this matter, please call Juliana Morozumi, Principal Program Budget Analyst, at (916) 324-0043.

MICHAEL COHEN

Director

By:

/s/ Amy M. Costa

AMY M. COSTA

Chief Deputy Director

Attachment

cc: Honorable Ricardo Lara, Chair, Senate Appropriations Committee
Attention: Mr. Mark McKenzie, Staff Director
Honorable Jim Nielsen, Vice Chair, Senate Budget and Fiscal Review Committee
Attention: Mr. Kirk Feely, Budget Fiscal Director
Honorable Lorena Gonzalez Fletcher, Chair, Assembly Appropriations Committee
Attention: Mr. Jay Dickenson, Chief Consultant
Honorable Jay Obernolte, Vice Chair, Assembly Budget Committee
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Honorable Bob Wieckowski, Chair, Senate Budget and Fiscal Review Subcommittee No. 2
Honorable Richard Bloom, Chair, Assembly Budget Subcommittee No. 3
Mr. Mac Taylor, Legislative Analyst (4)
Mr. Christopher W. Woods, Senate President pro Tempore's Office (2)
Mr. Jason Sisney, Assembly Speaker's Office (2)
Ms. Cheri West, Deputy Chief of Staff, Policy, Assembly Republican Leader's Office
Mr. Jim Richardson, Policy and Fiscal Director, Assembly Republican Leader's Office
Mr. Mathew Rodriguez, Secretary, California Environmental Protection Agency
Mr. Eric Jarvis, Assistant Secretary, Fiscal and Administrative Programs, California
Environmental Protection Agency
Mr. Richard Corey, Executive Officer, Air Resources Board
Ms. Edie Chang, Deputy Executive Officer, Air Resources Board
Ms. Pam Biggins, Branch Chief, Budget, Contracts, and Grants Branch, Air Resources Board
Ms. Kelley Moss, Budget Officer, Air Resources Board

3900-101-0001—For local assistance, State Air Resources Board.....30,000,000

Schedule:

(1) 3500-Mobile Source.....30,000,000

Provisions:

1. The funds appropriated in this item shall be used to reduce agricultural sector emissions by providing grants, rebates, and other financial incentives for agricultural harvesting equipment, heavy-duty trucks, agricultural pump engines, tractors, and other equipment used in agricultural operations.
2. The funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2020, and shall be available for liquidation until June 30, 2022.

3900-491—Reappropriation, State Air Resources Board. The balances of the appropriations provided in the following citations are reappropriated for the purposes provided for in those appropriations and shall be available for encumbrance or expenditure until June 30, 2020:

3228—Greenhouse Gas Reduction Fund

(1) Provision 2 of Item 3900-101-3228, Budget Act of 2016 (Ch. 23, Stats. 2016), as added by Chapter 370 of the Statutes of 2016 (AB 1613).

Amend section 39603 of the Health and Safety Code as follows:

39603.

(a) The state board may do both of the following:

(1) Contract for technical advisory services and other services as may be necessary for the performance of its powers and duties.

(2) Appoint advisory groups and committees as it requires. Members of committees or advisory groups shall receive one hundred dollars (\$100) per day for each day they attend a meeting of the state board or meet pursuant to a request of the state board, plus actual and necessary travel expenses incurred while performing their duties.

(b) In appointing advisory groups and committees, the state board may appoint a number of persons qualified in various fields and disciplines. Persons appointed shall be kept informed of the issues before the state board and the work pending before the state board. When the state board desires the advice, in connection with a particular problem or problems, of any person so appointed, the chairperson of the state board may select that person to serve as a member of a working group or committee for the purpose of providing the advice. After the working group or committee has given its advice to the state board, it shall cease to function as a working group or committee. The financial remuneration specified in paragraph (2) of subdivision (a) shall be available to persons only during the time they are serving as members of a working group or committee at the request of the state board.

(c) Notwithstanding any other provision of law, the state board may make advance payments to grantees if the state board makes the following determinations:

1. The advance payments are necessary to meet the purposes of the grant program or project.
2. The use of the advance funds is adequately regulated by grant or budgetary controls.
3. The request for application or the request for proposals contains the terms and conditions under which advance payment may be received pursuant to this section.
4. To receive advance payment of the specified funds of the grant program, a grant recipient must be either a small air district (as defined) or meet all of the following criteria:
 - Shall have no outstanding financial audit findings related to any of the funds eligible for advance payment and be in good standing with Franchise Tax Board and Internal Revenue Service.
 - Shall revert all unused funds to the state if not liquidated within the timeline specified in the grant agreement.
 - Shall submit a spending plan to the state board for review prior to receiving payment. The spending plan shall include project schedules, timelines, milestones, as well as the grant recipient's fund balance for all state grant programs. The state board shall consider the available fund balance when making a determination on the amount of the advance payment.
 - Shall report any material changes to its spending plan to the state board within 30 days.
 - Shall not provide advance payment to any other entity.
5. In the event of non-performance of a grantee, the state board shall require full recovery of unspent funds. Grantee must provide fund transfer confirmation within 45 days upon receipt of notice.

