

AMENDED IN ASSEMBLY APRIL 21, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1546**

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**Introduced by Assembly Member Hancock**

February 22, 2005

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~~An act to add Section 57014 to the Health and Safety Code, relating to the environment.~~ *An act to add Division 38 (commencing with Section 58000) to, and to repeal Section 58004.5 of, the Health and Safety Code, relating to the environment.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1546, as amended, Hancock. ~~Environment:~~ Department of Environmental Management.

Under existing law, the Site Designation Committee in the California Environmental Protection Agency is authorized to designate an administering agency for oversight of a remedial action to a hazardous substance release:

~~The~~; *the* Carpenter-Presley-Tanner Hazardous Substance Account Act imposes liability for hazardous substance removal or remedial actions and requires the Department of Toxic Substances Control to adopt, by regulation, criteria for the selection and for the priority ranking of hazardous substance release sites for removal or remedial action under the act. ~~The existing~~; *the* Radiation Control Law requires the State Department of Health Services to issue licenses with regard to radioactive materials and to register and inspect sources of ionizing radiation. ~~Under~~; *and* the Porter-Cologne Water Quality Control Act; *requires* the State Water Resources Control Board and the California regional water quality control boards ~~are required~~ to carry out various duties relating to water quality, including the issuance of waste discharge requirements and related orders.

~~This bill would require the Governor to convene a Cleanup Agency Consolidation Task Force, which would consist of a representative from the Department of Toxic Substances Control, the State Department of Health Services, and the California regional water quality control boards. The bill would require the task force to draft an organization and business plan to provide for the creation and structuring of a Department of Environmental Management. The bill would require the plan to provide for the transfer of specified authority and duties to that department. The bill would provide for a 90-day public comment period for comments and hearings regarding the draft plan and would require the task force, after reviewing and incorporating into the plan any comments as appropriate, to issue a final organization and business plan for the creation and structuring of that department.~~

*This bill would create the Department of Environmental Management within the California Environmental Protection Agency and would consolidate the Department of Toxic Substances Control, the environmental cleanup section of the Radiological Health Branch of the State Department of Health Services, and various programs, as specified, administered by the regional water quality control boards, into the department, upon the adoption of an organization and business plan by the department, as prescribed.*

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The accidental or unintended release of hazardous
- 4 chemicals or radioactive substances to the soil and groundwater
- 5 of the state damages habitat, threatens sources of safe drinking
- 6 water, and endangers human health.
- 7 (b) Numerous agencies have been ~~order~~ *ordered* to enforce
- 8 rules associated with the release of hazardous substances and
- 9 oversee the cleanup of releases. These agencies include the
- 10 Department of Toxic Substances Control, branches within the
- 11 nine California regional water quality control boards, ~~and~~ the
- 12 Radiological Health Branch of the State Department of Health
- 13 Services, *and county and other local agencies (local oversight*

1 *programs and local implementing agencies). In total, there are*  
2 *over 100 individual soil and groundwater environmental cleanup*  
3 *regulating agencies in the state .*

4 (c) Each regulating agency interprets and enforces state law in  
5 accordance with its own criteria. There is no consistent standard  
6 of governance ~~between the various entities among the various~~  
7 *agencies*. There is only a limited interagency coordination of  
8 activities.

9 (d) Agency jurisdictions overlap, and as a consequence, it is  
10 often difficult to determine the agency that is responsible for the  
11 control of a given release of a hazardous substance.

12 (e) Myriad agencies, inconsistent regulatory interpretation, and  
13 competition for jurisdiction create an unmanageable patchwork  
14 of environmental oversight. The manner in which regulations are  
15 currently enforced actually impedes environmental protection,  
16 slows the redevelopment of brownfield sites and, on occasion,  
17 compromises human health.

