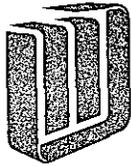


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**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

*Baron E. Deff*  
EXECUTIVE SECRETARY

June 25, 1992

To: Board of Directors (Executive Committee--Action)  
Board of Directors (Special Committee on Legislation--Action)

From: General Manager

Subject: Opposition Unless Amended to AB 2995 (Public Water Supplier Fees)

Report

Assembly Bill 2995 (AB 2995), a spot bill introduced by Assembly Member Costa, was amended on June 15, 1992, to establish a user fee program to support California primacy over the drinking water regulatory program. AB 2995 deletes language passed two years ago under a different bill (AB 2158) that represented a negotiated compromise on user fees that was supported by large water utilities. This compromise required that the Office of Drinking Water (ODW) establish a user fee program that is based on fee-for-service, i.e., utilities would pay only for those ODW services that they actually use.

After AB 2158 became law, small water systems expressed their concerns about the difficulty in raising the necessary funds to pay ODW, stating (essentially) that they cannot afford to pay for the ODW services that they use. Additionally, ODW stated that an appropriate accounting system had not been developed to conduct a fee-for-service operation. Large systems were adamant about not subsidizing the small systems. Meetings to resolve this were held last fall between Assembly Member Costa, ODW staff, small system representatives, and large system representatives, but consensus was not reached. Thus, Assembly Member Costa amended his spot bill (AB 2995) primarily to address small system concerns.

Specifically, AB 2995 creates four categories of fees. First and most significant, each system will be charged an annual safe drinking water surveillance fee of seventy cents per service connection for the ODW cost of conducting inspections, monitoring, surveillance, and other water quality activities. The minimum fee is \$250 with a maximum of \$200,000. Second, each system must pay an undetermined permit application processing fee for any new or amended operating permit. Third, each system is required to reimburse ODW for any incurred enforcement cost relating to compliance orders, public notification situations, or hearings. Finally, a processing fee will be charged to any system that requests an exemption, variance, or waiver. Fees may be recovered from utility customers.

Under AB 2995, ODW will also be awarded any litigation costs, including salaries, travel, overhead, attorney fees, etc., if ODW prevails in any court action.

While Metropolitan will only have to pay the minimum of \$350, member agencies will be seriously impacted. For example, the Los Angeles Department of Water and Power will pay the maximum of \$200,000. West Basin Municipal Water District's member agencies will pay between \$1,000 and \$37,520, depending on size.

AB 2995 should be opposed, unless amended, to make the fee program more reasonable and equitable to large systems. This fee clearly makes the large systems pay the bulk of the revenue needed, but does not charge the small systems for the true costs to regulate these violation-prone systems. What is being asked of your Board now is opposition to AB 2995 in its current form. Metropolitan will continue to have a dialogue with relevant parties on a solution to user fee/primacy problem. Proposed solutions developed by the parties will be presented to your Board for approval prior to legislative action.

In addition, the bill should be amended to delete language allowing ODW to recover litigation costs where it partially prevails in an action against a public water system.

#### Board Committee Assignments

This letter was referred for action to:

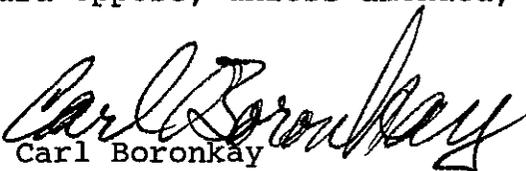
The Executive Committee because of its authority to study, advise, and make recommendations with regard to legislation affecting the District, pursuant to Administrative Code Section 2417 (a); and

The Special Committee on Legislation because of its authority to review and make recommendations regarding proposals for legislation that may affect the District, pursuant to Administrative Code Section 2581 (a).

#### Recommendation

#### **EXECUTIVE COMMITTEE AND THE SPECIAL COMMITTEE ON LEGISLATION FOR ACTION.**

It is recommended that the Board oppose, unless amended, AB 2995.

  
Carl Boronkay

JSS:ra

Attachment

AMENDED IN SENATE JUNE 15, 1992

CALIFORNIA LEGISLATURE—1991-92 REGULAR SESSION

ASSEMBLY BILL

No. 2995

Introduced by Assembly Member Costa  
(Principal coauthor: Senator Leslie)

February 19, 1992

An act to amend ~~Section 4020~~ of Sections 4010.1 and 4023.3 of, to add Article 2.5 (commencing with Section 4019.10) to Chapter 7 of Part 1 of Division 5 of, to repeal and add Section 4010.7 of, and to repeal Sections 4019, 4020, and 4020.5 of, the Health and Safety Code, relating to public water systems, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2995, as amended, Costa. Public water systems.