In consultation with the Department of Finance, the state board shall adopt regulations regarding the provision of advance payments to ensure that the moneys are used properly.



May 11, 2018

Honorable Holly Mitchell, Chair
Senate Budget and Fiscal Review Committee

Attention: Mr. Joe Stephenshaw, Staff Director (2)

Honorable Phil Ting, Chair
Assembly Budget Committee

Attention: Mr. Christian Griffith, Chief Consultant (2)

Amendment to Budget Bill Item 3930-001-0106, Support, Department of Pesticide Regulation

Improved California Environmental Quality Act (CEQA) Notification for Pesticide

Registration—It is requested that Item 3930-001-0106 be increased by \$515,000 Department of Pesticide Regulation Fund and 3 positions to expand the documentation provided to the public to meet the CEQA requirements. This proposal will enhance the public's access to information regarding the Department's pesticide evaluation process and findings.

The effect of my requested action is reflected on the attachment.

If you have any questions or need additional information regarding this matter, please call Juliana Morozumi, Principal Program Budget Analyst, at (916) 324-0043.

MICHAEL COHEN
Director
By:

/s/ Amy M. Costa

AMY M. COSTA
Chief Deputy Director

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Ms. Cheri West, Deputy Chief of Staff, Policy, Assembly Republican Leader's Office
Mr. Jim Richardson, Policy and Fiscal Director, Assembly Republican Leader's Office
Mr. Matthew Rodriguez, Secretary, California Environmental Protection Agency
Mr. Eric Jarvis, Assistant Secretary, California Environmental Protection Agency
Mr. Brian Leahy, Director, Department of Pesticide Regulation
Ms. Anise Severns, Assistant Director, Administrative Services Division, Department of Pesticide Regulation
Ms. Leslie Ford, Manager, Fiscal and Business Services, Department of Pesticide Regulation
Ms. Karen Munoz, Budget Officer, Department of Pesticide Regulation



May 11, 2018

Honorable Holly Mitchell, Chair
Senate Budget and Fiscal Review Committee

Attention: Mr. Joe Stephenshaw, Staff Director (2)

Honorable Phil Ting, Chair
Assembly Budget Committee

Attention: Mr. Christian Griffith, Chief Consultant (2)

Amendment to Budget Bill Item 3940-001-3058, Support, State Water Resources Control Board

Administrative Hearings Office—It is requested that Item 3940-001-3058 be increased by \$1,955,000 and 9 positions to establish an independent Administrative Hearings Office within the Water Board to conduct hearings for water right enforcement actions. This proposal is in response to the veto message of AB 313 of 2017, which directed the Secretary of the Environmental Protection Agency to make recommendations to improve the Water Board's hearing process. It is also requested that trailer bill language be adopted to establish the framework for this new process and establish fee authority for these services (see Attachment 1).

The effect of my requested action is reflected on the attachment.

If you have any questions or need additional information regarding this matter, please call Sergio Aguilar, Principal Program Budget Analyst, at (916) 324-0043.

MICHAEL COHEN
Director
By:

/s/ Amy M. Costa

AMY M. COSTA
Chief Deputy Director

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Mr. Eric Jarvis, Assistant Secretary, California Environmental Protection Agency
Ms. Eileen Sobeck, Executive Director, State Water Resources Control Board
Ms. Susan Montoya, Budget Officer, State Water Resources Control Board

SECTION 1. Chapter 3.5 (commencing with Section 1110) is added to Part 1 of Division 2 of the Water Code to read:

1110. Administrative Hearings Office

(a) There is within the board an Administrative Hearings Office. The board shall administer the Administrative Hearings Office as an independent organizational unit consistent with the role of the Administrative Hearings Office as a neutral, fair, and efficient forum for adjudications. The Administrative Hearings Office shall be overseen by a presiding hearing officer.

