

Complete Text of Selected Solid Waste Bills

- AB 479 Chesbro Solid waste: diversion
 - Chesbro proposed amendments
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- AB 546 Lowenthal Used oil
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- SB 63 Strickland **Integrated Waste Management Board**

AMENDED IN SENATE JULY 23, 2009

AMENDED IN SENATE JULY 1, 2009

AMENDED IN ASSEMBLY APRIL 22, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 479

Introduced by Assembly Member Chesbro

February 24, 2009

An act to amend Sections 41730, 41731, 47134, 41735, 41736, 41800, 44004, and 50001 of, and to add Sections 40004, 41734.5, 41780.01, and 42649 to, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 479, as amended, Chesbro. Solid waste: diversion.

(1) The California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, requires each city, county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan containing specified components, including a source reduction component, a recycling component, and a composting component. With certain exceptions, the source reduction and recycling element of that plan is required to divert 50% of all solid waste from landfill disposal or transformation by January 1, 2000, through source reduction, recycling, and composting activities.

Existing law requires the board to review, at least once every 2 years, a jurisdiction's source reduction and recycling element and household hazardous waste element. The board is required to issue an order of compliance if the board finds that a jurisdiction has failed to implement its source reduction and recycling element or its household hazardous

waste element, pursuant to a specified procedure. If, after issuing an order of compliance, the board finds the city, county, or regional agency has failed to make a good faith effort to implement those elements, the board is authorized to impose administrative civil penalties upon the city, county, or regional agency.

This bill would require the board, on January 1, 2020, and annually thereafter, to ensure that 75% of all solid waste generated is source reduced, recycled, and composted. *The bill would prohibit the board from imposing any enforceable requirements against a local agency or a solid waste enterprise or that includes aspects of solid waste handling that are of local concern to implement this 75% diversion level.*

(2) Existing law requires a local agency to impose certain requirements on an operator of a large venue or event to facilitate solid waste reduction, reuse, and recycling.

This bill would require the owner or operator of a business that contracts for solid waste services and generates more than 4 cubic yards of total solid waste and recyclable materials per week to take specified action by January 1, 2011.

(3) Existing law prohibits an operator of a solid waste facility from making a significant change in the design or operation of the solid waste facility that is not authorized by the existing permit unless the change is approved by the enforcement agency. Existing law requires the enforcement agency, within 60 days of receipt of an application for a revised permit, to inform the operator of its determination.

This bill would require the enforcement agency to inform the operator that it is requiring the ~~revision~~ *modification* of the solid waste facility permit *without a revision of the permit* to allow the change if the enforcement agency determines that the proposed change meets specified requirements. By imposing new duties upon a local enforcement agency with regard to an application for a revised permit, the bill would impose a state-mandated local program.

(4) Existing law requires a city, county, and city and county to incorporate the nondisposal facility element and any amendment to the element into the revised source reduction and recycling element at the time of the 5-year revision of the source reduction and recycling element. Existing law requires the board to review an amendment to a nondisposal facility element. Existing law requires a local task force to review and comment on amendments to a nondisposal facility element.

This bill would repeal those requirements. The bill would instead require a city, county, city and county, or regional agency to update all

information required to be included in the nondisposal facility element. The bill would provide that the update is not subject to approval by the board or comment and review by a local task force.

(5) 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.

Vote: 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. (a) The Legislature finds and declares both of
2 the following:

3 (1) Since the enactment of the California Integrated Waste
4 Management Act of 1989 (Division 30 (commencing with Section
5 40000) of the Public Resources Code), local governments and
6 private industries have worked jointly to create an extensive
7 material collection and recycling infrastructure and have
8 implemented effective programs to achieve a statewide diversion
9 rate above 50 percent.

10 (2) Although the state now leads the nation in solid waste
11 reduction and recycling, the state continues to dispose of more
12 than 40 million tons of solid waste each year, which is more than
13 the national average on a per capita basis. Additional efforts must
14 be undertaken to divert more solid waste from disposal in order
15 to conserve scarce natural resources.

16 (b) The Legislature further finds and declares all of the
17 following:

18 (1) Approximately 64 percent of the state's solid waste disposal
19 is from commercial sources, including commercial, industrial,
20 construction, and demolition activities. In addition, 8 percent of
21 the state's solid waste disposal is from multifamily residential
22 housing that is often collected along with the commercial waste
23 stream.

24 (2) The state's local governments have made significant progress
25 in reducing the amount of solid waste disposal from single-family
26 residential sources that make up 28 percent of the state's disposal,

1 but have faced more challenges in reducing disposal from the
2 commercial and multifamily sources.

3 ~~(3) The disposal of commercial solid wastes harms natural~~
4 ~~resources, negatively impacts the state's environment, prevents~~
5 ~~materials from circulating in the state economy to produce jobs~~
6 ~~and new products, and contributes to global warming.~~

7 *(3) The disposal of recyclable materials in the commercial solid*
8 *waste stream prevents materials from circulating in the state*
9 *economy to produce jobs and new products. Reducing the disposal*
10 *of these materials will conserve landfill capacity and contribute*
11 *to a reduction in greenhouse gas emissions and climate change.*

12 (4) The state has long been a national and international leader
13 in environmental stewardship efforts and mandating the diversion
14 of solid waste away from disposal. Bold environmental leadership
15 and a new approach are needed to divert commercial solid waste
16 away from disposal.

17 (5) By exercising a leadership role, the state will lead the
18 business community toward a future in which the environment
19 and the economy both grow stronger together by recycling
20 materials, which creates new jobs, instead of burying resources,
21 which exit the economy forever.

22 (6) By requiring commercial recycling, the state will help
23 businesses reduce costly disposal fees and reclaim valuable
24 resources.

25 SEC. 2. Section 40004 is added to the Public Resources Code,
26 to read:

27 40004. (a) The Legislature finds and declares all of the
28 following:

29 (1) Solid waste diversion and disposal reduction require the
30 availability of adequate solid waste processing and composting
31 capacity.

32 (2) The existing network of public and private solid waste
33 processing and composting facilities provides a net environmental
34 benefit to the communities served, and represents a valuable asset
35 and resource of this state, one that must be sustained and expanded
36 to provide the additional solid waste processing capacity that will
37 be required to achieve the additional solid waste diversion targets
38 expressed in Section 41780.01 and the commercial recycling
39 requirement expressed in Section 42649.

1 (3) The provisions in existing law that confer broad discretion
2 on local agencies to determine aspects of solid waste handling that
3 are of local concern have significantly contributed to the statewide
4 diversion rate exceeding 50 percent, and further progress toward
5 decreasing solid waste disposal requires that this essential element
6 of local control be preserved.