18 ~~SEC. 2. Section 57014 is added to the Health and Safety~~  
19 ~~Code, to read:~~

20 ~~57014. (a) The Governor shall convene a Cleanup Agency~~  
21 ~~Consolidation Task Force, which shall consist of a representative~~  
22 ~~from each of the following entities:~~

23 ~~(1) The Department of Toxic Substances Control.~~

24 ~~(2) The environmental cleanup section of the Radiological~~  
25 ~~Health Branch of the State Department of Health Services.~~

26 ~~(3) The part of each California regional water quality control~~  
27 ~~board that enforces environmental cleanup regulations.~~

28 ~~(b) The task force shall draft an organization and business plan~~  
29 ~~to provide for the creation and structuring of a Department of~~  
30 ~~Environmental Management. The plan shall provide for the~~  
31 ~~transfer of the authority and duties of the entities specified in~~  
32 ~~paragraphs (1) to (3), inclusive, of subdivision (a) to that~~  
33 ~~department, and shall also include all of the following:~~

34 ~~(1) The process by which previously existing entities and parts~~  
35 ~~of entities will be consolidated into the Department of~~  
36 ~~Environmental Management.~~

37 ~~(2) A budget for the administration of the Department of~~  
38 ~~Environmental Management.~~

1 ~~(3) A timeline and budget for the integration of existing~~  
2 ~~information systems into a single Department of Environmental~~  
3 ~~Management system.~~

4 ~~(4) A description of policy objectives, including a plan for the~~  
5 ~~creation of technical guidelines and standards of practice, a plan~~  
6 ~~for public access and participation, and a plan for the creation of~~  
7 ~~a process for the review of Department of Environmental~~  
8 ~~Management decisions.~~

9 ~~(5) Provisions to insure that the Department of Environmental~~  
10 ~~Management is vested with, and implements, the duties,~~  
11 ~~authority, and jurisdiction of the entities that are transferred to~~  
12 ~~the new department and that the Department of Environmental~~  
13 ~~Management continues the policies and practices of those~~  
14 ~~entities, unless expressly determined otherwise by that task force.~~

15 ~~(c) Upon completion of a draft organization and business plan~~  
16 ~~pursuant to subdivision (b), a 90-day public comment period~~  
17 ~~shall commence. During that public comment period, the task~~  
18 ~~force shall receive comments in writing and at hearings around~~  
19 ~~the state.~~

20 ~~(d) After reviewing and incorporating into the plan any~~  
21 ~~comments as appropriate, the task force shall issue a final~~  
22 ~~organization and business plan for the creation and structuring of~~  
23 ~~a Department of Environmental Management. The task force~~  
24 ~~shall make any intended modifications to the plan available to~~  
25 ~~interested parties before issuing the final plan.~~

26 ~~SEC. 2. Section 58004.5 of the Health and Safety Code is~~  
27 ~~repealed.~~

28 ~~58004.5. (a) The department succeeds to, and is vested with,~~  
29 ~~all of the duties, powers, purposes, responsibilities, and~~  
30 ~~jurisdiction of the Office of Environmental Health Hazard~~  
31 ~~Assessment with regard to the Environmental Quality~~  
32 ~~Assessment Act of 1986 (Chapter 6.98 (commencing with~~  
33 ~~Section 25570)).~~

34 ~~(b) The Director of Toxic Substances Control may expend the~~  
35 ~~unexpended balance of any funds available for expenditure by~~  
36 ~~the Director of Environmental Health Hazard Assessment in~~  
37 ~~connection with the performance of the functions of the Director~~  
38 ~~of Environmental Health Hazard Assessment in carrying out the~~  
39 ~~Environmental Quality Assessment Act of 1986.~~

1 ~~(e) All officers and employees of the Office of Environmental~~  
 2 ~~Health Hazard Assessment who are serving in the state civil~~  
 3 ~~service, other than as temporary employees, and engaged in the~~  
 4 ~~performance of a function in carrying out the Environmental~~  
 5 ~~Quality Assessment Act of 1986 shall be transferred to the~~  
 6 ~~department. The status, positions, and rights of those persons~~  
 7 ~~shall not be affected by the transfer and shall be retained by them~~  
 8 ~~as officers and employees of the Department of Toxic Substances~~  
 9 ~~Control, pursuant to the State Civil Service Act (Part 2~~  
 10 ~~(commencing with Section 18500) of Division 5 of Title 2 of the~~  
 11 ~~Government Code), except as to positions exempted from civil~~  
 12 ~~service.~~