(b) The purpose of the Administrative Hearings Office is to provide qualified, impartial hearing officers, to ensure that water right and cannabis enforcement matters are resolved in a timely manner, and to provide the board flexibility to assign hearing officers to other matters, such as permits, licenses, and change petitions.

1111. Hearing officers

(a) The Administrative Hearings Office shall include attorneys qualified to act as hearing officers in adjudicative proceedings involving water right matters. The hearing officers shall have qualifications equivalent to an administrative law judge and knowledge and experience in water law.

(b) The board shall designate a hearing officer to serve as the presiding hearing officer.

(c) The presiding hearing officer shall have authority to supervise the Administrative Hearings Office, including but not limited to all of the following:

- (1) Hire personnel;
- (2) Assign matters to hearing officers;
- (3) Reassign matters as convenience and necessity require; and
- (4) Serve as a hearing officer.

1112. Types of proceedings

(a) Except as provided in subdivision (b), a hearing officer from the Administrative Hearings Office shall preside over a hearing in all of the following matters:

- (1) A complaint issued under section 1055;
- (2) A notice of a proposed cease and desist order issued under section 1834;
- (3) A notice of a revocation of a permit issued under section 1410 or revocation of a license issued under section 1675.

(b) Subdivision (a) does not apply if the hearing notice includes, in addition to a proceeding under subdivision (a), consideration of a decision or order on a matter not subject to subdivision (a).

(c) In an adjudicative hearing presided over by the board or a board member, the following apply:

(1) Upon request by the board, a hearing officer from the Administrative Hearings Office shall assist the board or board member in the conduct of the hearing; and

(2) The board may, in its discretion, choose to assign an adjudicative hearing, in whole or in part, to the Administrative Hearings Office.

(d) Hearing officers may perform additional work requested by the board, including but not limited to presiding in hearings on non-adjudicative matters- if the additional work does not conflict with their primary responsibility to serve as hearing officers under this chapter and to resolve those matters in a timely manner.

1113. Code of ethics

The Administrative Adjudication Code of Ethics (Article 16 (commencing with Section 11475) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code) shall apply to hearing officers of the Administrative Hearings Office.

1114. Ex parte communications

In an adjudicative proceeding presided over by a hearing officer from the Administrative Hearings Office, there shall be no communication, direct or indirect, regarding the merits of any issue in the proceeding between the hearing officer and an interested person, a board member, or a staff advisor to a board member before the board has issued a final order in that proceeding.

1115. Proposed and final orders

(a) An adjudicative proceeding presided over by a hearing officer from the Administrative Hearings Office shall be held in accordance with this section.

(b) In a proceeding for administrative civil liability under Section 1847 or 5107, the following apply:

(1) Within 90 days after the matter is submitted, the hearing officer shall adopt a final order that meets the requirements of Section 11425.50 of the Government Code. If the hearing officer finds that a delay is required by special circumstances, the hearing officer shall issue an order delaying the final order for no more than 30 days and specifying the reasons for the delay. Failure of the hearing officer to adopt a final order within the time required shall not prejudice the rights of any party in the case.

(2) A final order adopted under this subdivision is subject to review as provided in Chapter 4 (commencing with Section 1120).

(c) In a proceeding other than a proceeding under subdivision (b), the following apply:

(1) Within 90 days after the matter is submitted, the hearing officer shall prepare a proposed order in a form that meets the requirements of Section 11425.50 of the Government Code and may be adopted by the board as the final order in the case.

If the hearing officer finds that a delay is required by special circumstances, the hearing officer shall issue an order delaying the proposed order for no more than 30 days and specifying the reasons for the delay. Failure of the hearing officer to deliver a proposed order within the time required shall not prejudice the rights of any party in the case. A copy of the proposed order shall be served on all parties to the proceeding and posted on the board's website on the same day that it is provided to the board.

(2) Within 90 days after receipt of the hearing officer's proposed order, the board may act as prescribed in subparagraphs (A) to (E), inclusive. If the board fails to act as prescribed in subparagraphs (A) to (D), inclusive, within 90 days of receipt of the proposed order, the proposed order shall be deemed adopted by the board. The board may do any of the following:

(A) Adopt the proposed order in its entirety.

(B) Reduce or otherwise mitigate the proposed administrative civil liability and adopt the balance of the proposed order.

(C) Make technical or other minor changes in the proposed order and adopt it as the board's order. Action under this subparagraph is limited to a clarifying change or a change of a similar nature that does not materially change the factual or legal basis of the proposed order.