7 (b) It is the intent of the Legislature to encourage the
8 development of the additional solid waste processing and
9 composting capacity that is needed to meet state objectives for
10 decreasing solid waste disposal by identifying incentives for local
11 governments to locate and approve new or expanded facilities that
12 meet and exceed their capacity needs, and to recognize local
13 agencies that make significant contributions to the state's overall
14 solid waste reduction and recycling objectives through the siting
15 of facilities for the processing and composting of materials diverted
16 from the solid waste stream.

17 (c) By setting a new solid waste diversion target in Section
18 41780.01 and new commercial waste recycling requirements in
19 Section 42649, the Legislature does not intend to limit a right
20 afforded to local governments pursuant to Section 40059, or to
21 modify or abrogate in any manner the rights of a local government
22 or solid waste enterprise with regard to a solid waste handling
23 franchise or contract.

24 SEC. 3. Section 41730 of the Public Resources Code is
25 amended to read:

26 41730. Except as provided in Section 41750.1, each city shall
27 prepare, adopt, and, except for a city and county, transmit to the
28 county in which the city is located a nondisposal facility element
29 that includes all of the information required by this chapter and
30 that is consistent with the implementation of a city source reduction
31 and recycling element adopted pursuant to this part. The
32 nondisposal facility element and any updates to the element shall
33 not be subject to the approval of the county and the majority of
34 cities with the majority of the population in the incorporated area.

35 SEC. 4. Section 41731 of the Public Resources Code is
36 amended to read:

37 41731. Except as provided in Section 41750.1, each county
38 shall prepare, adopt, and, except for a city and county, transmit to
39 the cities located in the county a nondisposal facility element that
40 includes all of the information required by this chapter and that is

1 consistent with the implementation of a county source reduction
2 and recycling element adopted pursuant to this part. The
3 nondisposal facility element and any updates to the element shall
4 not be subject to the approval of the majority of cities with the
5 majority of the population in the incorporated area.

6 SEC. 5. Section 41734 of the Public Resources Code is
7 amended to read:

8 41734. (a) (1) Prior to adopting a nondisposal facility element,
9 the city, county, or regional agency shall submit the element to
10 the task force created pursuant to Section 40950 for review and
11 comment.

12 (2) Prior to adopting a regional agency nondisposal facility
13 element, if the jurisdiction of the regional agency extends beyond
14 the boundaries of a single county, the regional agency shall submit
15 the element for review and comment to each task force created
16 pursuant to Section 40950 of each county within the jurisdiction
17 of the regional agency.

18 (b) Comments by the task force shall include an assessment of
19 the regional impacts of potential diversion facilities and shall be
20 submitted to the city, county, or regional agency and to the board
21 within 90 days of the date of receipt of the nondisposal facility
22 element for review and comment.

23 SEC. 6. Section 41734.5 is added to the Public Resources Code,
24 to read:

25 41734.5. (a) Once a nondisposal facility element has been
26 adopted, the city, county, or regional agency shall update all
27 information required to be included in the nondisposal facility
28 element, including, but not limited to, new information regarding
29 existing and new, or proposed nondisposal facilities.

30 (b) Updates shall be provided to the board within 30 days of
31 any change in information.

32 (c) Copies of the updated information shall also be provided to
33 the local task force and shall be appended or otherwise added to
34 the nondisposal facility element.

35 (d) The local task force shall not be required to review and
36 comment on the updates to the nondisposal facility elements.

37 (e) Updates to the nondisposal facility elements are not subject
38 to approval by the board.

39 SEC. 7. Section 41735 of the Public Resources Code is
40 amended to read:

1 41735. (a) Notwithstanding Division 13 (commencing with
2 Section 21000), the adoption or update of a nondisposal facility
3 element shall not be subject to environmental review.

4 (b) Local agencies may impose a fee on project proponents to
5 fund their necessary and actual costs of preparing and approving
6 updates to nondisposal facility elements.

7 SEC. 8. Section 41736 of the Public Resources Code is
8 amended to read:

9 41736. It is not the intent of the Legislature to require cities
10 and counties to revise their source reduction and recycling elements
11 to comply with the requirements of this chapter.

12 SEC. 9. Section 41780.01 is added to the Public Resources
13 Code, to read:

14 41780.01. On or before January 1, 2020, and annually
15 thereafter, the board shall ensure that 75 percent of solid waste
16 generated is source reduced, recycled, or composted. *In*
17 *implementing this section, the board shall not include any*
18 *requirements that are enforceable against a local agency or solid*
19 *waste enterprise, or that includes aspects of solid waste handling*
20 *that are of local concern.*

21 SEC. 10. Section 41800 of the Public Resources Code is
22 amended to read:

23 41800. (a) Except as provided in subdivision (b), within 120
24 days from the date of receipt of a countywide or regional integrated
25 waste management plan that the board has determined to be
26 complete, or any element of the plan that the board has determined
27 to be complete, the board shall determine whether the plan or
28 element is in compliance with Article 2 (commencing with Section
29 40050) of Chapter 1 of Part 1, Chapter 2 (commencing with Section
30 41000), and Chapter 5 (commencing with Section 41750), and,
31 based upon that determination, the board shall approve,
32 conditionally approve, or disapprove the plan or element.

33 (b) (1) Within 120 days from the date of receipt of a city,
34 county, or regional agency nondisposal facility element that the
35 board has determined to be complete, the board shall determine
36 whether the element that the board has determined to be complete
37 is in compliance with Chapter 4.5 (commencing with Section
38 41730) and Article 1 (commencing with Section 41780) of Chapter
39 6, and, based upon that determination, the board shall approve,

1 conditionally approve, or disapprove the element within that time
2 period.

3 (2) In reviewing the element, the board shall:

4 (A) Not consider the estimated capacity of the facility or
5 facilities in the element unless the board determines that this
6 information is needed to determine whether the element meets the
7 requirements of Article 1 (commencing with Section 41780) of
8 Chapter 6.

9 (B) Recognize that individual facilities represent portions of
10 local plans or programs that are designed to achieve the diversion
11 requirements of Section 41780 and therefore may not arbitrarily
12 require new or expanded diversion at proposed facilities.

13 (C) Not disapprove an element that includes a transfer station
14 or other facility solely because the facility does not contribute
15 towards the jurisdiction's efforts to comply with Section 41780.

16 (c) If the board does not act to approve, conditionally approve,
17 or disapprove an element that the board has determined to be
18 complete within 120 days, the board shall be deemed to have
19 approved the element.

20 SEC. 11. Section 42649 is added to the Public Resources Code,
21 to read:

22 42649. (a) On or before January 1, 2011, the owner or operator
23 of a business that contracts for solid waste services and generates
24 more than four cubic yards of total solid waste and recyclable
25 materials that are not solid waste per week shall arrange for
26 recycling services, consistent with state or local laws or
27 requirements, including a local ordinance or agreement, applicable
28 to the collection, handling, or recycling of solid waste, to the extent
29 that these services are offered and reasonably available from a
30 local service provider.

31 (b) A commercial waste generator shall take either of the
32 following actions:

33 (1) Source separate specified recyclable materials from solid
34 waste and subscribe to a basic level of recycling service that
35 includes the collection of those recyclable materials or specific
36 provisions for authorized self-hauling.

