

SCHOOL AND COLLEGE LEGAL SERVICES

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THE LEGAL UPDATE

March 2, 1993

To: Superintendents, Member School Districts (K-12)

From: Robert J. Henry, General Counsel *RJH*

Subject: Hazardous Materials - Local Regulations
Memo No. 5-93

Many of you have received invoices for "hazardous materials program fees" levied by the county or city in your area. These fees are based on local ordinances which were adopted pursuant to legislative authority found in Sections 25500 et seq. of the Health and Safety Code.

Essentially, the state legislation authorizes cities and counties to enforce minimum standards for "business plans" and "areas plans" relating to the "handling and release of hazardous materials."

Public agencies such as school and community colleges are specifically included within the definition of "businesses" for purposes of this law. (Section 25501.4 of the Health and Safety Code). Thus, within their respective areas of jurisdiction a city or county has jurisdiction to require school and community college districts to adhere to locally adopted ordinances regulating the storage, handling and management of hazardous wastes and materials. These regulations may include "program fees" to administer the program. (Section 25513 of the Health and Safety Code).

At the same time, Section 25513 (copy enclosed) authorizes each city and county to "waive" the fees for public agencies that submit a "business plan."

Accordingly, we recommend that in the event you receive an invoice for a fee under a local agency's regulations on "hazardous materials," you should request that the agency waive the fee.

Please let me know if you have any questions.

RJH:sml
Enclosure
H:RJH.905

§ 25513. Schedule of fees; adoption

Each administering county or city may, upon a majority vote of the governing body, adopt a schedule of fees to be collected from each business required to submit a business plan pursuant to this article which is within its jurisdiction. The governing body may provide for the waiver of fees when a business, as defined in Section 25501.4, submits a business plan. The fee shall be set in an amount sufficient to pay only those costs incurred by the county, city, or fire district, in carrying out this article. In determining the fee schedule, the administering agency shall consider the volume and degree of hazard potential of the hazardous materials handled by the businesses subject to this article.