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DEPARTMENT OF  
PUBLIC WORKS

SOLID WASTE DIVISION

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CALIFORNIA

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July 16, 2003

Law and Legislation Committee  
Sacramento, California

Honorable Members in Session:

**SUBJECT: SUPPORT OF SENATE BILL 20 (SHER)-SOLID WASTE:  
HAZARDOUS ELECTRONIC WASTE**

**LOCATION AND COUNCIL DISTRICT:**

All districts.

**RECOMMENDATION:**

This report recommends Law and Legislation Committee support Senate Bill 20, which would require manufacturer responsibility for hazardous electronic devices sold in California. Action is requested to approve the attached draft support letter to the author's office (Attachment A).

**CONTACT PERSON:** G. Harold Duffey, Integrated Waste General Manager,  
433-4932

**FOR LAW AND LEGISLATION COMMITTEE MEETING OF:** August 7, 2003

**SUMMARY:**

This bill would require the Department of Toxic Substances Control (DTSC) to adopt regulations prohibiting the use of hazardous materials in the manufacture of hazardous electronic devices sold in the state of California.

It further enacts the Hazardous Electronic Waste Recovery, Reuse and Recycling Act that prohibits the selling of hazardous electronic devices unless the manufacturer is in compliance with the Act.

Finally, it would require manufacturers to have a recovery and recycling program in place for their products or pay a fee to the California Integrated Waste Management Board (CIWMB). The fees deposited would be used in: providing recycling incentives to hazardous electronic material handlers; providing grant opportunities to local governments and non-profit agencies; providing financial incentives to manufacturers; and in establishing public information programs on recycling hazardous electronic devices.

**COMMITTEE/COMMISSION ACTION:** None

**BACKGROUND:**

Hazardous electronics are those devices containing toxic levels of lead, mercury, cadmium or other hazardous materials as determined by DTSC. Their collection and disposal with solid waste is prohibited. DTSC has determined that the cathode ray tubes (CRTs) in most computer monitors and televisions contain hazardous levels of lead. DTSC is also examining other electronic devices for potential hazardous materials. This legislation will allow DTSC to ban new devices from landfills, as their hazardous content is determined.

Last Session, Senator Sher carried SB 1523 through both houses of the Legislature. The bill, vetoed by the Governor, would have required manufacturers to charge consumers a \$10 fee on each computer and television sold in California. Much of the Governor's concern was the lack of compelling manufacturers to produce electronic devices with non-hazardous materials. SB 20 would respond to this.

A copy of the Senate Bill 20 is attached as Attachment B. The bill has gone from the Assembly Committee on Environmental Safety and Toxic Materials to the Committee on Appropriations. This bill is no longer an emergency bill. Therefore, it will probably be approved in September.

**FINANCIAL CONSIDERATIONS:**

The City of Sacramento, through its Permanent Household Hazardous Waste Facility handles 186,000+ pounds of electronic waste annually at a cost of approximately \$48,000 a year. These costs are currently funded by the City's ratepayers. Passage of this bill could result in an offset of these costs from new grant opportunities made available through manufacturer fees, as well as implementation of manufacturer recycling programs.

**ENVIRONMENTAL CONSIDERATIONS:**

The recommended action is not a project in accordance with the California Environmental Quality Act (CEQA) Section #15378.

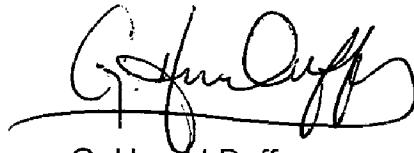
**POLICY CONSIDERATIONS:**

Support of SB 20 is consistent with the City's Strategic Plan to promote and support economic vitality by providing residents with cost effective waste disposal and recycling programs. The bill does not prohibit or restrict the City's operation of curbside or drop off recycling programs for electronic waste or the collection of fees for these programs.

**ESBD CONSIDERATIONS:**

There are no goods or services being purchased relative to this report.

Respectfully submitted,



G. Harold Duffey  
Integrated Waste General Manager

RECOMMENDATION APPROVED:



ROBERT P. THOMAS  
City Manager

Approved:



Ken Nishimoto  
Deputy City Manager

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- 1) Attachment A, Letter of Support, Pages 4-5
- 2) Attachment B, Senate Bill 20, Pages 6-23

## ATTACHMENT A

July 16, 2003

The Honorable Byron Sher  
Chair, Environmental Quality Committee  
California Capitol Building, Room 2082  
Sacramento, CA 95814

### **RE: SB 20-Solid Waste: Hazardous Electronic Waste**

Dear Senator Sher:

The City of Sacramento strongly supports SB 20, as introduced by you.

According to the California Integrated Waste Management Board (CIWMB), including hazardous electronic waste in existing household hazardous waste programs is likely to double the volume and cost of those already under funded programs. Without convenient outlets for these wastes, they have been stockpiled throughout the state at a rate of 2 to 3 million units per year (according to estimates). A massive environmental and economic risk will befall local governments unless the manufacturers and retailers of these devices are mandated to accept responsibility for collection and recycling of the products they sell that contain hazardous waste.