37 (2) Subscribe to an alternative type of recycling service that
38 may include mixed waste processing that yields diversion results
39 comparable to source separation.

1 (c) For the purposes of this section, "business" means a
2 commercial entity operated by a firm, partnership, proprietorship,
3 joint stock company, corporation, or association that is organized
4 as a for-profit or nonprofit entity.

5 (d) This section does not limit the authority of a local agency
6 to adopt, implement, or enforce a local commercial recycling
7 requirement that is more stringent or comprehensive than the
8 requirements of this section or limit the authority of a local agency
9 in a county with a population of less than 200,000 to require
10 commercial recycling.

11 (e) This section does not modify or abrogate in any manner
12 either any of the following:

13 (1) A franchise granted or extended by a city, county, or other
14 local government agency.

15 (2) A contract, license, or permit to collect solid waste
16 previously granted or extended by a city, county, or other local
17 government agency on or before January 1, 2010.

18 (3) The existing right of a business to sell or donate their
19 recyclable materials.

20 (f) (1) When adopting an ordinance pursuant to this section, a
21 local agency may consider the adequacy of areas for collecting
22 and loading recyclable materials.

23 (2) Notwithstanding paragraph (1), a local agency shall not
24 consider the adequacy of areas for collecting and loading recyclable
25 materials for purposes of determining noncompliance with this
26 section at a development project, as defined pursuant to Section
27 42905, if the development project was approved by the local
28 agency on or after September 1, 1994.

29 ~~(g) Subdivision (a) shall be enforced pursuant to Section 40059.~~

30 (g) Pursuant to Section 40059, a county, city, district, or other
31 local government agency may determine aspects of, and means
32 of, providing the recycling services required under subdivision
33 (a).

34 SEC. 12. Section 44004 of the Public Resources Code is
35 amended to read:

36 44004. (a) An operator of a solid waste facility may not make
37 a significant change in the design or operation of the solid waste
38 facility that is not authorized by the existing permit, unless the
39 change is approved by the enforcement agency, the change
40 conforms with this division and all regulations adopted pursuant

1 to this division, and the terms and conditions of the solid waste
2 facilities permit are revised to reflect the change.

3 (b) If the operator wishes to change the design or operation of
4 the solid waste facility in a manner that is not authorized by the
5 existing permit, the operator shall file an application for revision
6 of the existing solid waste facilities permit with the enforcement
7 agency. The application shall be filed at least 180 days in advance
8 of the date when the proposed modification is to take place unless
9 the 180-day time period is waived by the enforcement agency.

10 (c) The enforcement agency shall review the application to
11 determine all of the following:

12 (1) Whether the change conforms with this division and all
13 regulations adopted pursuant to this division.

14 (2) Whether the change requires review pursuant to Division
15 13 (commencing with Section 21000).

16 (d) Within 60 days from the date of the receipt of the application
17 for a revised permit, the enforcement agency shall inform the
18 operator, and if the enforcement agency is a local enforcement
19 agency, also inform the board, of its determination to do any of
20 the following:

21 (1) Allow the change without a revision to the permit.

22 (2) *Allow the following changes without a revision to the permit*
23 *through a modification to the permits allowed pursuant to*
24 *regulations developed by the board:*

25 (A) *The proposed change is to allow a nondisposal facility to*
26 *increase the amount of solid waste that it may handle and that*
27 *increased amount is within the existing design capacity as*
28 *described in the facility's transfer processing report and review*
29 *pursuant to Division 13 (commencing with Section 21000).*

30 (B) *The proposed change is to allow a disposal facility to add*
31 *a nondisposal activity to the facility that will increase the amount*
32 *of solid waste that may be handled as described in the facility's*
33 *report of facility information and review pursuant to Division 13*
34 *(commencing with Section 21000).*

35 (2)

36 (3) Disallow the change because it does not conform with the
37 requirements of this division or the regulations adopted pursuant
38 to this division.

39 ~~(3) Require a revision of the solid waste facilities permit to~~
40 ~~allow the change including cases where the enforcement agency~~

1 ~~determines that the proposed change to add maximum tonnage is~~
2 ~~provided for within the existing design capacity as described in~~
3 ~~the facility transfer processing report and environmental review~~
4 ~~pursuant to the California Environmental Quality Act (Division~~
5 ~~13 (commencing with Section 21000)):~~

6 *(4) Require a revision of the solid waste facilities permit to*
7 *allow the change.*

8 ~~(4)~~

9 *(5) Require review under Division 13 (commencing with Section*
10 *21000) before a decision is made.*

11 *(e) The operator has 30 days within which to appeal the decision*
12 *of the enforcement agency to the hearing panel, as authorized*
13 *pursuant to Article 2 (commencing with Section 44305) of Chapter*
14 *4. The enforcement agency shall provide notice of a hearing held*
15 *pursuant to this subdivision in the same manner as notice is*
16 *provided pursuant to subdivision (h).*

17 *(f) Under circumstances that present an immediate danger to*
18 *the public health and safety or to the environment, as determined*
19 *by the enforcement agency, the 180-day filing period may be*
20 *waived.*

21 *(g) (1) A permit revision is not required for the temporary*
22 *suspension of activities at a solid waste facility if the suspension*
23 *meets either of the following criteria:*

24 *(A) The suspension is for the maintenance or minor*
25 *modifications to a solid waste unit or to solid waste management*
26 *equipment.*

27 *(B) The suspension is for temporarily ceasing the receipt of*
28 *solid waste at a solid waste management facility and the owner or*
29 *operator is in compliance with all other applicable terms and*
30 *conditions of the solid waste facilities permit and minimum*
31 *standards adopted by the board.*

32 *(2) An owner or operator of a solid waste facility who*
33 *temporarily suspends operations shall remain subject to the closure*
34 *and postclosure maintenance requirements of this division and to*
35 *all other requirements imposed by federal law pertaining to the*
36 *operation of a solid waste facility.*

37 *(3) The enforcement agency may impose any reasonable*
38 *conditions relating to the maintenance of the solid waste facility,*
39 *environmental monitoring, and periodic reporting during the period*
40 *of temporary suspension. The board may also impose any*

1 reasonable conditions determined to be necessary to ensure
2 compliance with applicable state standards.

3 (h) (1) (A) Before making its determination pursuant to
4 subdivision (d), the enforcement agency shall submit the proposed
5 determination to the board for comment and hold at least one public
6 hearing on the proposed determination. The enforcement agency
7 shall give notice of the hearing pursuant to Section 65091 of the
8 Government Code, except that the notice shall be provided to all
9 owners of real property within a distance other than 300 feet of
10 the real property that is the subject of the hearing, if specified in
11 the regulations adopted by the board pursuant to subdivision (i).
12 The enforcement agency shall also provide notice of the hearing
13 to the board when it submits the proposed determination to the
14 board.