*Existing law that becomes operative July 1, 1993, authorizes the department to contract, for a term not to exceed 3 years, with a local health officer, as defined, for enforcement of provisions relating to community water systems and noncommunity water systems, as defined, serving less than 200 service connections within the local jurisdiction, and requires that the contract include reimbursement by the department to the local health officer of some or all of the costs incurred by the local health officer in carrying out the provisions of the contract.*

*This bill would repeal this authorization and would, instead, authorize the department to delegate primary responsibility for the administration and enforcement of these provisions, with certain exceptions, to a "local primacy agency," as defined, by means of a primacy delegation agreement with a local health officer, as defined. The bill would require the department, to the extent funds are appropriated for that*

purpose, to provide the local primacy agency with an annual safe drinking water surveillance program grant to cover the cost of conducting the inspection, monitoring, surveillance, and water quality evaluation activities specified in the local primacy agreement.

Existing law requires the department to develop and publish existing and proposed maximum contamination levels, and requires public water systems serving more than 10,000 service connections that exceed a recommended public health level listed by the department for organic contaminants, as prescribed, to submit an annual evaluation and water quality improvement plan for approval to the department. Existing law requires public water systems required to submit water quality improvement plans to pay a fee to the department, and authorizes these public water systems to recover the cost of the fee from their customers.

This bill would repeal this fee requirement, and would repeal this authorization to recover the cost of the fee from the customers.

This bill would, notwithstanding other provisions of law, commencing July 1, 1993, require that each public water system pay to the department a prescribed annual safe drinking water surveillance fee.

This bill would require each public water system applying for a domestic water supply permit or amendment thereto to pay the department, or the local primacy agency, a permit application processing fee, as prescribed, and would require the department to adopt regulations establishing a schedule of permit application fees. The bill would authorize the local primacy agency to use the schedule adopted by the department, or to adopt its own fee schedule.

This bill would require each public water system to reimburse the department, and the local primacy agency, for prescribed enforcement costs incurred by the department and the local primacy agency. The bill would require each public water system that requests an exemption, variance, or waiver of any applicable requirement, to reimburse the department, or the local primacy agency, for any costs incurred by the department, or the local primacy agency, in processing the request.

Existing law, operat Water Systems Accou public water system connections to pay an pursuant to regulatio Existing law requires account, and permits costs by collecting a fe

This bill would dele Existing law establis in the General Fund, 200 or more service cor to the department pur the department. Existir into the account, and p their costs by collectin

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case in which they who require that litigation department, along wi department pursuant t in the Safe Drinking W would continuously app of the department in ac would require that litig agencies be used to off

This bill would auth annually, and would pe fee from their customer to this bill.

Existing law requires regulations necessary t Drinking Water Act, in program requirements system program by a lo

This bill would, instea regulations, to include requirements for the

Existing law, operative July 1, 1993, establishes the Small Water Systems Account in the General Fund, and requires public water systems serving fewer than 200 service connections to pay annual operating fees to the department pursuant to regulations to be adopted by the department. Existing law requires the fees to be deposited into the account, and permits public water systems to recover their costs by collecting a fee from their customers.

This bill would delete this provision.

Existing law establishes the Large Water Systems Account in the General Fund, requires public water systems serving 200 or more service connections to pay annual operating fees to the department pursuant to regulations to be adopted by the department. Existing law requires the fees to be deposited into the account, and permits public water systems to recover their costs by collecting a fee from their customers.

This bill would delete this provision.

This bill would require that the department, and the local primacy agency, be awarded prescribed litigation costs in any case in which they wholly or partially prevail. The bill would require that litigation costs awarded by the court to the department, along with all other funds received by the department pursuant to prescribed provisions, be deposited in the Safe Drinking Water Account created by this bill, and would continuously appropriate those funds for the expenses of the department in administering these provisions. The bill would require that litigation costs awarded to local primacy agencies be used to offset costs of litigation.

This bill would authorize adjustment of prescribed fees annually, and would permit public water systems to collect a fee from their customers to recover their costs paid pursuant to this bill.

Existing law requires the department to adopt rules and regulations necessary to carry out the purposes of the Safe Drinking Water Act, including, but not limited to, minimum program requirements for the conduct of the public water system program by a local health officer.

This bill would, instead, require the department rules and regulations, to include, but not be limited to, program requirements for the conduct of the public water system

program by a local health officer under a primacy delegation from the department.

Existing law that becomes operative July 1, 1992, requires each public water system serving fewer than 200 service connections to pay an annual operating fee to the State Department of Health Services in accordance with regulations adopted by the department, and permits a local public water system to collect a fee from its customers to recover the fee paid to the department.

This bill would make a technical change to that provision of law.

Vote: majority. Appropriation: no yes. Fiscal committee: no yes. State-mandated local program: no.

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

SECTION 1. Section 4020 of the Health and Safety Code is amended to read:

SECTION 1. Section 4010.1 of the Health and Safety Code is amended to read:

4010.1. As used in this chapter:

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

(b) "Department" means the State Department of Health Services.

(c) "Drinking water standards" means:

(1) Primary drinking water standards that specify maximum levels of contaminants which that, in the judgment of the department, may have an adverse effect on the health of persons.

(2) Secondary drinking water standards that specify maximum contaminant levels which that, in the judgment of the department, are necessary to protect the public welfare. Secondary drinking water standards may apply to any contaminant in drinking water which that may adversely affect the odor or appearance of the water and may cause a substantial number of persons served by the public water system to discontinue its use, or which that may otherwise adversely affect the public welfare.