(D) Reject the proposed order and remand the case to the same hearing officer if reasonably available, otherwise to another hearing officer from the Administrative Hearings Office, for

further proceedings. If the board remands the matter to a hearing officer pursuant to this subparagraph, the hearing officer shall prepare a revised proposed order, as provided in paragraph (1), based upon the record of the prior hearing and any additional evidence admitted. A copy of the revised proposed order shall be served on all parties to the proceeding and posted on the board's website on the same day it is provided to the board.

(E) Reject the proposed order, and decide the case upon the record, including the transcript, or upon an agreed statement of the parties, with or without taking additional evidence. By stipulation of the parties, the board may decide the case upon the record without including the transcript. If the board acts pursuant to this subparagraph, all of the following provisions apply:

(i) A copy of the record shall be made available to the parties. The board may require payment of fees covering direct costs of making the copy.

(ii) The board shall afford the parties the opportunity to present either oral or written argument before the board.

(iii) The authority of the board itself to decide the case under this subparagraph includes the authority to adopt portions of the hearing officer's recommended order, as provided under subparagraphs (A), (B) and (C), while deciding for itself the remaining issues in the case.

(iv) If the board elects to proceed under this subparagraph, the board shall issue its final order not later than 90 days after rejection of the proposed order. If the board elects to proceed under this subparagraph, and has ordered a transcript of the proceedings before the hearing officer, the board shall issue its final order not later than 90 days after receipt of the transcript. If the board finds that a further delay is required by special circumstance, it shall issue an order delaying the order for no more than 30 days and specifying the reasons for the delay.

(d) (1) The time limits for issuance of a proposed order and board action under this section do not apply to proceedings that the hearing officer determines to be complex based upon novel and difficult legal or factual issues; a large number of parties; numerous witnesses; a large amount of documentary evidence; or coordination with related proceedings. A proceeding is presumed to be complex if it is a reference from a court under section 2000 or a statutory adjudication under section 2525.

(2) If a hearing officer determines a proceeding to be complex, the hearing officer must establish a hearing management plan and monitor the proceedings to ensure timely disposition.

SEC. 2. Section 1529.7 is added to the Water Code to read:

1529.7. (a) Consistent with Section 3 of Article XIII of the California Constitution, the board shall adopt a schedule of fees pursuant to Section 1530 to recover costs incurred and expended from the Water Rights Fund in administering Chapter 3.5 (commencing with Section 1110) of Part 1.

(b) The fee schedule adopted under this section may include, but is not limited to, the following:

(1) A fee for participation as a petitioner or party to an adjudicative proceeding in which a hearing officer from the Administrative Hearings Officer presides or assists the board or a board member.

(2) A fee payable on the filing of a statement of water diversion and use pursuant to Part 5.1 (commencing with Section 5100).

(c) The board is not required to set fees under this section to recover costs recovered through fees under other provisions of this code. In setting fees for persons or entities not subject to those other fees, the board shall set the fees in an amount not to exceed the estimated cost of proceedings involving alleged violations by persons or entities not subject to those other fees.



May 11, 2018

Honorable Holly Mitchell, Chair
Senate Budget and Fiscal Review Committee

Attention: Mr. Joe Stephenshaw, Staff Director (2)

Honorable Phil Ting, Chair
Assembly Budget Committee

Attention: Mr. Christian Griffith, Chief Consultant (2)

Amendment to and Addition of Various Budget Bill Items, Support, Department of Toxic Substances Control

BKK Third Party Initiative—It is requested that Item 3960-001-0001 be increased by \$434,000 and 2 positions to implement a coordinated enforcement and cost recovery initiative related to clean-up activity at the BKK facility. Resources will be used to undertake a large-scale cost recovery effort against approximately 12,000 third parties that sent hazardous waste to the site. This initiative is expected to result in recovery of approximately \$128 million from third parties.

Cost Recovery Program Implementation—It is requested that Item 3960-001-0014 be increased by \$1,093,000 and 3 positions and Item 3960-001-0557 be increased by \$1,093,000 and 3 positions to recover costs from third parties that were incurred by the Department to clean-up properties across the state that were contaminated by toxic substances. These resources will be used to resolve some of the Department's backlog for clean-up sites for which the Department has not recovered its costs. Increased revenue from cost recovery will offset the costs of the increases.

Cost Recovery Management System—It is requested that Item 3960-001-3301 be increased by \$140,000 for planning costs associated with a replacement cost recovery billing system, which is used for issuing invoices, tracking payments, and reconciling account balances. The current billing system is not supported by the manufacturer, does not meet the functional needs of the Department, and can not be modified to meet new statutory mandates. It is further requested that provisional language be added to authorize the Department of Finance to augment this item by up to \$1.5 million, contingent upon the approval of the California Department of Technology for Stage 4 of the Project Approval Lifecycle (see Attachment 1).