15 (B) The enforcement agency shall mail or deliver the notice
16 required pursuant to subparagraph (A) at least 10 days prior to the
17 date of the hearing to any person who has filed a written request
18 for the notice with a person designated by the enforcement agency
19 to receive these requests. The enforcement agency may charge a
20 fee to the requester in an amount that is reasonably related to the
21 costs of providing this service and the enforcement agency may
22 require each request to be annually renewed.

23 (C) The enforcement agency shall consider environmental justice
24 issues when preparing and distributing the notice to ensure that
25 the notice is concise and understandable for
26 limited-English-speaking populations.

27 (2) If the board comments pursuant to paragraph (1), the board
28 shall specify whether the proposed determination is consistent with
29 the regulation adopted pursuant to subdivision (i).

30 (i) (1) The board shall, to the extent resources are available,
31 adopt regulations that implement subdivision (h) and define the
32 term "significant change in the design or operation of the solid
33 waste facility that is not authorized by the existing permit."

34 (2) While formulating and adopting the regulations required
35 pursuant to paragraph (1), the board shall consider
36 recommendations of the Working Group on Environmental Justice
37 and the advisory group made pursuant to Sections 71113 and 71114
38 and the report required pursuant to Section 71115.

39 SEC. 13. Section 50001 of the Public Resources Code is
40 amended to read:

1 50001. (a) Except as provided by subdivision (b), after a
2 countywide or regional agency integrated waste management plan
3 has been approved by the California Integrated Waste Management
4 Board pursuant to Division 30 (commencing with Section 40000),
5 a person shall not establish or expand a solid waste facility, as
6 defined in Section 40194, in the county unless the solid waste
7 facility meets one of the following criteria:

8 (1) The solid waste facility is a disposal facility or a
9 transformation facility, the location of which is identified in the
10 countywide siting element or amendment thereto, which has been
11 approved pursuant to Section 41721.

12 (2) The solid waste facility is a facility that is designed to
13 recover for reuse or recycling at least 5 percent of the total volume
14 of material received by the facility, and that is described in the
15 nondisposal facility element that has been approved pursuant to
16 Section 41800 or is included in an update to that element.

17 (b) Solid waste facilities other than those specified in paragraphs
18 (1) and (2) of subdivision (a) shall not be required to comply with
19 the requirements of this section.

20 (c) The person or agency proposing to establish a solid waste
21 facility shall prepare and submit a site identification and description
22 of the proposed facility to the task force established pursuant to
23 Section 40950. Within 90 days after the site identification and
24 description is submitted to the task force, the task force shall meet
25 and comment on the proposed solid waste facility in writing. These
26 comments shall include, but are not limited to, the relationship
27 between the proposed solid waste facility and the implementation
28 schedule requirements of Section 41780 and the regional impact
29 of the facility. The task force shall transmit these comments to the
30 person or public agency proposing establishment of the solid waste
31 facility, to the county, and to all cities within the county. The
32 comments shall become part of the official record of the proposed
33 solid waste facility.

34 (d) The review and comment by the local task force shall not
35 be required for an update to a nondisposal facility element.

36 SEC. 14. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 a local agency or school district has the authority to levy service
39 charges, fees, or assessments sufficient to pay for the program or

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

O

Assemblyman Chesbro Proposed Amendments

Chapter 12.8 Mandatory Commercial Recycling is added to Part 3 of Division 30 of the Public Resources Code.

Section 42649 is added to the Public Resources Code, to read:

42649. It is the intent of the Legislature in adding this Chapter to assist the board and the Air Resources Board in implementing that portion of the AB 32 Scoping Plan that requires Mandatory Commercial Recycling. It is the intent to require businesses to recycle solid waste that they generate. It is also the intent to allow jurisdictions flexibility in developing and maintaining commercial recycling programs. It is the intent of the Legislature that the board shall be responsible for measuring and evaluating the reduction in greenhouse gas emissions as required by the Scoping Plan and to authorize the board to require additional measures if it determines that the greenhouse gas reductions are not being met.

Section 42649.1 is added to the Public Resources Code, to read:

42649.1. (a) On or before January 1, 2011, the owner or operator of a business that contracts for solid waste services and generates more than four cubic yards of total solid waste and recyclable materials that are not solid waste per week shall arrange for recycling services, consistent with state or local laws or requirements, including a local ordinance or agreement, applicable to the collection, handling, or recycling of solid waste, to the extent that these services are offered and reasonably available from a local service provider.

(b) A business subject to subsection (a) of this section shall be considered to be a commercial waste generator for the purposes of this Chapter and shall take either of the following actions:

(1) Source separate specified recyclable materials from solid waste and subscribe to a basic level of recycling service that includes the collection of those recyclable materials or specific provisions for authorized self-hauling.

(2) Subscribe to an alternative type of recycling service that may include mixed waste processing that yields diversion results comparable to source separation.

(c) For the purposes of this ~~section~~ Chapter, "business" means a commercial entity operated by a firm, partnership, proprietorship, joint stock company, corporation, association that is organized as a for-profit or nonprofit entity, or a multi-family residential dwelling of five units or more. The term "self-hauler" means a business that hauls its own waste rather than contracting for that service.

(d) ~~This section~~ Chapter does not limit the authority of a local agency to adopt, implement, or enforce a local commercial recycling requirement that is more stringent or comprehensive than the requirements of this section or limit the authority of a local agency in a county with a population of less than 200,000 to require commercial recycling.

(e) ~~This section~~ Chapter does not modify or abrogate in any manner any of the following:

(1) A franchise granted or extended by a city, county, or other local government agency.

(2) A contract, license, or permit to collect solid waste previously granted or extended by a city, county, or other local government agency.

(3) The existing right of a business to sell or donate their recyclable materials.

~~(f) (1) When adopting an ordinance pursuant to this section, a local agency may consider the adequacy of areas for collecting and loading recyclable materials.~~

~~(2) Notwithstanding paragraph (1), a local agency shall not consider the adequacy of areas for collecting and loading recyclable materials for purposes of determining noncompliance with this section at a development project, as defined pursuant to Section 42905, if the development project was approved by the local agency on or after September 1, 1994.~~

~~(g) Pursuant to Section 40059, a county, city, district, or other local government agency may determine aspects of, and means of, providing the recycling services required under subdivision (a).~~

Section 42649.2 is added to the Public Resources Code, to read:

42649.2. All jurisdictions shall implement a commercial recycling program designed to divert solid waste from businesses whether or not the jurisdiction has met the requirements of Section 41780.