By causing manufacturers to be responsible for the entire life cycle of their product, SB 20 would ensure that manufacturers include disposal costs in the price of their products. Your bill would place the burden of protecting the environment from hazardous electronic waste on the shoulders of the producers of such waste.

The City has been at the end of the disposal process for too long when it comes to managing these materials in our solid waste stream. We currently recycle and properly dispose of 186,000+ pounds of electronic waste annually, at a cost of approximately \$48,000 each year. The success of our current recycling program is measured by the constant increase in pounds disposed of and recycled each year. This is consistent with your bill stating that hazardous electronic devices are one of the fastest growing hazardous components in our state's waste stream. In order to meet the needs of proper disposal, the City continues to incur increases in costs for proper disposal and recycling. Like all California cities, the City of Sacramento tries to control the cost of disposal and recycling programs it provides to its residents. It is for this

reason that the City of Sacramento would stress the importance in provision of grant funds made available to local governments not only for establishment of new or additional disposal and recycling programs for hazardous electronic waste, but most importantly for maintaining and meeting costs of their existing and on-going programs (especially if partnering between public sector entities and manufacturers is promoted). This will enable local governments to continue their existing operations and seek ways to expand and improve upon their programs to meet the increasing needs for the proper disposal of hazardous electronic waste.

While we have done a good job of diverting these materials from landfills, SB 20 will tremendously increase the electronic waste recycling by ensuring that the manufacturers and retailers are part of the process in the collection and recycling of the products they sell. Again, I would stress the City's support for SB 20. If you have questions regarding the City of Sacramento's interest in this matter, please contact me. Thank you for your consideration.

Sincerely,

STEVE COHN, Chair  
Law and Legislation Committee

AMENDED IN SENATE JUNE 2, 2003  
AMENDED IN SENATE MAY 21, 2003  
AMENDED IN SENATE MAY 6, 2003

ATTACHMENT B

**SENATE BILL**

**No. 20**

**Introduced by Senators Sher and Romero**  
**(Principal coauthor: Senator Kuehl)**  
**(Principal coauthor: Assembly Member Jackson)**  
**(Coauthor: Assembly Member Pavley)**

December 2, 2002

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An act to add Article 11.7 (commencing with Section 25243) to Chapter 6.5 of Division 20 of the Health and Safety Code, and to add Chapter 8.5 (commencing with Section 42460) to Part 3 of Division 30 of the Public Resources Code, relating to hazardous and solid waste, and ~~declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 20, as amended, Sher. Solid waste: hazardous electronic waste recovery, reuse, and recycling.

(1) Existing law prohibits the management of hazardous waste, except in accordance with the hazardous waste laws. Under existing law, the Department of Toxic Substances Control is authorized to exempt, until January 1, 2003, by regulation, a hazardous waste management activity from the requirements of the hazardous waste control law if the regulation governs a specified type of hazardous waste, including electronic hazardous wastes, identifies the hazardous waste as a universal waste, and amends specified existing regulations of the department. Existing law prohibits the disposal of electronic

products in or on land, except as specified. A violation of the hazardous waste control law is a crime.

The bill would require the Department of Toxic Substances Control to adopt regulations to prohibit the use of hazardous materials in the manufacture of hazardous electronic devices sold in the state, and to prohibit the use of any electronic or mechanical device that prevents, impedes, or limits the reuse, remanufacture, or recycling of a hazardous electronic device, thereby imposing a state-mandated local program by creating a new crime.

(2) Existing law requires the California Integrated Waste Management Board to administer state programs to recycle various specified materials.

This bill would enact the Hazardous Electronic Waste Recovery, Reuse, and Recycling Act of 2003. The bill would prohibit any person from selling a hazardous electronic device in this state to a consumer, as defined, unless the board determines that the manufacturer of that device is in compliance with the act. The bill would require a manufacturer of a hazardous electronic device, as defined, sold in the state to establish and implement a hazardous electronic device recovery system that is certified by the board for the collection, handling, transportation, processing, recovery, reuse, and recycling of the hazardous electronic waste resulting from the devices sold by that manufacturer. The bill would require a manufacturer of a hazardous electronic device that sells a hazardous electronic device in the state to notify the board of its intent to sell the device and to prepare and submit to the board a hazardous electronic device recovery plan that meets specified standards. The bill would require a manufacturer that intends to export a hazardous electronic waste to provide the department with specified information.

The bill would impose civil liability for violations of specified provisions.

The bill would require the board to establish and impose a fee on a manufacturer of a hazardous electronic device that submits a plan for review to cover its reasonable costs of implementing the act. The bill would require a manufacturer of a hazardous electronic device who does not submit a recovery plan to the board, or who does not meet specified recovery and recycling targets, to instead pay a fee to the board, in a specified amount. The bill would require the board to deposit the fees collected under the act in the Hazardous Electronic Waste,

Recovery, Reuse, and Recycling Account, which the bill would create in the Integrated Waste Management Fund in the State Treasury.