National Priorities List and State Orphan Sites—It is requested that Item 3960-001-0018 be increased by \$4,547,000 and Item 3960-012-0557 be increased by \$3,265,000 to continue supporting the state's share of costs for National Priorities List sites, Priority 1A and 1B state orphan sites, and continued cleanup activities for Priority 2 and 3 state orphan sites already underway. The cleanup work includes site investigation, characterization, cleanup, and remediation activities, among others. These remediation efforts reduce public exposure to hazardous and cancer-causing chemicals and reduce the spread of contamination.

Lead-Acid Battery Program Implementation—It is requested that Item 3960-001-3301 be increased by \$6,724,000 and 15 positions to implement the provisions of the Lead-Acid Battery Recycling Act of 2016. Specifically, these resources will be used to investigate and clean-up properties in California reasonably suspected to have been contaminated by the operation of lead-acid battery recycling facilities.

Enforcement in Vulnerable Communities—It is requested that Item 3960-001-3301 be increased by \$2,496,000 to provide continued support to address serious environmental violations by hazardous waste transportation and metal recycling industries that disproportionately impact vulnerable communities.

Safer Consumer Products Implementation—It is requested that Item 3960-001-3301 be increased by \$1.2 million and 6 positions to continue implementation of the Safer Consumer Products regulations. Specifically, these resources will be used to perform an alternatives analysis to determine how best to limit or prevent potential harm from chemicals in various products.

Exide Enforcement Order—It is requested that Item 3960-001-3301 be increased by \$1,060,000 in fiscal year 2018-19 and 2019-20 to implement the remaining activities associated with the 2014 Exide Enforcement Order, which requires corrective action activities at the Exide facility, the off-site industrial area, and the residential areas.

Reappropriation for Exide Technologies Clean-up—It is requested that Item 3960-495 be added to reappropriate the unencumbered balance from the Toxic Substances Control Account as appropriated by section 2 of Chapter 10, Statutes of 2016 (AB 118) and Item 3960-011-0001 Chapter 9, Statutes of 2015 (SB 93) to authorize the transfer of up to \$176 million General Fund to the Toxic Substances Control Account. It is further requested that funding be made available for encumbrance or expenditure until June 30, 2021 (see Attachment 2). In an effort to avoid potentially lengthy delays in getting the expanded testing and cleanup started, the Administration's 2016 proposal initially included an exemption to the California Environmental Quality Act (CEQA). However, in response to community and legislative concerns, the Department conducted a CEQA review of potential impacts of the cleanup. This resulted in a delay of the overall project. This reappropriation provides additional time for remediation activities at properties around the Exide Technologies facility in Vernon.

The effect of my requested action is reflected on the attachment.

If you have any questions or need additional information regarding this matter, please call Juliana Morozumi, Principal Program Budget Analyst, at (916) 324-0043.

MICHAEL COHEN

Director

By:

/s/ Amy M. Costa

AMY M. COSTA

Chief Deputy Director

Attachment

cc: Honorable Ricardo Lara, Chair, Senate Appropriations Committee
Attention: Mr. Mark McKenzie, Staff Director
Honorable Jim Nielsen, Vice Chair, Senate Budget and Fiscal Review Committee
Attention: Mr. Kirk Feely, Budget Fiscal Director
Honorable Lorena Gonzalez Fletcher, Chair, Assembly Appropriations Committee
Attention: Mr. Jay Dickenson, Chief Consultant
Honorable Jay Obernolte, Vice Chair, Assembly Budget Committee
Attention: Ms. Cyndi Hillery, Staff Director
Honorable Bob Wieckowski, Chair, Senate Budget and Fiscal Review Subcommittee No. 2
Honorable Richard Bloom, Chair, Assembly Budget Subcommittee No. 3
Mr. Mac Taylor, Legislative Analyst (4)
Mr. Christopher W. Woods, Senate President pro Tempore's Office (2)
Mr. Jason Sisney, Assembly Speaker's Office (2)
Ms. Cheri West, Deputy Chief of Staff, Policy, Assembly Republican Leader's Office
Mr. Jim Richardson, Policy and Fiscal Director, Assembly Republican Leader's Office
Mr. Matthew Rodriguez, Secretary, California Environmental Protection Agency
Mr. Eric Jarvis, Assistant Secretary, California Environmental Protection Agency
Ms. Barbara A. Lee, Director, Department of Toxic Substances Control
Ms. Francesca Negri, Chief Deputy Director, Department of Toxic Substances Control
Mr. Andrew Collada, Deputy Director, Department of Toxic Substances Control
Ms. Sara Murillo, Chief, Finance Planning Branch, Department of Toxic Substances Control
Ms. Thuong Pham, Budget Officer, Department of Toxic Substances Control