Regulations establishing secondary drinking water standards may vary according to geographic and other

1 circumstances  
2 drinking water  
3 odor, or appearance  
4 necessary to a  
5 potable water.  
6 (3) The maximum  
7 specified in regulations  
8 which that per  
9 (d) "Maximum  
10 maximum per  
11 (e) "Person  
12 company, association  
13 utility, or other  
14 (f) "Public  
15 provision of  
16 consumption  
17 connections or  
18 individuals dai  
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23 system.  
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1 circumstances and may apply to any contaminant in  
2 drinking water ~~which that~~ adversely affects the taste,  
3 odor, or appearance of the water when the standards are  
4 necessary to assure a supply of pure, wholesome, and  
5 potable water.

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

9 (d) "Maximum contaminant level" means the  
10 maximum permissible level of a contaminant in water.

11 (e) "Person" means an individual, corporation,  
12 company, association, partnership, municipality, public  
13 utility, or other public body or institution.

14 (f) "Public water system" means a system for the  
15 provision of piped water to the public for human  
16 consumption ~~which that~~ has ~~fifteen~~ 15 or more service  
17 connections or regularly serves an average of at least 25  
18 individuals daily at least 60 days out of the year. A public  
19 water system includes the following:

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

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

27 (3) Any person who treats water on behalf of one or  
28 more public water systems for the purpose of rendering  
29 it safe for human consumption.

30 (g) "Community water system" means a public water  
31 system ~~which that~~ serves at least 15 service connections  
32 used by yearlong residents or regularly serves at least 25  
33 yearlong residents.

34 (h) "Noncommunity water system" means a public  
35 water system ~~which that~~ meets one of the following  
36 criteria:

37 (1) Serves at least 25 nonresident individuals daily at  
38 least 60 days of the year, but not more than 24 yearlong  
39 residents.

40 (2) Serves 15 or more service connections and any

1 number of nonresident individuals at least 60 days of the  
2 year, but no yearlong residents.

3 (i) "Local health officer" means a local health officer  
4 appointed pursuant to Section 451 or a local  
5 comprehensive health agency designated by the board of  
6 supervisors pursuant to Section 1155.5 to carry out the  
7 drinking water program.

8 (j) "Significant rise in the bacterial count of water"  
9 means a rise in the bacterial count of water ~~which that~~  
10 the department determines, by regulation, represents an  
11 immediate danger to the health of water users.

12 (k) "State small water system" means a system for the  
13 provision of piped water to the public for human  
14 consumption ~~which that~~ serves at least five, but not more  
15 than 14, service connections and does not regularly serve  
16 more than an average of 25 individuals daily for more  
17 than 60 days out of the year.

18 (l) "User" means any person using water for domestic  
19 purposes. User does not include any person processing,  
20 selling, or serving water or operating a public water  
21 system.

22 (m) "Waterworks standards" means regulations  
23 adopted by the department ~~which that~~ take cognizance  
24 of the latest available "Standards of Minimum  
25 Requirements for Safe Practice in the Production and  
26 Delivery of Water for Domestic Use" adopted by the  
27 California section of the American Water Works  
28 Association.

29 (n) "Local primacy agency" means any local health  
30 officer that has applied for and received primacy  
31 delegation from the department pursuant to Section  
32 4010.7.

33 SEC. 2. Section 4010.7 of the Health and Safety Code  
34 is repealed.

35 4010.7. (a) The department may contract with a local  
36 health officer for enforcement of the provisions of this  
37 chapter for all or none of the community water systems  
38 and noncommunity water systems serving less than 200  
39 service connections within the local jurisdiction,  
40 provided the local health officer demonstrates to the

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1 department that he or she has the capability to comply  
2 with the public water system program requirements  
3 established pursuant to subdivision (h) of Section 4023.3.

4 (b) A contract with a local health officer pursuant to  
5 this section shall not exceed three years and may be  
6 renewed or revoked upon mutual agreement of the  
7 department and the local health officer. The department  
8 may unilaterally revoke the contract if it makes a finding  
9 that the provisions of the contract have not been  
10 complied with by the local health officer. Notification to  
11 the local health officer and the board of supervisors and  
12 the opportunity for a public hearing shall be provided  
13 prior to a unilateral contract revocation by the  
14 department.

15 (c) A contract entered into with the local health  
16 officer pursuant to this section shall include  
17 reimbursement by the department to the local health  
18 officer of some or all of the costs incurred by the local  
19 health officer in carrying out the provisions of the  
20 contract.

21 (d) This section shall become operative on July 1, 1993.