- (a) If a jurisdiction already has a commercial recycling program as one of its diversion programs that meets the requirements of this section, it shall not be required to implement a new or expanded commercial recycling program.
- (b) The commercial recycling program shall be directed at businesses subject to section 42649.1 and may include, but is not limited to, implementing a mandatory commercial recycling policy or ordinance, requiring mandatory commercial recycling through the franchise contract or agreement, or requiring that all commercial recycling material go through a mixed processing system that diverts material at a certain rate.
- (c) The commercial recycling program shall include education and outreach to businesses.
- (d) The commercial recycling program may include enforcement and monitoring. For self-haulers, the program may include certification requirements.
- (e) If a jurisdiction has to add or expand a commercial recycling program to meet the requirements of this section, it shall not be required to revise its source reduction and recycling element, nor comply with the requirements of section 41800 et. seq. If an addition or expansion is necessary, a jurisdiction shall do so by providing updates in the annual report required by section 41821.
- (f) The board shall review a jurisdiction's compliance with this section as part of the review required by section 41825.

- (g) The board shall conduct a statewide study or studies commencing in 2014 and also in 2019 to measure the amount of greenhouse gas that is being reduced as a result of the implementation of commercial recycling programs. If requested, businesses shall be required to report to the board any data that is necessary in order to conduct the statewide study.
- (h) If the board determines, after conducting the study or studies required by subsection (g) of this section, that the commercial recycling programs are not meeting the greenhouse gas reductions required in the Scoping Plan adopted by the Air Resources Board pursuant to section 38561 of the Health and Safety Code, the board may require jurisdictions to adopt a mandatory commercial recycling ordinance, for those jurisdictions that have not adopted one already.

Section 42926 of the Public Resources Code is amended to read:

42926(a) In addition to the information provided to the board pursuant to Section 12167.1 of the Public Contract Code, each state agency shall submit an annual report to the board summarizing its progress in reducing solid waste as required by Section 42921. The annual report shall be due on or before September 1, 2009 and on or before ~~September 1~~ May 1 in each subsequent year. The information in this report shall encompass the previous calendar year.

(b) Each state agency's annual report to the board shall, at a minimum, include all of the following:

- (1) Calculations of annual disposal reduction.
 - (2) Information on the changes in waste generated or disposed of due to increases or decreases in employees, economics, or other factors.
 - (3) A summary of progress made in implementing the integrated waste management plan.
 - (4) The extent to which the state agency intends to utilize programs or facilities established by the local agency for the handling, diversion, and disposal of solid waste. If the state agency does not intend to utilize those established programs or facilities, the state agency shall identify sufficient disposal capacity for solid waste that is not source reduced, recycled, or composted.
 - (5) Other information relevant to compliance with Section 42921.
- (c) The board shall use, but is not limited to the use of, the annual report in the determination of whether the agency's integrated waste management plan needs to be revised.

Industry Proposed Amendments

AB 479 – Suggested Commercial Recycling Amendments to July 23rd Version

Chapter 12.8 Mandatory Commercial Recycling is added to Part 3 of Division 30 of the Public Resources Code.

Section 42649 is added to the Public Resources Code, to read:

42649. It is the intent of the Legislature in adding this Chapter to implement that portion of the AB 32 Scoping Plan that requires Mandatory Commercial Recycling.

Section 42649.1 is added to the Public Resources Code, to read:

42649.1. (a) On or before January 1, 2011, the owner or operator of a business that contracts for solid waste services and generates more than four cubic yards of total solid waste and recyclable materials that are not solid waste per week shall arrange for recycling services, consistent with state or local laws or requirements, including a local ordinance or agreement, applicable to the collection, handling, or recycling of solid waste, to the extent that these services are offered and reasonably available from a local service provider.

(b) A business subject to subsection (a) of this section shall be considered to be a commercial waste generator for the purposes of this Chapter and shall take either of the following actions:

(1) Source separate specified recyclable materials from solid waste and subscribe to a basic level of recycling service that includes the collection of those recyclable materials or specific provisions for authorized self-hauling.

(2) Subscribe to an alternative type of recycling service that may include mixed waste processing that yields diversion results comparable to source separation.

(c) For the purposes of this section, Chapter, "business" means a commercial entity operated by a firm, partnership, proprietorship, joint stock company, corporation, association that is organized as a for-profit or nonprofit entity, or a multi-family residential dwelling of five units or more. The term "self-hauler" means a business that hauls its own waste rather than contracting for that service.

(d) This section Chapter does not limit the authority of a local agency to adopt, implement, or enforce a local commercial recycling requirement that is more stringent or comprehensive than the requirements of this section or limit the authority of a local agency in a county with a population of less than 200,000 to require commercial recycling.

(e) Nothing in This section Chapter, modifies, or abrogates in any manner any franchise, contract, license or permit to collect solid waste granted or extended by a city, county, or other local government agency or the,

(existing right of a business to sell or donate their

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Deleted: It is the intent to require businesses to recycle solid waste that they generate. It is also the intent to allow jurisdictions flexibility in developing and maintaining commercial recycling programs. It is the intent of the Legislature that the board shall be responsible for measuring and evaluating the reduction in greenhouse gas emissions as required by the Scoping Plan and to authorize the board to require additional measures if it determines that the greenhouse gas reductions are not being met.¶

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government agency .

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recyclable materials.

— (f) (1) When adopting an ordinance pursuant to this section, a local agency may consider the adequacy of areas for collecting and loading recyclable materials.

— (2) Notwithstanding paragraph (1), a local agency shall not consider the adequacy of areas for collecting and loading recyclable materials for purposes of determining noncompliance with this section at a development project, as defined pursuant to Section 42905, if the development project was approved by the local agency on or after September 1, 1994.

— (g) Pursuant to Section 40059, a county, city, district, or other local government agency may determine aspects of, and means of, providing the recycling services required under subdivision (a).

Section 42649.2 is added to the Public Resources Code, to read:

42649.2. All jurisdictions shall implement a commercial recycling program appropriate for that jurisdiction that is designed to divert solid waste from businesses whether or not the jurisdiction has met the requirements of Section 41780.

- (a) If a jurisdiction already has a commercial recycling program as one of its diversion programs that meets the requirements of this section, it shall not be required to implement a new or expanded commercial recycling program.
- (b) If a jurisdiction has to add or expand a commercial recycling program to meet the requirements of this section, it shall not be required to revise its source reduction and recycling element, nor comply with the requirements of section 41800 et. seq. If an addition or expansion is necessary, a jurisdiction shall provide an update in the annual report required by section 41821.
- (c) The board shall review a jurisdiction's compliance with this section as part of the review required by section 41825.
- (d) The board is authorized to conduct a statewide study or studies commencing in 2014 and also in 2019 to estimate the amount of greenhouse gas that is being reduced as a result of the implementation of commercial recycling programs.