This bill would authorize the board to expend the moneys deposited in the account, upon appropriation by the Legislature, to implement the act and, among other things, to provide recycling incentive payments to hazardous electronics material handlers, provide grant funds to local governments and nonprofit agencies for recycling hazardous electronic devices, provide financial incentives to manufacturers of these devices to assist in the recycling of the devices, and to establish public information programs on recycling of hazardous electronic devices. The bill would authorize the board to adopt regulations to implement the bill.

(3) This bill would provide that its provisions are severable.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(5) The bill would declare that it is to take effect immediately as an urgency statute.~~

Vote:  $2/3$  majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*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) Electronic waste from hazardous electronic devices  
4 represents one of the fastest growing hazardous components of  
5 California's waste stream.

6 (b) According to the United States Environmental Protection  
7 Agency, more than 4.3 million tons of appliances and consumer  
8 electronics were discarded in 1999.

9 (c) Due to the presence of toxic lead, mercury, or other  
10 hazardous or potentially hazardous materials in electronic waste,  
11 these devices pose a particular threat to public health and the  
12 environment when improperly discarded.

13 (d) A study conducted by the California Integrated Waste  
14 Management Board estimates that California households currently

1 have more than 6,000,000 obsolete computer monitors and  
2 television sets "stockpiled" in their homes.

3 (e) A study for the National Safety Council projects that more  
4 than 10,000 computers and televisions become obsolete in  
5 California every day. The study further projects that three-quarters  
6 of all computers ever purchased in the United States remain  
7 stockpiled in storerooms, attics, garages, or basements.

8 (f) It is estimated that only 20 percent of obsolete computers  
9 and televisions are currently recovered for recycling.

10 (g) Hazardous electronic devices recovered for recycling,  
11 including devices from California public agencies, have been  
12 found to have been illegally handled and discarded in developing  
13 countries, posing a significant threat to public health, worker  
14 safety, and the environment in those countries.

15 (h) The collection, handling, and management of hazardous  
16 electronic devices that are currently recovered represents a costly  
17 and growing problem for local governments and nonprofit  
18 organizations, including Goodwill Industries and the Salvation  
19 Army.

20 (i) The high technology sector represents a vital and important  
21 part of California's economy.

22 (j) The system to reduce and recycle hazardous electronic  
23 devices established pursuant to this act should establish strict and  
24 enforceable requirements on all manufacturers of hazardous  
25 electronic devices while being cost-effective and providing  
26 flexibility to take advantage of the innovation of the high  
27 technology sector.

28 (k) The system should also ensure that the state will impose  
29 compliance obligations uniformly on all regulated entities to  
30 ensure that companies accepting their responsibilities are not  
31 penalized by the potential noncompliance of other companies.

32 (l) The system should also be scalable to national,  
33 international, and global systems to take into account obligations  
34 that may be imposed on manufacturers of hazardous electronic  
35 devices beyond those imposed under this act.

36 (m) The Governor has requested that the Legislature enact  
37 legislation in 2003 challenging industries to assume greater  
38 responsibility for the recycling and disposal of electronic waste,  
39 stating that "California needs a comprehensive and innovative  
40 state law that partners with product manufacturers, establishes

1 recycling targets, and provides for the safe recycling and disposal  
2 of electronic wastes.” The Governor further expressed support for  
3 a system that “provides incentives to design products that are less  
4 toxic and more recyclable.”

5 SEC. 2. Article 11.7 (commencing with Section 25243) is  
6 added to Chapter 6.5 of Division 20 of the Health and Safety Code,  
7 to read:

8

9 Article 11.7. Phaseout of Hazardous Materials In Hazardous  
10 Electronic Devices

11

12 25243. The Legislature finds and declares that it is in the  
13 interest of the state to establish a program modeled on the Product  
14 Stewardship Initiative undertaken by the European Economic  
15 Union to phase out the use of hazardous materials in the  
16 manufacture of hazardous electronic devices.

17 25243.5. For purposes of this article, the following  
18 definitions apply:

19 (a) “Hazardous electronic device” has the same meaning as  
20 defined in Section 42463 of the Public Resources Code.

21 (b) “Hazardous material” has the same meaning as defined in  
22 Section 25501.

23 25243.7. On or before January 1, 2007, the department shall  
24 adopt regulations establishing dates and procedures to prohibit the  
25 use of hazardous materials in the manufacture of a hazardous  
26 electronic device sold in the state by the earliest feasible date.

27 25243.8 On or before January 1, 2005, the department shall  
28 adopt regulations prohibiting the use of an electronic or a  
29 mechanical device that prevents, impedes, or limits the reuse,  
30 remanufacture, or recycling of a hazardous electronic device.

31 SEC. 3. Chapter 8.5 (commencing with Section 42460) is  
32 added to Part 3 of Division 30 of the Public Resources Code, to  
33 read:

34

1 CHAPTER 8.5. HAZARDOUS ELECTRONIC WASTE RECOVERY,  
2 REUSE, AND RECYCLING

3  
4 Article 1. General Provisions

5  
6 42460. This act shall be known, and may be cited, as the  
7 Hazardous Electronic Waste Recovery, Reuse, and Recycling Act  
8 of 2003.