13 ~~(d) The department shall have possession and control of all~~  
 14 ~~records, papers, offices, equipment, supplies, money, funds,~~  
 15 ~~appropriations, licenses, permits, agreements, contracts, claims,~~  
 16 ~~judgments, and land or other property, real or personal, held for~~  
 17 ~~the benefit or use of the Office of Environmental Health Hazard~~  
 18 ~~Assessment for purposes of the functions transferred to the~~  
 19 ~~department to subdivision (a).~~

20 ~~(e) Any regulation adopted before January 1, 2003, by the~~  
 21 ~~Office of Environmental Health Hazard Assessment or its~~  
 22 ~~predecessors, relating to carrying out the Environmental Quality~~  
 23 ~~Assessment Act of 1986, as specified in subdivision (a), that are~~  
 24 ~~in effect on January 1, 2003, shall remain in effect on and after~~  
 25 ~~January 1, 2003, and are enforceable by the department until~~  
 26 ~~readopted, amended, or repealed by the department.~~

27 *SEC. 3. Division 38 (commencing with Section 58000) is*  
 28 *added to the Health and Safety Code, to read:*

29  
 30 *DIVISION 38. DEPARTMENT OF ENVIRONMENTAL*  
 31 *MANAGEMENT*

32  
 33 *58000. This division shall be known and may be cited as the*  
 34 *Cleanup Agency Consolidation Act.*

35 *58001. There is in the California Environmental Protection*  
 36 *Agency, the Department of Environmental Management.*

37 *58002. Unless otherwise specified, for the purposes of this*  
 38 *part, the following terms have the following meanings:*

39 *(a) "Department" means the Department of Environmental*  
 40 *Management.*

1 (b) “Director” means the Director of Environmental  
2 Management.

3 58003. (a) The department is under the control of an  
4 executive officer known as the Director of Environmental  
5 Management, who shall be appointed by the Governor, subject to  
6 confirmation by the Senate, and shall hold office at the pleasure  
7 of the Governor.

8 (b) The director shall receive the annual salary provided by  
9 Chapter 6 (commencing with Section 11550) of Part 1 of  
10 Division 3 of Title 2 of the Government Code.

11 58004. The director shall have the powers of a head of a  
12 department pursuant to Chapter 2 (commencing with Section  
13 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

14 58005. The Governor may appoint a deputy to the director.  
15 The deputy director shall hold office at the pleasure of the  
16 director, and shall receive a salary fixed by the director with the  
17 approval of the Department of Personnel Administration.

18 58006. The department succeeds to, and is vested with all  
19 duties, powers, purposes, responsibilities, and jurisdiction of, all  
20 of the following:

21 (a) The Department of Toxic Substances Control that was  
22 created by Section 146 of Governor’s Reorganization Plan No. 1  
23 of 1991, dated May 17, 1991.

24 (b) The environmental cleanup section of the Radiological  
25 Health Branch of the State Department of Health Services.

26 (c) The programs within the regional water quality control  
27 boards related to the enforcement of environmental cleanup,  
28 including, but not limited to, the following:

29 (1) Spills, leaks, investigation, and cleanup.

30 (2) Aboveground storage tanks regulated pursuant to Chapter  
31 6.67 (commencing with Section 25270) of Division 20.

32 (3) Underground storage tanks regulated pursuant to Chapter  
33 6.7 (commencing with Section 25280) of Division 20.

34 (4) Landfill environmental oversight.

35 (d) The program within the Office of Environmental Health  
36 Hazard Assessment regarding the Environmental Quality  
37 Assessment Act of 1986 (Chapter 6.98 (commencing with Section  
38 25570) of Division 20).