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Deleted: ~~<#>The commercial recycling program shall be directed at businesses subject to section 42649.1 and may include, but is not limited to, implementing a mandatory commercial recycling policy or ordinance, requiring mandatory commercial recycling through the franchise contract or agreement, or requiring that all commercial recycling material go through a mixed processing system that diverts material at a certain rate.~~

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AMENDED IN ASSEMBLY JULY 15, 2009

AMENDED IN ASSEMBLY JUNE 29, 2009

AMENDED IN SENATE APRIL 20, 2009

SENATE BILL

No. 546

**Introduced by Senator Lowenthal
(Coauthors: Senators Corbett and Oropeza)**

February 27, 2009

An act to add ~~Section 25250.29~~ *Sections 25250.29 and 25250.30* to the Health and Safety Code, and to amend Sections 48100, 48623, 48631, 48632, 48645, 48650, 48651, 48652, 48653, 48656, 48660, 48660.5, 48662, 48670, 48673, 48674, 48690, and 48691 of, to add Sections 48620.2, 48651.5, and 48654 to, and to repeal Sections 48633 and 48634 of, the Public Resources Code, relating to oil, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 546, as amended, Lowenthal. Used oil.

(1) The California Oil Recycling Enhancement Act, administered by the California Integrated Waste Management Board, among other things, defines terms and establishes the used oil recycling program, consisting of a recycling incentive system, grants or loans to local governments and nonprofit entities for specified purposes related to used lubricating oil collection and recycling and stormwater pollution from used oil and oil byproducts, development and implementation of an information and education program to promote alternatives to the illegal disposal of used oil, and a reporting, monitoring, and enforcement program to ensure that laws relating to used oil are properly carried out. A violation of the act is a crime.

This bill would revise the definition of “used oil hauler” and define the term “rerefined oil,” for purposes of the act, and would revise and recast the used oil recycling program, so that, among other things, it would no longer provide for loans, and it would provide for the development and implementation of an information and education program to promote methods to reduce the amounts of used oil generated, among other things. The bill would revise the purposes for which grants under the program may be made and would authorize grants additionally to be made to private entities.

(2) The act generally imposes a charge on oil manufacturers, payable to the board, in the amount of \$0.04 for every quart, or \$0.16 for every gallon, of lubricating oil sold or transferred in the state, or imported into the state for use in the state.

This bill would increase those amounts to \$0.06 and \$0.24, respectively, and would require the board to adjust the fee annually to reflect increases or decreases in the cost of living index during the prior fiscal year.

(3) The act requires the board to pay a recycling incentive to every industrial generator, curbside collection program, and certified used oil collection center, for used lubricating oil if certain conditions apply, and to an electric utility, as defined, for certain used lubricating oil. Existing law requires the board to set the recycling incentive amount at not less than \$0.04 per quart, and authorizes the board to set the amount at a higher amount if the board determines that a higher amount is necessary to promote recycling of used lubricating oil and sufficient funds are available in the California Used Oil Recycling Fund.

This bill would revise the conditions applicable to used lubricating oil that must be met before the board is required to pay the recycling incentive, and would delete the requirement that the board pay the recycling incentive to an electric utility for certain used lubricating oil.

The bill additionally would require the board on and after January 1, 2014, to pay a rerefining incentive to certain recycling facilities that produce rerefined base lubricant meeting specified requirements. The bill would require the board, on or before January 1, 2012, to consider whether to implement additional incentives that prioritize the highest and most beneficial uses of used lubricating oil.

The bill would require the board to increase the recycling incentive to not less than \$0.10 per quart and, on and after January 1, 2014, to set the rerefining incentive at not less than \$0.02 per gallon, and would authorize the board to increase those amounts as specified if it

determines that a higher amount is necessary to promote the collection and recycling of used lubricating oil or the rerefining of used lubricating oil, as applicable, and sufficient funds are available in the California Used Oil Recycling Fund.

(4) The act requires the board to deposit the charges described in (2) above, civil penalties and fines paid pursuant to the act, and all other revenues received pursuant to the act, in the California Used Oil Recycling Fund, part of which is continuously appropriated to the board to pay recycling incentives, to provide a reserve for contingencies, to make specified payments for implementation of certain local used oil collection programs in a total amount equal to \$10,000,000 or ~~one-half~~ $\frac{1}{2}$ the amount remaining in the fund after specified expenditures are made, for certain grants and loans, and for reimbursement for certain disposal costs of contaminated used oil. The act authorizes money in the fund, upon appropriation by the Legislature, among other things, to be transferred to the Farm and Ranch Solid Waste Cleanup and Abatement Account in the General Fund, to pay costs associated with implementing and operating the farm and ranch solid waste cleanup and abatement grant program.

This bill would authorize the continuously appropriated moneys in the fund also to be used for rerefining incentives. The bill would increase the amount available for payments for implementation of local used oil collection programs to \$13,000,000, or if that amount is not available, the board would be required to determine the amount pursuant to a specified formula, thereby making an appropriation, and would exempt the application and grant award process for these payments from a public meeting requirement, otherwise applicable to programs under the act. The bill would prohibit money in the California Used Oil Recycling Fund attributable to increasing or adjusting the charge on oil manufacturers described in (2) above from being transferred to the Farm and Ranch Solid Waste Cleanup and Abatement Account.

(5) The act prohibits a used oil collection center from being eligible for the payment of recycling incentives until the board has certified the center and authorizes the board to cancel certification, after a public hearing, upon finding noncompliance with certification requirements. The act requires a center to reapply for certification every 2 years.

This bill instead would require a center to reapply for certification every 4 years and would eliminate the public hearing requirement for cancellation of certification.

(6) Under the act, if the board finds that a shipment of used oil from a certified used oil collection center or a curbside collection program is contaminated by hazardous material and other specified requirements are met, the board, upon application of the center or program, is required to reimburse the center or program for the additional disposal cost of the used oil, subject to eligibility requirements and payment limitations.

This bill would include uncertified publicly funded used oil collection centers in small rural counties in those entities eligible to receive that reimbursement, and would modify the eligibility requirements and payment limitations.

(7) The act imposes certification requirements for used oil recycling facilities.

This bill would specify requirements for out-of-state used oil recycling facilities seeking incentive payments, including requirements to *register with the board and make certain declarations under penalty of perjury*. Because this would expand the application of a crime, it would impose a state-mandated local program. *The bill would authorize a facility registered under this provision to enter into a testing and reporting agreement with the Department of Toxic Substances Control and pay a fee to the department to cover costs associated with the agreement.* The bill ~~would~~ also would impose certification requirements on rerefiners of used oil.

(8) The act imposes reporting requirements on industrial generators of used lubricating oil, used oil collection centers, and curbside collection programs, to be eligible for payment of a recycling incentive.

This bill would revise those reporting requirements.

(9) This bill would make other related changes to the act.

(10) Because a violation of the act is a crime, the bill would impose a state-mandated local program by, among other things, bringing rerefiners of used lubricating oil within the ambit of the act.

(11) Existing law generally regulates persons who generate, receive, store, transfer, transport, treat, or recycle used oil. A violation of those requirements is a crime.