22 SEC. 3. Section 4010.7 is added to the Health and  
23 Safety Code, to read:

24 4010.7. (a) The department may delegate primary  
25 responsibility for the administration and enforcement of  
26 this chapter within a county to a local health officer  
27 authorized by the board of supervisors to assume these  
28 duties, by means of a local primacy delegation agreement  
29 if the local health officer demonstrates that it has the  
30 capability to meet the local primacy program  
31 requirements established by the department pursuant to  
32 subdivision (b) of Section 4023.3. This delegation shall not  
33 include the regulation of community water systems  
34 serving 200 or more service connections. The local  
35 primacy agreement may contain terms and conditions  
36 that the department deems necessary to carry out this  
37 chapter. The local primacy agreement shall provide that,  
38 although the local primacy agency shall be primarily  
39 responsible for administration and enforcement of this  
40 chapter for the designated water systems, the

1 department does not thereby relinquish its authority, but  
2 rather shall retain jurisdiction to administer and enforce  
3 this chapter for the designated water systems to the  
4 extent determined necessary by the department.

5 (b) Any local health officer seeking a local primacy  
6 delegation shall submit an application to the department.  
7 The application shall be submitted by March 1, 1993, for  
8 local health officers seeking local primacy agreements for  
9 the 1993-94 fiscal year. Thereafter, the application shall  
10 be submitted by January 1, of the fiscal year immediately  
11 preceding the commencement of the fiscal year for  
12 which the local primacy delegation is sought. The  
13 application shall be in the format, and shall contain  
14 information, required by the department. The  
15 department shall approve the application for primacy if  
16 the department determines that the local health officer  
17 is capable of meeting the primacy program requirements  
18 established by the department.

19 (c) A local primacy delegation approved by the  
20 department shall remain in effect until any of the  
21 following conditions occur:

22 (1) The delegation is withdrawn by mutual  
23 agreement.

24 (2) The local primacy agency provides 120-day  
25 advance written notice to the department that it no  
26 longer wishes to retain local primacy.

27 (3) The department determines that the local primacy  
28 agency no longer complies with the department's local  
29 primacy program requirements. The department shall  
30 provide written notice to the local primacy agency and  
31 the board of supervisors and shall provide an opportunity  
32 for a public hearing prior to initiation of any local  
33 primacy revocation action by the department.

34 (d) The department shall evaluate the drinking water  
35 program of each local primacy agency at least annually.  
36 The department shall prepare a report of the evaluation  
37 and list any program improvements needed to conform  
38 to the department's local primacy program  
39 requirements. A copy of the evaluation report shall be  
40 provided to the local primacy agency and the board of

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40 (e) A public

1 supervisors. The local primacy agency shall be granted a  
2 reasonable amount of time to make any needed program  
3 improvements prior to the initiation of any local primacy  
4 revocation actions.

5 (e) To the extent funds are appropriated by the  
6 Legislature for that purpose, the department shall  
7 provide the local primacy agency with an annual  
8 drinking water surveillance program grant to cover the  
9 cost of conducting the inspection, monitoring,  
10 surveillance, and water quality evaluation activities  
11 specified in the local primacy agreement. The annual  
12 program grant pursuant to this subdivision shall not  
13 exceed the amount that the department determines  
14 would be necessary for the department to conduct  
15 inspection, monitoring, surveillance, and water quality  
16 evaluation activities in the absence of a local primacy  
17 agreement for those systems in that county.

18 (f) The local primacy agency shall act for the  
19 department as the primary agency responsible for the  
20 administration and enforcement of this chapter for the  
21 specified public water systems and shall be empowered  
22 with all of the authority granted to the department by  
23 this chapter over those districts.

24 SEC. 4. Section 4019 of the Health and Safety Code is  
25 repealed.

26 4019. (a) Any public water system required to  
27 submit a water quality improvement plan to the  
28 department pursuant to Section 4018 shall pay a fee to the  
29 department to serve as reimbursement to the General  
30 Fund. The fee shall be paid to the department at the time  
31 the water quality improvement plan is submitted.

32 (b) The department shall adopt regulations  
33 establishing the amount of the fee and the method of  
34 payment. The fee shall be sufficient to cover the  
35 reasonable and necessary cost to the department to  
36 implement this article. In establishing the amount of the  
37 fee, the department shall take into consideration the  
38 amount of water purveyed and the number of service  
39 connections in the water system.

40 (c) A public water system, after payment of the fee

1 pursuant to this section, shall be permitted to recover the  
2 fee from its customers.

3 SEC. 5. Article 2.5 (commencing with Section  
4 4019.10) is added to Chapter 7 of Part 1 of Division 5 of  
5 the Health and Safety Code, to read:

6  
7 Article 2.5. Financial

8  
9 4019.10. (a) Notwithstanding any other provision of  
10 law, commencing July 1, 1993, each public water system  
11 shall pay to the department an annual safe drinking water  
12 surveillance fee of seventy cents (\$.70) for each service  
13 connection it serves for the costs of conducting  
14 inspections, monitoring, surveillance, and water quality  
15 evaluation activities pursuant to this chapter. The  
16 minimum annual payment by a community water system  
17 shall be three hundred fifty dollars (\$350) and the  
18 maximum annual payment for each community water  
19 system shall be two hundred thousand dollars (\$200,000).  
20 Each noncommunity water system shall pay an annual  
21 fee not to exceed two hundred fifty dollars (\$250). These  
22 fees shall not exceed, but shall be sufficient to pay, the  
23 department's costs of conducting those activities  
24 mandated by this chapter for inspections, monitoring,  
25 surveillance, and water quality evaluation of the public  
26 water systems being assessed the fee.