9 42461. The Legislature finds and declares all of the  
10 following:

11 (a) The purpose of this chapter is to enact a comprehensive and  
12 innovative system for the reuse, recycling, and proper and legal  
13 disposal of hazardous electronic devices, and to provide incentives  
14 to design electronic devices that are less toxic and more recyclable.

15 (b) It is the further purpose of this chapter to enact a law that  
16 establishes a program that is cost free and convenient for  
17 consumers and the public to return, recycle, and ensure the safe  
18 and environmentally-sound disposal of hazardous electronic  
19 devices.

20 (c) It is the intent of the Legislature that the cost associated with  
21 the handling, recycling, and disposal of hazardous electronic  
22 devices is the responsibility of the producers and consumers of  
23 hazardous electronic devices, and not local government or their  
24 service providers, state government, or taxpayers.

25 (d) In order to reduce the likelihood of illegal disposal of these  
26 hazardous materials, it is the intent of this chapter to ensure that  
27 any cost associated with the proper management of hazardous  
28 electronic devices be internalized by the producers and consumers  
29 of hazardous electronic devices at or before the point of purchase,  
30 and not at the point of discard.

31 (e) Manufacturers of hazardous electronic devices, in working  
32 to achieve the goals and objectives of this chapter, should have the  
33 flexibility to partner with each other and with those public sector  
34 entities and business enterprises that currently provide collection  
35 and processing services to develop and promote a safe and  
36 effective hazardous electronic device recovery, reuse, and  
37 recycling system for California.

38 (f) The producers of electronic products, components, and  
39 devices should reduce and, to the extent feasible, ultimately phase  
40 out the use of hazardous materials in those products.

1 (g) Electronic products, components, and devices, to the  
2 greatest extent feasible, should be designed for extended life,  
3 repair, and reuse.

4  
5 Article 2. Definitions  
6

7 42463. For the purposes of this chapter, the following terms  
8 have the following meanings, unless the context clearly requires  
9 otherwise:

10 (a) "Account" means the Hazardous Electronic Waste  
11 Recovery, Reuse, and Recycling Account created in the Integrated  
12 Waste Management Fund under Section 42476.

13 (b) "Board" means the California Integrated Waste  
14 Management Board.

15 (c) (1) "Consumer" means a purchaser or owner of a  
16 hazardous electronic device.

17 (2) (A) "Consumer" does not include a manufacturer who  
18 purchases specialty or medical electronic equipment that is a  
19 hazardous electronic device.

20 (B) For purposes of this paragraph, "medical electronic  
21 equipment" includes, but is not limited to, radiotherapy  
22 equipment, cardiology equipment, dialysis equipment, pulmonary  
23 ventilators, nuclear medicine equipment, laboratory equipment  
24 for in-vitro diagnosis, analyzers and freezers.

25 (C) For purposes of this paragraph "specialty electronic  
26 equipment" includes, but is not limited to, smoke detectors,  
27 heating regulators, and thermostats.

28 (d) "Department" means the Department of Toxic Substances  
29 Control.

30 (e) "Fee" means the hazardous electronics device recycling  
31 and recovery fee imposed by Section 42471.

32 (f) "Hazardous electronic device" means any consumer  
33 product, component, or device that requires an alternating current  
34 or direct current electrical charge for operation and that the  
35 department determines is a hazardous material or a hazardous  
36 waste. A hazardous electronic device includes, but is not limited  
37 to, a television, video monitor, computer monitor, or any other  
38 device that has one or more cathode ray tubes containing lead.

39 (g) "Hazardous material" has the same meaning as defined in  
40 Section 25501 of the Health and Safety Code.

1 (h) "Manufacturer" means any person who manufactures a  
2 hazardous electronic device and sells that hazardous electronic  
3 device in this state.

4 (i) "Registrant" means the manufacturer, or an independent  
5 party that submits the plan required by Section 42468 instead of  
6 the manufacturer.

7  
8 Article 3. Manufacturer Responsibility  
9

10 42465. (a) A person may not sell a hazardous electronic  
11 device to a consumer in this state unless the board determines the  
12 manufacturer of that hazardous electronic device demonstrates  
13 compliance with this chapter by either establishing and  
14 implementing a system certified by the board pursuant to Section  
15 42467 or paying a fee pursuant to Section 42471.

16 (b) On and after January 1, 2005, a person may not sell or offer  
17 for sale in this state a hazardous electronic device unless the device  
18 is labeled with the name of the manufacturer or the manufacturer's  
19 brand label, so that it is readily visible.

20 42466. (a) On or after July 1, 2006, if the board determines  
21 that the recovery and recycling targets set forth in subdivision (b)  
22 are not being met by a manufacturer or registrant of a hazardous  
23 electronic device, the manufacturer shall comply with Section  
24 42471 until the board determines that the hazardous electronic  
25 device recovery system implemented pursuant to a hazardous  
26 electronic device recovery plan certified by the board pursuant to  
27 Section 42469 is meeting the targets.