This bill would generally require used oil to be tested and analyzed by a laboratory accredited by the State Department of Public Health, to ensure that it meets specified criteria, before a load of used oil is shipped to a transfer facility, recycling facility, or facility located out of the state. The bill would require the testing and analysis to be accomplished by a registered hazardous waste transporter before acceptance at a transfer or recycling facility or shipment out of state,

except as otherwise specified. The bill would require the person performing the test to maintain records of the test for at least 3 years and to be subject to audit and verification by the Department of Toxic Substances Control. The bill would require the registered hazardous waste transporter who is listed as the transporter on the Uniform Hazardous Waste Manifest used to ship used oil out of state to submit a report annually to the department containing information regarding shipment of used oil out of state. The bill would require the department to inspect transporters annually to verify compliance with these requirements, and to charge the transporter for any costs associated with the inspection. Because a violation of the used oil requirements would be a crime, the bill would impose a state-mandated local program.

(12) 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.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

- 1 SECTION 1. Section 25250.29 is added to the Health and
- 2 Safety Code, to read:
- 3 25250.29. (a) Except as provided in ~~paragraph (2)~~ of
- 4 ~~subdivision (b) and subdivision~~ *subdivisions (b) and (g)*, before a
- 5 load of used oil is shipped to a transfer facility, recycling facility,
- 6 or facility located out of the state, the used oil shall be tested and
- 7 analyzed by a laboratory accredited by the State Department of
- 8 Public Health pursuant to Article 3 (commencing with Section
- 9 100825) of Chapter 4 of Part 1 of Division 101, to ensure that the
- 10 used oil meets all of the following characteristics:
- 11 (1) A flashpoint above 100 degrees Fahrenheit.
- 12 (2) A polychlorinated biphenyls (PCB) concentration of less
- 13 than 5 ppm.
- 14 (3) A concentration of total halogens of 1000 ppm or less, unless
- 15 the presumption in subclause (I) of clause (v) of subparagraph (C)
- 16 of paragraph (1) of subdivision (a) of Section 25250.1 has been
- 17 rebutted pursuant to subclause (II) of clause (v) of subparagraph
- 18 (C) of paragraph (1) of subdivision (a) of Section 25250.1.

- 1 (b) The testing and analysis required pursuant to subdivision
2 (a) shall be accomplished by a registered hazardous waste
3 transporter prior to acceptance at a transfer facility or recycling
4 facility, or shipment out of the state, except the transporter is not
5 required to perform the testing and analysis if the transporter can
6 do either *any* of the following:
- 7 (1) (A) Demonstrate that testing and analysis has been performed
8 by the generator of the used oil prior to shipment.
- 9 (B) Subparagraph (A) does not require the generator of the used
10 oil to perform the testing and analysis required by this section.
- 11 (2) Provide documentation that the testing will be performed
12 by a transfer facility or a recycling facility issued a permit by the
13 department pursuant to this chapter.
- 14 (3) *If shipped to an out-of-state facility, provide documentation*
15 *certifying that the out-of-state facility receiving the used oil has*
16 *entered into an agreement with the Department of Toxic Substances*
17 *Control that meets the requirements of Section 25250.30.*
- 18 (c) (1) A transporter shall not require a used oil collection center
19 to test tanks or containers that contain only used lubricating oil or
20 oil filters accepted from the public as a condition of accepting the
21 oil for shipment.
- 22 (2) A transporter shall not require a generator to test used oil as
23 a condition of accepting that used oil for shipment.
- 24 (3) This subdivision does not alter a generator's responsibility
25 to comply with regulations adopted by the department that govern
26 the operation of a generator, and a transporter shall not be required
27 to transport untested used oil.
- 28 (d) This section does not affect or limit a testing requirement
29 that the department may impose on a used oil transfer facility or
30 used oil recycling facility as a condition of a permit issued by the
31 department, including, but not limited to, a test required pursuant
32 to a facility's waste analysis plan.
- 33 (e) The person performing a test required by subdivision (a)
34 shall maintain records of tests performed for used oil for at least
35 three years and is subject to audit and verification by the
36 department.
- 37 (f) The registered hazardous waste transporter who is listed as
38 the transporter on the Uniform Hazardous Waste Manifest used
39 to ship used oil out of state shall submit a report, on or before

1 March 1 of each year, to the department, containing all of the
2 following information for the preceding year:

3 (1) Total volume of used oil shipped out of state.

4 (2) Date of each shipment of used oil out of state.

5 (3) Uniform Hazardous Waste Manifest tracking number used
6 to ship used oil out of the state.

7 (4) Volume of used oil shipped out of state listed on each
8 manifest.

9 (5) Information pertaining to the out-of-state facility to which
10 the used oil was shipped, including the facility name, facility
11 address, and facility EPA ID number.

12 (6) Signed certification that all used oil shipped out of the state
13 was analyzed and conformed to the requirements of subdivision
14 (a), including identification of the accredited laboratory utilized
15 to test and analyze the used oil shipment.

16 (7) Any other information that the department may require.

17 (g) (1) This section does not apply to a load for shipment that
18 consists exclusively of used lubricating oil accepted by a used oil
19 collection center from the public, including, but not limited to,
20 used lubricating oil accepted by a publicly funded certified or
21 uncertified used oil collection center located in a small rural county.

22 (2) This section does not require a generator to test used oil for
23 dielectric oil derived from highly refined mineral oil used in oil
24 filled electrical equipment. Nothing in this section exempts that
25 oil from any testing requirement required by any other law.

26 (3) This section does not prohibit the transportation of used oil
27 to a facility located outside the state, or impose liability other than
28 compliance with the requirements of this section upon, or in
29 another way affect the liability of, a generator whose used oil is
30 transported to a facility located outside the state.

31 (h) The department shall inspect transporters annually to verify
32 compliance with this section. The department shall charge the
33 transporter for any costs, including indirect costs, associated with
34 the inspection.

35 *SEC. 2. Section 25250.30 is added to the Health and Safety*
36 *Code, to read:*

37 *25250.30. A used oil recycling facility located out of state that*
38 *is registered in accordance with Section 48662 of the Public*
39 *Resources Code may enter into a testing and reporting agreement*
40 *with the Department of Toxic Substances Control. The agreement*

1 *shall include requirements on the out-of-state used oil recycling*
2 *facility that are equivalent to the current testing and testing-related*
3 *reporting requirements of a used oil recycling facility permit. As*
4 *part of the agreement, the out-of-state used oil recycling facility*
5 *shall pay a fee to the Department of Toxic Substances Control that*
6 *covers the department's full costs associated with the agreement,*
7 *including necessary inspections.*

8 ~~SEC. 2.~~

9 SEC. 3. Section 48100 of the Public Resources Code is
10 amended to read:

11 48100. (a) The Legislature hereby finds and declares that
12 illegal disposal of solid waste on property owned by innocent
13 parties is a longstanding problem needing attention and that grants
14 provided under this chapter will support the cleanup of farm and
15 ranch property.