“3960-001-3301—For support of Department of Toxic Substances Control, payable from the Lead-Acid Battery Cleanup Fund ~~610,000~~ 12,230,000

Schedule:

(1) 3620011-Other Site Mitigation Activities	610,000	<u>8,464,000</u>
(2) <u>3625-Hazardous Waste Management</u>		<u>2,566,000</u>
(3) <u>3630-Safer Consumer Products</u>		<u>1,200,000</u>

Provisions:

1. By March 1, annually, the Department of Toxic Substances Control shall provide to the Chairperson and the Vice Chairperson of Senate Budget Subcommittee No. 2 and Assembly Budget Subcommittee No. 3 a report on the department’s progress towards implementing provisions of Chapter 666 of the Statutes of 2016, known as the Lead-Acid Battery Recycling Act of 2016. The report shall include a list of all sites: (a) identified as potentially meeting the definition of a lead-acid battery recycling facility as defined in subdivision (f) of Section 25215.1 of the Health and Safety Code, (b) that have been investigated to determine if they qualify as lead-acid battery recycling facilities that require cleanup along with a summary of the results of those investigations, (c) pending investigation, and (d) evaluated for lead contamination along with a summary of those evaluations.
2. The Department of Finance may augment this item by \$1,500,000 to provide funding for the Cost Recovery Management System Replacement Project, contingent upon the approval of the California Department of Technology for Stage 4 of the Project Approval Lifecycle.”

3960-495—Reappropriation, Department of Toxic Substances Control. The balances of the appropriations provided in the following citations are reappropriated for the purposes provided for in those appropriations and shall be available for encumbrance or expenditure until June 30, 2021:

0557—Toxic Substances Control Account

- (1) Item 3960-011-0001, Budget Act of 2015 (Chs.10 and 11, Stats. 2015) as added by Chapter 9, Statutes of 2015
- (2) Section 2 of Chapter 10 of the Statutes of 2016, for Exide Technologies Clean-up



May 11, 2018

Honorable Holly Mitchell, Chair
Senate Budget and Fiscal Review Committee

Attention: Mr. Joe Stephenshaw, Staff Director (2)

Honorable Phil Ting, Chair
Assembly Budget Committee

Attention: Mr. Christian Griffith, Chief Consultant (2)

**Amendment to Budget Bill Item 3970-001-0387, Support, and Trailer Bill Language,
Department of Resources Recycling and Recovery**

Disaster Recovery Assistance Program—It is requested that Item 3970-001-0387 be increased by \$1,250,000 and 6 positions to enhance the Department's ability to respond to requests from the Governor's Office of Emergency Services for assistance when disasters occur and debris removal is required. The positions will also be available to provide technical assistance to local governments in developing disaster recovery plans and protocols when they are not deployed for recovery efforts related to a disaster.

Plastic Market Development Program—It is requested that trailer bill language be adopted to extend the sunset date on the Plastic Market Development Program from January 1, 2018 to July 1, 2022 (see Attachment 1). Recent changes in global markets and scrap values have negatively affected California's recycling systems. This proposal will provide \$15 million Beverage Container Recycling Fund in fiscal year 2018-19, and \$10 million annually thereafter through 2021-22, for market development payments to address the challenges in the recycled material market.

Enforcement of Beverage Container Recycling Program—It is requested that trailer bill language be adopted to clarify the authority of the California Highway Patrol (CHP) to arrest individual transporters who illegally transport out-of-state empty containers for redemption in California (see Attachment 2). With a presence on highways and at border stations, the CHP is already strategically positioned to collaborate with the Department and its partner agencies. Additionally, if the transporters try to bypass border stations by using alternative routes monitored by CHP officers, the CHP could still conduct an inspection and arrest.

The effect of my requested action is reflected on the attachment.

If you have any questions or need additional information regarding this matter, please call Juliana Morozumi, Principal Program Budget Analyst, at (916) 324-0043.