28 (b) A hazardous electronic device recovery system established  
29 pursuant to Section 42467 and a hazardous electronic device  
30 recovery plan prepared pursuant to Section 42468, except as  
31 specified in subdivision (c), shall conform with the following  
32 recovery and recycling targets:

33 (1) On and after January 1, 2005, a manufacturer or registrant  
34 is responsible for arranging or otherwise ensuring that an amount  
35 of hazardous electronic waste equivalent to not less than 50 percent  
36 of the hazardous electronic devices sold by that manufacturer in  
37 the state in the previous year is diverted from waste disposal and  
38 recovered for reuse or recycling.

39 (2) On and after January 1, 2007, a manufacturer or registrant  
40 is responsible for arranging or otherwise ensuring that an amount

1 of hazardous electronic waste equivalent to not less than 70 percent  
2 of the hazardous electronic devices sold by that manufacturer in  
3 the state in the previous year is diverted from waste disposal and  
4 recovered for reuse or recycling.

5 (3) On and after January 1, 2010, a manufacturer or registrant  
6 is responsible for arranging or otherwise ensuring that an amount  
7 of hazardous electronic waste equivalent to not less than 90 percent  
8 of the hazardous electronic devices sold by that manufacturer in  
9 the state in the previous year is diverted from waste disposal and  
10 recovered for reuse or recycling.

11 (c) The board may either increase or decrease the recovery and  
12 recycling targets in subdivision (b) based on a determination of the  
13 projected volume of obsolete hazardous electronic devices.

14 (d) Notwithstanding the recovery and recycling targets in  
15 subdivision (b), state and federal regulations prohibit the disposal  
16 of hazardous electronic waste in solid waste disposal facilities and  
17 it is the intent of the Legislature that all hazardous electronic waste  
18 is managed in accordance with all applicable laws, regulations,  
19 and ordinances.

20 42467. (a) Except as provided in Section 42471, a  
21 manufacturer of a hazardous electronic device sold in the state  
22 shall establish and implement a hazardous electronic device  
23 recovery system that is certified by the board pursuant to this  
24 article for the collection, handling, transportation, processing,  
25 recovery, reuse, and recycling of the hazardous electronic waste  
26 that results from the hazardous electronic device sold by that  
27 manufacturer.

28 (b) A manufacturer of a hazardous electronic device that sells  
29 a hazardous electronic device in this state shall notify the board of  
30 its intent to sell a hazardous electronic device.

31 (c) Any manufacturer or registrant that intends to export  
32 hazardous electronic waste to a foreign destination shall comply  
33 with all of the following prior to export:

34 (1) Notify the department of the contents, volume, and  
35 destination of the proposed export.

36 (2) Demonstrate that hazardous electronic waste will be  
37 handled in a manner that is at least as protective of public health  
38 and the environment as the laws, regulations, and ordinances  
39 applicable to the recycling and disposal of these devices in this  
40 state.

1 (3) Demonstrate that the importation of hazardous electronic  
2 waste is not prohibited by any applicable law or regulation of the  
3 country of destination.

4 (d) In order to minimize costs and confusion in developing a  
5 hazardous electronic device recovery system under this section,  
6 manufacturers and registrants are encouraged to coordinate with  
7 and, to the extent feasible, support the utilization of any existing  
8 public and private systems for the collection, handling,  
9 transportation, processing, recovery, reuse, and recycling of  
10 hazardous electronic waste.

11 (e) A city, county, or public agency may not require consumers  
12 to use a system required under this section to recycle hazardous  
13 electronic devices to the exclusion of other programs legally  
14 available. This chapter anticipates that hazardous electronic  
15 device recovery systems in addition to those provided by  
16 manufacturers and registrants under this section may be available  
17 to consumers in the state. Nothing in this chapter is deemed to  
18 prohibit or restrict any other system or to prohibit or restrict any  
19 other person from receiving, storing, transporting, or recycling  
20 hazardous electronic devices.

21 42468. (a) Except as provided in Section 42471, a  
22 manufacturer or a registrant of a hazardous electronic device sold  
23 in the state shall prepare and submit to the board a hazardous  
24 electronic device recovery plan to establish a hazardous electronic  
25 device recovery system that meets all of the following standards:

26 (1) The plan demonstrates that it will result in the efficient  
27 collection, handling, transportation, processing, recovery, reuse,  
28 and recycling of hazardous electronic waste that results from the  
29 hazardous electronic device sold by that manufacturer in this state  
30 in a manner that is cost free to consumers.

31 (2) The plan demonstrates that the manufacturer or registrant  
32 will provide either directly, or through contracts or other binding  
33 arrangements with other parties as retailers, local governments, or  
34 private waste collection companies, one or more opportunities for  
35 the consumer to return the hazardous electronic devices for  
36 recovery, reuse, and recycling in a manner that is at least as  
37 convenient to the consumer as the purchase and delivery of new  
38 hazardous electronic devices through one or more of the following  
39 mechanisms:

1 (A) The return of the hazardous electronic device at a location  
2 where the device is sold.