27 (b) Commencing September 1, 1993, and prior to  
28 September 1 of each fiscal year thereafter, the  
29 department shall send an invoice to each public water  
30 system indicating the amount of the annual safe drinking  
31 water surveillance fee to be paid by that system for that  
32 fiscal year. Payment of the fee shall be made within 120  
33 days of receipt of the invoice. Failure to pay the fee  
34 within the 120 days shall result in a 10 percent late  
35 penalty that shall be paid in addition to the fee.

36 (c) The fee shall be paid to the department  
37 notwithstanding the existence of a local primacy agency.

38 4019.15. (a) Each public water system applying for a  
39 domestic water supply permit, or a permit amendment,  
40 to the department pursuant to Article 2 (commencing

1 with Section  
2 processing fe  
3 shall accompa  
4 amendment.

5 (b) The  
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1 with Section 4011) shall pay a permit application  
2 processing fee to the department. Payment of the fee  
3 shall accompany the application for the permit, or permit  
4 amendment.

5 (b) The department shall adopt regulations  
6 establishing a schedule of permit application fees. The  
7 schedule shall reflect the estimated time required for  
8 processing an application and shall not exceed, but shall  
9 be sufficient to cover, the department's necessary and  
10 reasonable costs for processing the applications.

11 (c) Notwithstanding subdivisions (a) and (b) the  
12 application and the fee pursuant to this section for water  
13 districts under the jurisdiction of the local primacy  
14 agency shall be submitted to the local primacy agency in  
15 lieu of the department. In assessing the fee, a local  
16 primacy agency shall use either the permit fee schedule  
17 established by the department or shall adopt its own fee  
18 schedule pursuant to subdivision (b) of Section 4019.40.

19 4019.20. (a) Each public water system shall  
20 reimburse the department for any enforcement cost  
21 incurred by the department, in excess of two hours per  
22 year, related to any of the following activities related to  
23 that water system:

24 (1) Preparing, issuing, and monitoring compliance  
25 with, an order or a citation.

26 (2) Preparing and issuing public notification.

27 (3) Conducting a hearing pursuant to Section 4031.

28 (b) The department shall submit an invoice for these  
29 enforcement costs to the public water system that  
30 requires payment prior to September 1 of the fiscal year  
31 following the fiscal year in which the costs were incurred.  
32 The invoice shall indicate the total hours expended, the  
33 reasons for the expenditure, and the hourly cost rate of  
34 the department. The costs set forth in the invoice shall  
35 not exceed the total costs to the department of  
36 enforcement activities specified in this section.

37 (c) Notwithstanding the reimbursement of  
38 enforcement costs of the local primacy agency pursuant  
39 to subdivision (a) of Section 4019.40 by public water  
40 systems under the jurisdiction of the local primacy

1 agency, public water systems shall also reimburse  
2 enforcement costs, if any, incurred by the department  
3 pursuant to this section.

4 (d) "Enforcement costs" as used in this section does  
5 not include "litigation costs" pursuant to Section 4019.30.

6 (e) The department shall not be entitled to  
7 enforcement costs pursuant to this section if either a  
8 court or the department determines that enforcement  
9 activities were in error.

10 4019.25. (a) Each public water system that requests  
11 an exemption, variance, or waiver of any applicable  
12 requirement of this chapter or any regulation adopted  
13 pursuant to this chapter, shall reimburse the department  
14 for any cost incurred by the department in processing the  
15 request.

16 (b) The department shall submit an invoice to the  
17 water system within 90 days of the department's final  
18 decision with respect to the request for an exemption,  
19 variance, or waiver. The invoice shall indicate the  
20 number of hours expended by the department and the  
21 department's hourly cost rate. Payment of the fee shall be  
22 made within 120 days of receipt of the invoice. Failure to  
23 pay the fee within the 120 days shall result in a 10 percent  
24 late penalty that shall be paid in addition to the fee. The  
25 department may revoke any approval of a request for an  
26 exemption, variance, or waiver for failure to pay the  
27 required fees.

28 (c) Notwithstanding subdivisions (a) and (b),  
29 requests for, and reimbursement of costs for, an  
30 exemption, variance, or waiver for water districts under  
31 the jurisdiction of the local primacy agency shall, instead,  
32 be submitted to the local primacy agency pursuant to  
33 subdivision (c) of Section 4019.40.

34 4019.30. The department shall be awarded litigation  
35 costs, including, but not limited to, salaries, benefits,  
36 travel expenses, operating, equipment, administrative,  
37 overhead, other litigation costs, and attorney's fees, as  
38 determined by the court in any court action brought  
39 pursuant to this chapter in which the department wholly  
40 or partially prevails. Litigation costs awarded to the

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1 department by the court shall be deposited in the Safe  
2 Drinking Water Account. Notwithstanding the award of  
3 litigation costs to a local primacy agency pursuant to  
4 subdivision (d) of Section 4019.40; the department shall  
5 be awarded litigation costs, if any, relating to any public  
6 water system under the jurisdiction of a local primacy  
7 agency.