MICHAEL COHEN
Director
By:

/s/ Amy M. Costa

AMY M. COSTA
Chief Deputy Director

Attachment

cc: Honorable Ricardo Lara, Chair, Senate Appropriations Committee
Attention: Mr. Mark McKenzie, Staff Director
Honorable Jim Nielsen, Vice Chair, Senate Budget and Fiscal Review Committee
Attention: Mr. Kirk Feely, Budget Fiscal Director
Honorable Lorena Gonzalez Fletcher, Chair, Assembly Appropriations Committee
Attention: Mr. Jay Dickenson, Chief Consultant
Honorable Jay Obernolte, Vice Chair, Assembly Budget Committee
Attention: Ms. Cyndi Hillery, Staff Director
Honorable Bob Wieckowski, Chair, Senate Budget and Fiscal Review Subcommittee No. 2
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Mr. Mac Taylor, Legislative Analyst (4)
Mr. Christopher W. Woods, Senate President pro Tempore's Office (2)
Mr. Jason Sisney, Assembly Speaker's Office (2)
Ms. Cheri West, Deputy Chief of Staff, Policy, Assembly Republican Leader's Office
Mr. Jim Richardson, Policy and Fiscal Director, Assembly Republican Leader's Office
Mr. Matthew Rodriguez, Secretary, California Environmental Protection Agency
Mr. Eric Jarvis, Assistant Secretary, California Environmental Protection Agency
Mr. Scott Smithline, Director, Department of Resources Recycling and Recovery
Mr. Ken Da Rosa, Chief Deputy Director, Department of Resources Recycling and Recovery
Mr. Tom Estes, Deputy Director, Administration, Department of Resources Recycling and Recovery
Ms. Sarah Keck, Chief, Fiscal Service Branch, Department of Resources Recycling and Recovery
Ms. Nicole Clay, Budget Officer, Department of Resources Recycling and Recovery

It is requested that Section 14549.2 of the Public Resources Code be amended to read:

“14549.2.

(a) For purposes of this section, the following definitions shall apply:

(1) “Certified entity” means a recycling center, processor, or dropoff or collection program certified pursuant to this division.

(2) “Product manufacturer” means a person who manufactures a plastic product in this state.

(3) “Plastic product” means a finished plastic product, which requires no further thermoforming, shaping or processing prior to being sold for its specified use. A plastic product is not flake, pellet, sheet or other form that is an output from the reclaimer’s processing of empty plastic beverage containers.

(4) “Reclaimer” means a certified entity who purchases empty plastic beverage containers collected for recycling in the state, and does both of the following:

(A) Washes and processes empty plastic beverage containers into a flake, pellet, sheet, or other form in the state; and

(B) Makes the flake, pellets, sheet, or other form, pursuant to paragraph (A), usable as an input for the manufacture of a new plastic product by a product manufacturer in this state.

(b) In order to develop California markets for empty plastic beverage containers collected for recycling in the state, the department may, consistent with Section 14581 and subject to the availability of funds, pay a market development payment to a ~~certified entity reclaimer~~ or product manufacturer for empty plastic beverage containers collected and managed pursuant to this section.

(c) The department shall make a market development payment to a ~~certified entity reclaimer~~ or product manufacturer in accordance with this section, only if the plastic beverage container is collected and ~~either recycled or~~ washed and processed into flake, pellet, sheet, or another form and used in manufacturing, in the state, as follows:

(1) The department shall make a market development payment to a ~~certified entity reclaimer for empty plastic beverage containers that are collected for recycling in the state, that are subsequently washed and processed by a certified entity into a flake, pellet, or other form in the state, and made usable for the manufacture of a plastic product by a product manufacturer.~~ as defined in paragraph (4) of subdivision (a).

(2) The department shall make a market development payment to a product manufacturer ~~for empty plastic beverage containers that are collected for recycling in the state, that are subsequently washed and processed into a flake, pellet, or other form in the state, for~~ plastic flake, pellets, sheet, or other forms of plastic purchased from a reclaimer, and used by that product manufacturer to manufacture a product in this state.

(3) The department shall determine the amount of the market development payment, which may be set at a different level for a ~~certified entity reclaimer~~ and a product manufacturer, but shall not exceed one hundred fifty dollars (\$150) per ton. In setting the amount of the market development payment for both ~~certified entity reclaimer~~ and product manufacturers, the department shall consider all of the following:

(A) The minimum funding level needed to encourage the in-state washing and processing of empty plastic beverage containers collected for recycling in this state.

(B) The minimum funding level needed to encourage the in-state manufacturing that utilizes empty plastic beverage containers collected for recycling in this state.