3 (B) The mailing or shipping of the hazardous electronic device  
4 to a recycling or recovery facility, including, but not limited to, a  
5 facility owned or operated by a manufacturer of these devices.

6 (C) The curbside collection or pickup of the hazardous  
7 electronic device from the consumer.

8 (D) The dropoff of the hazardous electronic device at a  
9 conveniently located recycling or recovery facility.

10 (3) The plan demonstrates that the manufacturer or registrant  
11 of the hazardous electronic device will make available information  
12 to every consumer through the use of a toll-free telephone number,  
13 Internet Web site, and information either labeled on the device,  
14 included in the packaging, or accompanying the sale of the  
15 hazardous electronic device, that describes where and how to  
16 return, recycle, and dispose of the hazardous electronic device and  
17 opportunities and locations for the collection or return of the  
18 device.

19 (4) The plan demonstrates that all collection, handling,  
20 transportation, dismantling, processing, refurbishment, and  
21 recycling of the hazardous electronic device will be done safely  
22 and in conformance with all applicable laws, regulations, and  
23 ordinances.

24 (5) The plan demonstrates that hazardous electronic waste  
25 recovered may not be disposed in violation of any applicable law,  
26 regulation, or ordinance.

27 (6) The plan demonstrates that hazardous electronic devices  
28 sent to a foreign destination will be handled in a manner that is at  
29 least as protective of public health and the environment as the laws,  
30 regulations, and ordinances applicable to the recycling and  
31 disposal of these devices in this state and ensures that no hazardous  
32 electronic device will be exported to any country where the  
33 importation of hazardous waste is prohibited.

34 (7) The plan demonstrates the capability of meeting or  
35 exceeding the recovery targets specified in Section 42466.

36 (b) If the registrant changes the system that has been submitted  
37 to the board, before the change can become effective, the registrant  
38 shall submit the changed system to the board and revise its Internet  
39 Web site and toll-free telephone information to be consistent with  
40 the changed system.

1 (c) The registrant that receives a hazardous electronic device  
2 for recycling, refurbishment, or reuse may either recycle,  
3 refurbish, or reuse, including resell, the hazardous electronic  
4 device. Except to the extent otherwise required by law, the  
5 manufacturer and registrant do not have responsibility for any data  
6 that may be on the hazardous electronic device if an information  
7 storage device is included with the hazardous electronic device.

8 (d) Once per calendar year, each registrant shall file a report  
9 with the board that describes the implementation of the system  
10 during the year. The report shall identify the total number of  
11 hazardous electronic devices received during the preceding year,  
12 together with the total number of devices reused or refurbished for  
13 reuse, and the total number of devices recycled or resold. The  
14 report shall also describe the processes and methods used to  
15 recycle, refurbish, or reuse the hazardous electronic devices and,  
16 in particular, the report shall identify any disassembly, physical  
17 recovery operation including, but not limited to, for, crushing,  
18 grinding, or glass to glass recycling, or other operation that was  
19 used, and describe where it took place.

20 42469. (a) Within 90 days of the date that the board receives  
21 a hazardous electronic device recovery plan submitted pursuant to  
22 Section 42468, the board shall review, identify, and suggest  
23 amendments, and certify or disapprove the plan at a duly noticed  
24 public hearing.

25 (b) The board shall certify a hazardous electronic device  
26 recovery plan only if the board determines there is substantial  
27 evidence in the record that the plan will comply with all of the  
28 standards established pursuant to Section 42468 and be  
29 implemented in accordance with those standards.

30 (c) The board shall establish a schedule for the review and  
31 action on a hazardous electronic device recovery plan to ensure the  
32 consistent, timely, and thorough review of each plan submitted  
33 pursuant to this article.

34 (d) ~~The board shall establish and impose a fee on a~~  
35 manufacturer of a hazardous electronic device that submits a plan  
36 for review pursuant to this article to cover the board's reasonable  
37 costs of implementing this chapter.

38 42470. A registrant may partner with one or more  
39 manufacturers or other parties, as a collective registrant, to prepare

1 and submit to the board a joint hazardous electronic device  
2 recovery plan to comply with Section 42468.

3 42471. (a) As an alternative to complying with Section  
4 42468, a manufacturer of a hazardous electronic device may remit  
5 to the board a hazardous electronics waste device, recycling, and  
6 recovery fee on each hazardous electronic device sold by the  
7 manufacturer in the state.

8 (b) The board shall calculate the amount of the fee required to  
9 be paid by a manufacturer pursuant to this section by subtracting  
10 the average scrap value, including any negative scrap value, of the  
11 hazardous electronic device sold by that manufacturer, or the  
12 hazardous waste disposal cost of that device, from the average cost  
13 of collecting, processing, and recycling the hazardous electronic  
14 scrap, as determined by the board.

