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SB-519 Hazardous substances: underground storage tanks. (2019-2020)

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Senate Bill No. 519

CHAPTER 480

An act to amend Section 25299.50.6 of the Health and Safety Code, relating to hazardous substances.

[Approved by Governor October 02, 2019. Filed with Secretary of State October 02, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 519, Bradford. Hazardous substances: underground storage tanks.

Existing law requires the Secretary for Environmental Protection to implement a unified hazardous waste and hazardous materials management regulatory program, known as the unified program. Existing law requires every county to apply to the secretary to be certified to implement the unified program, and authorizes a city or local agency that meets specified requirements to apply to the secretary to be certified to implement the unified program, as a certified unified program agency, or CUPA. Existing law authorizes a state or local agency that has a written agreement with a CUPA, and is approved by the secretary, to implement or enforce one or more of the unified program elements as a participating agency. Existing law defines "unified program agency," to mean the CUPA or its participating agencies, as provided.

Existing law, the Water Replenishment District Act, provides for the formation, organization, and functioning of water replenishment districts. Existing law authorizes a water replenishment district, for the purposes of replenishing the groundwater supplies within the district, to, among other things, store, transport, recapture, recycle, purify, treat, or otherwise manage and control water for the beneficial use of persons or property within the district and build the necessary works to achieve groundwater replenishment.

Existing law establishes the Underground Storage Tank Cleanup Fund and authorizes the State Water Resources Control Board to expend moneys in the fund for certain purposes, including for transfer to the Site Cleanup Subaccount, as provided. Existing law authorizes the board to expend funds in the subaccount, upon appropriation by the Legislature, for certain purposes, including to pay for the reasonable and necessary costs incurred by the board, a regional board, or a local agency to identify the source of surface or groundwater contamination or to remediate the harm or threat of harm to human health, safety, and the environment caused by existing or threatened surface or groundwater contamination at a location, if certain conditions apply.

This bill would additionally authorize the board to expend moneys in the subaccount for the reasonable and necessary costs incurred by the Department of Toxic Substances Control or water replenishment districts to identify the source of surface or groundwater contamination, and for the above-mentioned remediation costs, as provided.

Existing law authorizes the board to expend funds in the subaccount, upon appropriation by the Legislature, to issue grants for the reasonable and necessary costs of specified remediation actions at a location at which the board, a regional board, or a local agency has required the responsible parties to undertake or contract for investigation or cleanup, pursuant to an order, directive, notification, or approval issued pursuant to specified law, if the responsible parties lack sufficient financial resources to pay for the required response actions.

This bill would additionally authorize the issuance of a grant for remediation actions at a location at which a responsible party has been required to undertake or contract for investigation or cleanup pursuant to a specified order issued by the department, subject to that same condition.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 25299.50.6 of the Health and Safety Code is amended to read:

25299.50.6. (a) The Site Cleanup Subaccount is hereby established in the State Treasury. Moneys shall be deposited in the subaccount pursuant to subdivision (m) of Section 25299.51.

(b) The board may expend the funds in the Site Cleanup Subaccount, upon appropriation by the Legislature, for the following purposes:

(1) To pay for reasonable and necessary expenditures that the board, the department, a regional board, a local agency, or a water replenishment district incurs to identify the source of surface or groundwater contamination.

(2) (A) To pay for reasonable and necessary expenditures to remediate the harm or threat of harm to human health, safety, and the environment caused by existing or threatened surface or groundwater contamination incurred by any of the following:

(i) The board.

(ii) The department.

(iii) A regional board.

(iv) A local agency.

(v) A water replenishment district, under the direction of the board, a regional board, a local agency, or another appropriate regulatory agency with authority over surface or groundwater cleanup oversight.

(B) The board shall consider the following factors when approving expenditures for specific locations:

(i) The degree to which human health, safety, and the environment are threatened by contamination at the location.

(ii) Whether the location is located in a small or financially disadvantaged community.

(iii) The cost and potential environmental benefit of the investigation or cleanup.

(iv) Whether there are other potential sources of funding for the investigation or cleanup.

(v) Any other information the board identifies as necessary for consideration.

(3) To issue grants pursuant to this section for the reasonable and necessary costs of actions to remediate the harm or threat of harm to human health, safety, and the environment caused by existing or threatened surface or groundwater contamination at a location that meets both of the following conditions:

(A) The board, the department, a regional board, or a local agency requires the responsible parties to undertake or contract for investigation or cleanup, pursuant to an oral or written order, directive, notification, or approval issued pursuant to Section 25187, 25296.10, 25355.5, or 25358.3, or pursuant to a cleanup and abatement order issued under Section 13304 of the Water Code. The board may waive this requirement if the board finds that it is infeasible for an order to be issued before initiation of remediation.

(B) The responsible parties lack sufficient financial resources to pay for the required response actions.

(4) For payments to the Attorney General by the board pursuant to subdivision (g).

(c) At least annually, the board shall review grant applications and adopt a list of applicants to be awarded grants pursuant to paragraph (3) of subdivision (b). In addition to the conditions specified in paragraph (3) of subdivision (b), the board shall consider all of the following factors when awarding grants:

(1) The degree to which human health, safety, and the environment are threatened by surface water or groundwater contamination at the location.

(2) Whether the location is located in a small or financially disadvantaged community.

(3) The cost and potential environmental benefit of the investigation or cleanup.

(4) Whether there are other potential sources of funding for the investigation or cleanup.

(5) Any other information the board identifies as necessary for consideration.

(d) (1) The board shall specify the information that shall be included in a grant application, consistent with this section, including, but not limited to, a provision requiring the applicant to make a sworn verification of the information in the application to the best of the applicant's knowledge.

(2) The board may adopt procedures to implement this section.

(3) The board shall post any procedures or information requirements adopted pursuant to this section on its internet website.

(e) (1) The recipient of grant moneys shall expend those funds only for the reasonable costs necessary to protect human health, safety, and the environment, incurred on or after September 25, 2014.

(2) The board shall not issue a grant for any costs for which the applicant has been, or will be, paid by another source.

(3) The board may terminate a grant and may bar the applicant from receiving any future grants from the Site Cleanup Subaccount if the board finds that the applicant has made a misrepresentation or false claim.

(f) (1) Any funds in the Site Cleanup Subaccount that are not expended in a fiscal year shall remain in the subaccount until they are encumbered.

(2) Notwithstanding Section 16304.1 of the Government Code, the board shall encumber the funds appropriated pursuant to this section within three years of the appropriation and the board may make a disbursement in liquidation of an encumbrance before or during the three years following the last day the appropriation is available for encumbrance.

(3) Notwithstanding Section 16475 of the Government Code, any interest earned upon the money in the Site Cleanup Subaccount shall be deposited in the Site Cleanup Subaccount.

(g) The Attorney General may recover the actual, reasonable costs of investigation or cleanup undertaken pursuant to this section in a civil action, upon request from the board, from any responsible party. All money recovered by the Attorney General pursuant to this section shall be deposited in the Site Cleanup Subaccount.

(h) For purposes of this section, "water replenishment district" has the meaning provided for in Division 18 (commencing with Section 60000) of the Water Code.