8 4019.35. (a) All funds received by the department  
9 pursuant to this chapter shall be deposited into the Safe  
10 Drinking Water Account that is hereby established.  
11 Funds in the Safe Drinking Water Account may not be  
12 expended for any purpose other than as set forth in this  
13 chapter. Notwithstanding Section 13340 of the  
14 Government Code, funds collected by the department  
15 pursuant to this article and deposited into the Safe  
16 Drinking Water Account are continuously appropriated  
17 without regard to fiscal year to pay the expenses of the  
18 department to administer this chapter.

19 (b) The department's hourly cost rate used to  
20 determine the reimbursement pursuant to Section  
21 4019.20 and 4019.25 shall be based upon the department's  
22 salaries, benefits, travel expense, operating, equipment,  
23 administrative support, and overhead costs.

24 (c) Notwithstanding Section 6103 of the Government  
25 Code, each public water system operating under a permit  
26 issued pursuant to this chapter shall pay the fees set forth  
27 in this chapter. A public water system shall be permitted  
28 to collect a fee from its customers to recover the fees paid  
29 pursuant to this chapter.

30 (d) The fees collected pursuant to Sections 4019.10  
31 and 4019.15 shall be adjusted annually pursuant to Section  
32 113, and the adjusted fee amounts shall be rounded off to  
33 the nearest whole dollar.

34 (e) Fees assessed pursuant to this chapter shall not  
35 exceed costs to either the department or the local  
36 primacy agency, as the case may be, related to the public  
37 water system assessed the fees.

38 4019.40. (a) Any public water system under the  
39 jurisdiction of a local primacy agency shall reimburse the  
40 local primacy agency for any enforcement cost incurred

1 by the local primacy agency, in excess of two hours per  
2 year, related to any of the following relating to that water  
3 system:

4 (1) Preparing, issuing, and monitoring compliance  
5 with, an order or a citation.

6 (2) Preparing and issuing public notification.

7 (3) Conducting a hearing pursuant to Section 4031.

8 The local primacy agency shall submit an invoice to the  
9 public water system that requires payment, prior to  
10 September 1 of the fiscal year following the fiscal year in  
11 which the costs were incurred. The invoice shall indicate  
12 the total hours expended, the reasons for the  
13 expenditure, and the hourly cost rate of the local primacy  
14 agency. The invoice shall not exceed the total costs to the  
15 local primacy agency of enforcement activities specified  
16 in this subdivision. Notwithstanding the reimbursement  
17 to the department of enforcement costs, if any, pursuant  
18 to Section 4019.20, any public water system under the  
19 jurisdiction of the local primacy agency shall also  
20 reimburse the local primacy agency for enforcement  
21 costs incurred by the local primacy agency pursuant to  
22 this section. The local primacy agency shall not be  
23 entitled to enforcement costs pursuant to this subdivision  
24 if either a court or the local primacy agency determines  
25 that enforcement activities were in error. "Enforcement  
26 costs" as used in this subdivision does not include  
27 "litigation costs" as used in subdivision (d).

28 (b) The local primacy agency may adopt a fee  
29 schedule for the processing of applications for a domestic  
30 water supply permit, submitted pursuant to subdivision  
31 (c) of Section 4019.15 by a public water system under the  
32 jurisdiction of the local primacy agency, to recover its  
33 cost of processing the permit applications as specified in  
34 the primacy agreement. The fee shall not exceed the total  
35 costs to the local primacy agency of processing the permit  
36 application.

37 (c) Any public water system under the jurisdiction of  
38 a local primacy agency that requests an exemption,  
39 variance, or waiver of any applicable requirement of this  
40 chapter, or any regulation of the department adopted

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1 pursuant to this chapter, shall submit the request to the  
2 local primacy agency and shall reimburse the local  
3 primacy agency for any costs incurred by the local  
4 primacy agency in processing the request.

5 (d) Notwithstanding the award of litigation costs, if  
6 any, to the department pursuant to Section 4019.30, the  
7 local primary agency shall be awarded litigation costs,  
8 including, but not limited to, salaries, benefits, travel  
9 expenses, operating, equipment, administrative,  
10 overhead, other litigation costs, and attorney's fees, as  
11 determined by the court in any court action brought  
12 pursuant to this chapter in which the local primary  
13 agency wholly or partially prevails. Costs awarded by the  
14 court shall be used by the local primacy agency to offset  
15 litigation costs.