15 (c) The hazardous electronics waste device, recycling, and  
16 recovery fee shall be paid to entities for the collection, processing,  
17 and recycling of hazardous electronic waste, in a form and manner  
18 determined by the board.

19 42472. The imposition of a hazardous electronics waste  
20 device, recycling, and recovery fee pursuant to Section 42471 is  
21 a matter of statewide interest and concern and is applicable  
22 uniformly throughout the state. A city, county, city and county, or  
23 other public agency may not adopt, implement, or enforce an  
24 ordinance, resolution, regulation, or rule establishing a hazardous  
25 electronics device recycling and recovery fee unless expressly  
26 authorized under this chapter. This section does not prohibit the  
27 adoption, implementation, or enforcement of any local ordinance,  
28 resolution, regulation, or rule governing curbside or dropoff  
29 recycling programs operated by, or pursuant to a contract with, a  
30 city, county, city and county, or other public agency, including  
31 actions relating to fees for these programs.

32 42473. The Legislature declares that the imposition of a  
33 hazardous electronics device recycling and recovery fee pursuant  
34 to Section 42471 would not result in the imposition of a tax within  
35 the meaning of Article XIII A of the California Constitution,  
36 because the amount and nature of the fee has a fair and reasonable  
37 relationship to the adverse environmental burdens imposed by the  
38 disposal of hazardous electronic devices and there is a sufficient  
39 nexus between the fee imposed and the use of those fees to support  
40 the recycling and reuse of these devices.

1 42474. (a) Civil liability in an amount of up to two thousand  
2 five hundred dollars (\$2,500) per offense may be administratively  
3 imposed by the board for each sale of a hazardous electronic device  
4 not covered either by a hazardous electronic device recovery  
5 system certified by the board under Section 42467, or by a  
6 hazardous electronics waste device, recycling, and recovery fee  
7 paid in lieu of the recovery system requirement of Section 42467,  
8 as defined in Section 42471.

9 (b) A civil penalty in an amount of up to five thousand dollars  
10 (\$5,000) per offense may be imposed by a superior court for each  
11 sale of a hazardous electronic device not covered either by a  
12 hazardous electronic device recovery system certified by the board  
13 under Section 42467, or by a hazardous electronics waste device,  
14 recycling, and recovery fee paid in lieu of the recovery system  
15 requirement of Section 42467, as described under Section 42471.

16 (c) Civil liability in an amount of up to twenty-five thousand  
17 dollars (\$25,000) may be administratively imposed by the board  
18 against manufacturers or registrants for failure to comply with  
19 Section 42465, 42467, 42468, or 42471.

20  
21 Article 4. Administration  
22

23 42475. (a) The board shall administer this chapter in  
24 consultation with the department.

25 (b) The board may adopt any regulations pursuant to Chapter  
26 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
27 Title 2 of the Government Code that are necessary to implement  
28 this chapter.

29 (c) The board shall adopt regulations pursuant to Chapter 3.5  
30 (commencing with Section 11340) of Part 1 of Division 3 of Title  
31 2 of the Government Code that ensure the protection of any  
32 proprietary information submitted to the board by a manufacturer  
33 of hazardous electronic devices.

34 (d) The board may prepare, publish, or issue any materials that  
35 the board determines to be necessary for the dissemination of  
36 information concerning the activities of the board under this  
37 chapter.

38 (e) In carrying out this chapter, the board may solicit and use  
39 any and all expertise available in other state agencies, including,

1 but not limited to, the department, the Department of  
2 Conservation, and the State Board of Equalization.

3

4 Article 5. Financial Provisions

5

6 42476. (a) The board shall deposit any fees or fines collected  
7 under this chapter into the Hazardous Electronic Waste Recovery,  
8 Reuse, and Recycling Account which is hereby created in the  
9 Integrated Waste Management Fund. The funds in the Hazardous  
10 Electronic Waste Recovery, Reuse, and Recycling Account may  
11 be expended by the board, upon appropriation by the Legislature,  
12 for the purposes of implementing this chapter and for the  
13 following purposes:

14 (1) To provide recycling incentive payments to hazardous  
15 electronics material handlers that collect and process hazardous  
16 electronics and hazardous electronic devices, if those facilities  
17 comply with all of the applicable provisions of Sections 66273.80  
18 to 66273.90, inclusive, of Title 22 of the California Code of  
19 Regulations.

20 (2) To provide grant funds to local governments for the cleanup  
21 of illegally dumped hazardous electronic devices and to establish  
22 and maintain local programs that supplement private sector  
23 programs pursuant to Section 42467 for the convenient and  
24 cost-effective collection and recycling of hazardous electronics  
25 and hazardous electronic devices.

26 (3) To provide grants to nonprofit agencies that accept for  
27 recycling hazardous electronics and hazardous electronic devices.

28 (4) To provide financial incentives to manufacturers of  
29 hazardous electronic devices to encourage consumers to return the  
30 devices for processing, or recycling, and to assist manufacturers  
31 in collecting, processing, or recycling hazardous electronic  
32 devices.