39 58007. (a) All officers and employees of the entities set forth  
40 in Section 58006 who are serving in the state civil service, other

1 *than as temporary employees, shall be transferred to the*  
2 *department. The status, positions, and rights of those persons*  
3 *shall not be affected by the transfer and shall be retained by*  
4 *those persons as officers and employees of the department,*  
5 *pursuant to the State Civil Service Act (Part 2 (commencing with*  
6 *Section 18500) of Division 5 of Title 2 of the Government Code),*  
7 *except as to positions exempt from the civil service.*

8 *(b) The department shall have possession and control of*  
9 *all records, papers, offices, equipment, supplies, moneys, funds,*  
10 *appropriations, licenses, permits, agreements, contracts, claims,*  
11 *judgements, land, and other property, real or personal,*  
12 *connected with the administration of, or held for, the benefit or*  
13 *use of the entities specified in Section 58006.*

14 *(c) Any regulation or other action, adopted, prescribed, taken*  
15 *or performed by an agency or officer in the administration of a*  
16 *program or the performance of a duty, responsibility, or*  
17 *authorization transferred by the act adding this division shall*  
18 *remain in effect and shall be deemed to be a regulation or action*  
19 *of the agency or officer to whom the program, duty,*  
20 *responsibility, or authorization transferred.*

21 *(d) No suit, action, or other proceeding lawfully commenced*  
22 *by or against any agency or other officer of the state, in relation*  
23 *to the administration of any program or the discharge of any*  
24 *duty, responsibility, or authorization transferred by the act*  
25 *adding this division, shall abate by reason of the transfer of the*  
26 *program, duty, responsibility, or authorization under the act*  
27 *adding this division.*

28 *58008. (a) Sections 58006 and 58007 shall not be operative*  
29 *until the department adopts, as final, the organization and*  
30 *business plan created pursuant to subdivision (c).*

31 *(b) Prior to the department's adopt of the plan, the duties,*  
32 *powers, responsibilities, and jurisdiction of the entities set forth*  
33 *in subdivision (a) shall remain with those entities.*

34 *(c) The department shall draft an organization and business*  
35 *plan that provides for the creation and the structuring of the*  
36 *department over a three year period. The plan shall include a*  
37 *detail description of all of the following:*

38 *(1) The process by which the entities specified in Section*  
39 *58006 will be consolidated into the department.*

40 *(2) A budget for the administration of the department.*

- 1     (3) *A timeline and budget for the integration of the existing*  
2 *information technology systems into a single system that is*  
3 *maintained by the department.*
- 4     (4) *Policy objectives, including a process for the creation of*  
5 *technical guidelines and standards of practice, a plan for public*  
6 *access and participation, and a plan for the creation of a process*  
7 *for review of department decisions.*
- 8     (5) *Relationship and jurisdictional issues with regard to local*  
9 *agencies performing similar regulatory functions.*
- 10    (d) *The plan shall have, as a priority, staff retention. The plan*  
11 *shall also pay special attention to the preservation of mission*  
12 *and core environmental priorities of the entities specified in*  
13 *Section 58006, to the maximum extent possible.*
- 14    (e) *The department shall draft the plan within six months after*  
15 *the effective date of this division. A public meeting shall be held*  
16 *at the inception of this period, with an outline of the plan*  
17 *presented and public comments received. The progress in*  
18 *developing the plan shall be posted on the department's Internet*  
19 *Web site.*
- 20    (f) *Upon the completion of the draft plan, the department shall*  
21 *provide a 90-day public comment period when the department*  
22 *shall receive comments in writing and hold public hearings*  
23 *regarding the draft plan. The department shall review and*  
24 *respond to public comments received in writing or at the public*  
25 *hearings.*
- 26    (g) *The department shall make available to interested parties*  
27 *intended modifications to the draft plan.*
- 28    (h) *The plan shall be final 120 days after the close of the*  
29 *public comment period.*

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