16 SEC. 6. Section 4020 of the Health and Safety Code is  
17 repealed.

18 4020. (a) There is hereby established in the General  
19 Fund the Small Water Systems Account. Each public  
20 water system serving fewer than 200 service connections  
21 shall pay an annual operating fee to the department in  
22 accordance with the regulations specified in subdivision  
23 (b), which shall be deposited in the Small Water Systems  
24 Account. Funds in the Small Water Systems Account shall  
25 be sufficient to cover the reasonable and necessary costs  
26 of the department to carry out the activities for public  
27 water systems with fewer than 200 service connections  
28 mandated by this chapter which are directly related to  
29 the issuance of permits, conduct of inspections and  
30 surveillance activities, taking of enforcement actions, and  
31 the costs of administering any contracts with local health  
32 officers.

33 (b) The department shall adopt regulations  
34 establishing a schedule of annual operating fees which  
35 shall be paid to the department by all community and  
36 noncommunity water systems of fewer than 200 service  
37 connections. The regulations shall specify the amount of  
38 the fee and the method of payment. In establishing the  
39 amount of the fee, the department shall, as directed in  
40 subdivision (c), charge each water system an amount that

1 reflects the actual costs of the department in conducting  
2 the activities specified in subdivision (a) relative to that  
3 system.

4 (c) For the purposes of determining the fees provided  
5 for in subdivision (b), the department shall maintain a  
6 record of its actual costs for pursuing the activities  
7 specified in subdivision (a) relative to each system  
8 required to pay fees. To the extent feasible, the fee  
9 charged each system should be the same as or less than  
10 actual costs. In determining actual costs, the department  
11 may consider personnel requirements, materials, travel  
12 expenses, office overhead, and other pertinent direct and  
13 indirect expenses.

14 (d) Notwithstanding Section 6103 of the Government  
15 Code, each public water system operating under the  
16 permit issued pursuant to this chapter shall pay an annual  
17 operating fee to the department pursuant to this section.  
18 A public water system shall be permitted to collect a fee  
19 from its customers to recover the fee paid pursuant to this  
20 section.

21 (e) Fees collected by the department pursuant to this  
22 section shall not exceed a total of eight million two  
23 hundred fifty thousand dollars (\$8,250,000) per year.

24 (f) This section shall become operative on July 1, 1993,  
25 and shall remain in effect until January 1, 1997, and as of  
26 that date is repealed, unless a statute is enacted which is  
27 chaptered before January 1, 1997, which deletes or  
28 extends that date.

29 *SEC. 7. Section 4020.5 of the Health and Safety Code*  
30 *is repealed.*

31 *4020.5. (a) There is hereby established in the*  
32 *General Fund the Large Water Systems Account. Each*  
33 *public water system serving 200 or more service*  
34 *connections shall pay an annual operating fee to the*  
35 *department in accordance with the regulations specified*  
36 *in subdivision (b), which shall be deposited in the Large*  
37 *Water Systems Account. Funds in the Large Water*  
38 *Systems Account shall be sufficient to cover the*  
39 *reasonable and necessary costs of the department to*  
40 *carry out the activities for public water systems of 200 or*

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1 more service connections mandated by this chapter  
 2 which are directly related to the issuance of permits,  
 3 conduct of inspections and surveillance activities, and  
 4 taking of enforcement actions.  
 5 (b) The department shall adopt regulations  
 6 establishing a schedule of annual operating fees which  
 7 shall be paid to the department by all public water  
 8 systems of 200 or more service connections. The  
 9 regulations shall specify the amount of the fee and the  
 10 method of payment. In establishing the amount of the  
 11 fee, the department shall, as directed in subdivision (c),  
 12 charge each water system an amount that reflects the  
 13 actual costs of the department in conducting the  
 14 activities specified in subdivision (a) relative to that  
 15 system.  
 16 (c) For the purposes of determining the fees provided  
 17 for in subdivision (b), the department shall maintain a  
 18 record of its actual costs for pursuing the activities  
 19 specified in subdivision (a) relative to each system  
 20 required to pay fees. To the extent feasible, the fee  
 21 charged each system should be the same as or less than  
 22 actual costs. In determining actual costs, the department  
 23 may consider personnel requirements, materials, travel  
 24 expenses, office overhead, and other pertinent direct and  
 25 indirect expenses.  
 26 (d) Notwithstanding Section 6103 of the Government  
 27 Code, each public water system operating under the  
 28 permit issued pursuant to this chapter shall pay an annual  
 29 operating fee to the department pursuant to this section.  
 30 A public water system shall be permitted to collect a fee  
 31 from its customers to recover the fee paid pursuant to this  
 32 section.  
 33 (e) Fees collected by the department pursuant to this  
 34 section shall not exceed a total of four million two  
 35 hundred fifty thousand dollars (\$4,250,000).  
 36 (f) This section shall become operative on July 1, 1991,  
 37 and shall remain in effect until January 1, 1997, and as of  
 38 that date is repealed unless a statute is enacted which is  
 39 chaptered before January 1, 1997, which deletes or  
 40 extends that date.

1 SEC. 8. Section 4023.3 of the Health and Safety Code  
2 is amended to read:

3 4023.3. The department shall adopt rules and  
4 regulations it deems necessary to carry out the purposes  
5 of this chapter. The regulations shall include, but not be  
6 limited to, the following:

7 (a) The monitoring of contaminants including the  
8 type of contaminant, frequency and method of sampling  
9 and testing and the reporting of results.