33 (5) To establish a public information program to educate the  
34 public on the hazards of improper hazardous electronic device  
35 storage and disposal and on the opportunities to recycle hazardous  
36 electronic devices. Not more than one percent of funds in the  
37 account may be used for the purpose of implementing this  
38 paragraph.

39 (6) To provide funding to the department to implement and  
40 enforce Chapter 6.5 (commencing with Section 25100) of

1 Division 20 of the Health and Safety Code, as that chapter relates  
2 to hazardous electronic devices, and any regulations adopted by  
3 the department pursuant to that chapter.

4 (b) The board may not provide any grant or payment for  
5 hazardous electronic devices unless the materials will be handled  
6 in compliance with all statutes and regulations regarding the  
7 export of hazardous wastes. No grant or payment may be made for  
8 hazardous electronic devices exported to any country where the  
9 export of hazardous waste is prohibited.

10

11

#### Article 6. State Agency Procurement

12

13 42480. (a) A state agency that purchases or leases hazardous  
14 electronic devices shall require each prospective bidder, to certify  
15 that it, and its agents, subsidiaries, partners, joint venturers, and  
16 subcontractors for the procurement, have complied with this  
17 chapter and any regulations adopted by the board pursuant to this  
18 chapter, or to demonstrate that this chapter is inapplicable to all  
19 lines of business engaged in by the bidder, its agents, subsidiaries,  
20 partners, joint venturers, or subcontractors.

21 (b) Failure to provide certification pursuant to this section shall  
22 render the prospective bidder and its agents, subsidiaries, partners,  
23 joint venturers, and subcontractors ineligible to bid on the  
24 procurement of hazardous electronic devices.

25 (c) The bid solicitation documents shall specify that the  
26 prospective bidder is required to cooperate fully in providing  
27 reasonable access to its records and documents that evidence  
28 compliance with this chapter.

29 (d) Any person awarded a contract by a state agency that is  
30 found to be in violation of this section is subject to the following  
31 sanctions:

32 (1) The contract shall be voided by the state agency to which  
33 the equipment, materials, or supplies were provided.

34 (2) The contractor is ineligible to bid on any state contract for  
35 a period of three years.

36 (3) If the Attorney General establishes in the name of the  
37 people of the State of California that any money, property, or  
38 benefit was obtained by a contractor as a result of violating this  
39 section, the court may, in addition to any other remedy, order the

1 disgorgement of the unlawfully obtained money, property, or  
2 benefit in the interest of justice.

3  
4 Article 7. Inapplicability of Chapter

5  
6 42485. The board shall not implement this chapter if either of  
7 the following occur:

8 (a) A federal law, or a combination of federal laws, takes effect  
9 and does all of the following:

10 (1) Establishes a program for the collection, recycling, and  
11 proper disposal of cathode ray tube devices that is applicable to all  
12 cathode ray tube devices sold in the United States.

13 (2) Provides revenues to the state to support the collection,  
14 recycling, and proper disposal of cathode ray tube devices, in an  
15 amount that is equal to, or greater than, the revenues that would be  
16 generated by the fee imposed under Section 42471.

17 (3) Requires cathode ray tube device manufacturers, retailers,  
18 handlers, processors, and recyclers to dispose of those devices in  
19 a manner that is in compliance with all applicable federal, state,  
20 and local laws, regulations, and ordinances, and prohibits the  
21 devices from being exported for disposal in a manner that poses a  
22 significant risk to the public health or the environment.

23 (b) A trial court issues a judgment, which is not appealed, or an  
24 appellate court issues an order affirming a judgment of a trial  
25 court, holding that out-of-state manufacturers or retailers, or both,  
26 may not be required to collect the fee authorized by this chapter.  
27 The order shall be stayed until all appeals are concluded. The  
28 out-of-state manufacturers or retailers, or both, shall continue to  
29 collect the fee during the appellate process.

30 SEC. 4. The provisions of this act are severable. If any  
31 provision of this act or its application is held invalid, that invalidity  
32 shall not affect other provisions or applications that can be given  
33 effect without the invalid provision or application.

34 SEC. 5. No reimbursement is required by this act pursuant to  
35 Section 6 of Article XIII B of the California Constitution because  
36 the only costs that may be incurred by a local agency or school  
37 district will be incurred because this act creates a new crime or  
38 infraction, eliminates a crime or infraction, or changes the penalty  
39 for a crime or infraction, within the meaning of Section 17556 of  
40 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

3 ~~SEC. 6. This act is an urgency statute necessary for the~~  
4 ~~immediate preservation of the public peace, health, or safety~~  
5 ~~within the meaning of Article IV of the Constitution and shall go~~  
6 ~~into immediate effect. The facts constituting the necessity are:~~

7 ~~Due to the public health and environmental threat posed by~~  
8 ~~hazardous electronic waste, and in order to further limit the~~  
9 ~~adverse effect of this waste on public health and safety and the~~  
10 ~~environment, it is necessary that this act take effect immediately.~~

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