(C) The total amount of funds projected to be available for plastic market development payments and the desire to maintain the minimum funding level needed throughout the year.

(4) The department may make a market development payment to both a ~~certified entity~~ reclaimer and a product manufacturer for the same empty plastic beverage container.

(d) This section shall remain in effect only until July 1, 2022 ~~January 1, 2018~~, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2022 ~~January 1, 2018~~, deletes or extends that date.

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

14581.

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

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

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

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

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

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

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

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

(F) For the purposes of this paragraph, per capita population shall be based on the population of the incorporated area of a city or city and county and the unincorporated area of a county. The department may withhold payment to any city, county, or city and county that has prohibited the

siting of a supermarket site, caused a supermarket site to close its business, or adopted a land use policy that restricts or prohibits the siting of a supermarket site within its jurisdiction.

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

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

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

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

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

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

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

(8) (A) For fiscal year 2018-19 the department may expend up to fifteen million dollars (\$15,000,000) for market development payments for empty plastic beverage containers pursuant to Section 14549.2.

(i) Of this amount, up to five million (\$5,000,000) may be expended for market development payments to reclaimers or product manufacturers, as defined pursuant to Section 14549.2, for program participation during the period of January 1, 2018, through June 30, 2018.

(ii) During the period of July 1, 2019 through June 30, 2022, the department may expend up to ten million dollars (\$10,000,000) annually for market development payments for empty plastic beverage containers pursuant to Section 14549.2.

~~(8) (A) Up to ten million dollars (\$10,000,000) may be expended annually by the department for market development payments for empty plastic beverage containers pursuant to Section 14549.2, until January 1, 2018.~~

~~(B) In addition to the amount specified in subparagraph (A), the department may expend the amount calculated pursuant to subparagraph (C) for market development payments for empty plastic beverage containers pursuant to Section 14549.2.~~

~~(C) The department shall calculate the amount authorized for expenditure pursuant to subparagraph (B) in the following manner:~~

~~(i) The department shall annually determine, on or before January 1, whether the amount of funds estimated to be necessary pursuant to clause (ii) of subparagraph (A) of paragraph (5) for deposit to a processing fee account established by the department for plastic beverage containers to make processing payments for plastic beverage containers for the current calendar year is less than the total amount of funds that were estimated to be necessary the previous calendar year pursuant to clause (ii) of subparagraph (A) of paragraph (5) for deposit to that processing fee account.~~

~~(ii) If the amount estimated to be necessary for the current calendar year, as specified in clause (i), is less than the amount estimated to be necessary for the previous calendar year, the department shall calculate the amount of that difference.~~

~~(iii) The department shall expend an amount that is not greater than 50 percent of the amount calculated pursuant to clause (ii) for purposes of subparagraph (B).~~

~~(iv) If the department determines that the amount of funds authorized for expenditure pursuant to this subparagraph is not needed to make plastic market development payments pursuant to subparagraph (B) in the calendar year for which that amount is allocated, the department may expend those funds during the following year.~~

~~(v) If the department determines that there are insufficient funds to both make the market development payments pursuant to subparagraph (B) and to deposit the amount required by clause (ii) of subparagraph (A) of paragraph (5), for purposes of making the processing payments and reducing the processing fees pursuant to Section 14575 for plastic beverage containers, the department shall suspend the implementation of this subparagraph and subparagraph (B).~~

~~(D) Subparagraphs (B) and (C) shall remain operative only until January 1, 2018.~~

(b) (1) If the department determines, pursuant to a review made pursuant to Section 14556, that there may be inadequate funds to pay the payments required by this division, the department shall immediately notify the appropriate policy and fiscal committees of the Legislature regarding the inadequacy.

(2) On or before 180 days, but not less than 80 days, after the notice is sent pursuant to paragraph (1), the department may reduce or eliminate expenditures, or both, from the funds as necessary, according to the procedure set forth in subdivision (c).

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

(d) Before making an expenditure pursuant to paragraph (6) of subdivision (a), the department shall convene an advisory committee consisting of representatives of the beverage industry, beverage container manufacturers, environmental organizations, the recycling industry, nonprofit organizations, and retailers to advise the department on the most cost-effective and efficient method of the expenditure of the funds for that education and information campaign.

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

It is requested that Section 14536.3 is added to the Public Resources Code to read:

14536.3. Any traffic officer, as defined in Section 625 of the Vehicle Code, and any peace officer, as specified in Section 830.1 of the Penal Code, may enforce this division as authorized representatives of the department.