10 (b) The monitoring of unregulated contaminants for  
11 which drinking water standards have not been  
12 established by the department. The requirements shall  
13 be no less stringent than those promulgated pursuant to  
14 paragraph (2) of subsection (a) of Section 1445 of the  
15 federal Safe Drinking Water Act, as amended (42 U.S.C.  
16 Sec. 300j-4 (a) (2)). Until the time that the department  
17 adopts regulations regarding the monitoring of  
18 unregulated contaminants, the department may, by  
19 order, require any public water system which that has  
20 been shown to contain detectable levels of any  
21 unregulated contaminants to conduct periodic water  
22 analyses in accordance with conditions specified by the  
23 department. The water analyses shall be reported on a  
24 quarterly basis unless the department finds that more or  
25 less frequent analysis is necessary.

26 (c) Requirements for the design, operation, and  
27 maintenance of public water systems, including, but not  
28 limited to, waterworks standards and the control of  
29 cross-connections, which that the department  
30 determines are necessary to obtain, treat, and distribute  
31 a reliable and adequate supply of pure, wholesome,  
32 potable, and healthy water.

33 (d) Requirements for treatment, including  
34 disinfection of water supplies.

35 (e) Requirements for the filtration of surface water  
36 supplies at least as stringent as regulations promulgated  
37 pursuant to subparagraph (C) of paragraph (7) of  
38 subsection (b) of Section 1412 of the federal Safe  
39 Drinking Water Act, as amended (42 U.S.C. Sec. 300g-1  
40 (b) (7) (C)).

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1 (f) Requirements for notifying the public of the  
2 quality of the water delivered to consumers.

3 (g) Minimum acceptable financial assurances which  
4 that a public water system shall be required to submit as  
5 a demonstration of its capability to provide for the  
6 ongoing operation, maintenance, and upgrading of the  
7 system, including compliance with monitoring and  
8 treatment requirements and contingencies. For privately  
9 owned systems not regulated by the California Public  
10 Utilities Commission, the financial assurance may be in  
11 the form of a trust fund, surety bond, letter of credit,  
12 insurance, or other equivalent financial arrangement  
13 acceptable to the department.

14 (h) ~~Minimum program~~ Program requirements for the  
15 conduct of the public water system program by a local  
16 health officer under a primacy delegation from the  
17 department as set forth in this chapter. The requirements  
18 shall include, but not be limited to, the issuance of  
19 permits, surveillance and inspections, reporting of  
20 monitoring and compliance data, and the taking of  
21 enforcement actions.

22 Code is amended to read:

23 ~~1020-~~ (a) There is hereby established in the General  
24 Fund the Small Water Systems Account. Each public  
25 water system serving fewer than 200 service connections  
26 shall pay an annual operating fee to the department in  
27 accordance with the regulations specified in subdivision  
28 (b), which shall be deposited in the Small Water Systems  
29 Account. Funds in the Small Water Systems Account shall  
30 be sufficient to cover the reasonable and necessary costs  
31 of the department to carry out the activities for public  
32 water systems with fewer than 200 service connections  
33 mandated by this chapter which are directly related to  
34 the issuance of permits, conduct of inspections and  
35 surveillance activities, taking of enforcement actions, and  
36 the costs of administering any contracts with local health  
37 officers.

38 (b) The department shall adopt regulations  
39 establishing a schedule of annual operating fees which  
40 shall be paid to the department by all community and

1 noncommunity water systems of fewer than 200 service  
2 connections. The regulations shall specify the amount of  
3 the fee and the method of payment. In establishing the  
4 amount of the fee, the department shall, as directed in  
5 subdivision (c), charge each water system an amount that  
6 reflects the actual costs of the department in conducting  
7 the activities specified in subdivision (a) relative to that  
8 system.

9 (c) For the purposes of determining the fees provided  
10 for in subdivision (b), the department shall maintain a  
11 record of its actual costs for pursuing the activities  
12 specified in subdivision (a) relative to each system  
13 required to pay fees. To the extent feasible, the fee  
14 charged each system should be the same as or less than  
15 actual costs. In determining actual costs, the department  
16 may consider personnel requirements, materials, travel  
17 expenses, office overhead, and other pertinent direct and  
18 indirect expenses.

19 (d) Notwithstanding Section 6103 of the Government  
20 Code, each public water system operating under the  
21 permit issued pursuant to this chapter shall pay an annual  
22 operating fee to the department pursuant to this section.  
23 A public water system may collect a fee from its  
24 customers to recover the fee paid pursuant to this section.

25 (e) Fees collected by the department pursuant to this  
26 section shall not exceed a total of eight million two  
27 hundred fifty thousand dollars (\$8,250,000) per year.

28 (f) This section shall become operative on July 1, 1992,  
29 and shall remain in effect until January 1, 1997, and as of  
30 that date is repealed, unless a statute is enacted which is  
31 chaptered before January 1, 1997, which deletes or  
32 extends that date.