16 (b) The board shall establish a farm and ranch solid waste
17 cleanup and abatement grant program for the purposes of cleaning
18 up and abating the effects of illegally disposed solid waste pursuant
19 to this chapter.

20 (c) (1) The Farm and Ranch Solid Waste Cleanup and
21 Abatement Account is hereby created in the General Fund and
22 may be expended by the board, upon appropriation by the
23 Legislature in the annual Budget Act, for the purposes of this
24 chapter.

25 (2) The following funds shall be deposited into the account:

26 (A) Money appropriated by the Legislature from the Integrated
27 Waste Management Fund or the California Used Oil Recycling
28 Fund to the board for the grant program, or from the California
29 Tire Recycling Management Fund to the board for the purposes
30 set forth in paragraph (10) of subdivision (b) of Section 42889.

31 (B) Notwithstanding Section 16475 of the Government Code,
32 any interest earned on the money in the account.

33 (3) The board may expend the money in the account for both
34 of the following purposes:

35 (A) To pay the costs of implementing this chapter, which costs
36 shall not exceed 7 percent of the funds available for the grant
37 program.

38 (B) To make payments for grants authorized by this chapter.

39 (4) Upon authorization by the Legislature in the annual Budget
40 Act, the sum of all funds transferred into the account from other

1 funds or accounts shall not exceed one million dollars (\$1,000,000)
2 annually.

3 (5) Except as provided in paragraph (2) of subdivision (c) of
4 Section 48653 and notwithstanding any other provision of law,
5 the grant program shall be funded from the following funds:

6 (A) The Integrated Waste Management Fund.

7 (B) The California Tire Recycling Management Fund, for the
8 purposes set forth in paragraph (10) of subdivision (b) of Section
9 42889.

10 (C) The California Used Oil Recycling Fund.

11 (d) For purposes of this chapter, the following definitions shall
12 apply:

13 (1) "Native American tribe" has the same meaning as tribe, as
14 defined in subdivision (b) of Section 44201.

15 (2) "Public entity" means a city, county, or resource
16 conservation district.

17 ~~SEC. 3.~~

18 *SEC. 4.* Section 48620.2 is added to the Public Resources Code,
19 to read:

20 48620.2. "Rerefined oil" means a lubricant base stock or oil
21 base that has been derived from used oil and meets all the following
22 criteria:

23 (a) Processed using a series of mechanical or chemical methods,
24 or both, including, but not limited to, vacuum distillation, followed
25 by solvent refining or hydrotreating.

26 (b) Capable of meeting the Physical and Compositional
27 Properties, in addition to the Contaminants and Toxicological
28 Properties, as defined under the American Society for Testing and
29 Materials (ASTM) D6074-99 standard.

30 (c) Processed into a material that has a quality level suitable for
31 use in a finished lubricant.

32 ~~SEC. 4.~~

33 *SEC. 5.* Section 48623 of the Public Resources Code is
34 amended to read:

35 48623. "Used oil hauler" means a hazardous waste transporter
36 registered pursuant to Chapter 6.5 (commencing with Section
37 25100) of Division 20 of the Health and Safety Code who
38 transports used oil to a used oil recycling facility certified pursuant
39 to Article 7 (commencing with Section 48660), to a used oil storage
40 facility, to a used oil transfer facility, or to an out-of-state recycling

1 facility registered with the board to be operating in substantial
2 compliance with Part 279 (commencing with Section 279.1) of
3 Title 40 of the Code of Federal Regulations.

4 ~~SEC. 5.~~

5 *SEC. 6.* Section 48631 of the Public Resources Code is
6 amended to read:

7 48631. The used oil recycling program shall include, but is not
8 limited to, all of the following:

9 (a) A recycling incentive system as described in Article 6
10 (commencing with Section 48650).

11 (b) ~~Including, but not limited to, public~~ *Public* and private grants
12 and contracts, including, but not limited to, those between the
13 board and local governments, nonprofit entities, and private entities
14 for the purposes specified in Section 48632.

15 (c) Development and implementation of an information and
16 education program to promote safe and proper used oil collection
17 and treatment methods, methods to reduce used oil generation,
18 and advances in new and existing technologies, including, but not
19 limited to, use of rerefined oil in automotive and industrial
20 lubricants.

21 (d) A reporting, monitoring, and enforcement program to ensure
22 that all statutes and regulations relating to used oil are properly
23 carried out.

24 ~~SEC. 6.~~

25 *SEC. 7.* Section 48632 of the Public Resources Code is
26 amended to read:

27 48632. The board may, pursuant to subdivision (b) of Section
28 48631, issue grants to or contract with local governments, nonprofit
29 entities, and private entities, for any of the following purposes:

30 (a) Providing and maintaining collection and recycling
31 opportunities for used lubricating oil and filters that are in addition
32 to those included in the local used oil collection programs adopted
33 pursuant to Article 10 (commencing with Section 48690).

34 (b) Research, testing, and demonstration projects for in-service
35 uses, collection technologies, and end-of-life used oil management.

36 (c) Developing uses and markets for low environmental impact
37 products resulting from the recycling of used oil, including, but
38 not limited to, promoting the manufacture of rerefined lubricating
39 oil.

1 (d) Protect advancements and developments in lubricating oil
2 resulting from, but not limited to, new requirements or technologies
3 in fuel efficiency and performance, synthetic or biobased lubricants,
4 alternative fuels, and methods to extend lubricating oil life.

5 (e) Education and mitigation projects relating to stormwater
6 pollution from used oil and its impacts on receiving waters, soils,
7 and oceans.

8 (f) A local government shall not receive a grant or contract
9 pursuant to this section for any purpose identified in subdivision
10 (e) unless the local government certifies that it has a stormwater
11 management program that is approved by the appropriate California
12 regional water quality control board and that the project approved
13 for funding under subdivision (e) is consistent with that approved
14 stormwater management program.

15 (g) An information and education program pursuant to
16 subdivision (c) of Section 48631.

17 ~~SEC. 7.~~

18 *SEC. 8.* Section 48633 of the Public Resources Code is
19 repealed.

20 ~~SEC. 8.~~

21 *SEC. 9.* Section 48634 of the Public Resources Code is
22 repealed.

23 ~~SEC. 9.~~

24 *SEC. 10.* Section 48645 of the Public Resources Code is
25 amended to read:

26 48645. Except for payments made to local governments
27 pursuant to paragraph (3) of subdivision (a) of Section 48653, final
28 approval of applicant and project eligibility standards, scoring and
29 evaluation processes, and awarding of grants under this chapter
30 shall be made in a public meeting of, and pursuant to a vote of,
31 the board.

32 ~~SEC. 10.~~

33 *SEC. 11.* Section 48650 of the Public Resources Code is
34 amended to read:

35 48650. (a) Every oil manufacturer shall pay to the board, on
36 or before the last day of the month following each quarter, an
37 amount equal to six cents (\$0.06) for every quart, or twenty-four
38 cents (\$0.24) for every gallon, of lubricating oil sold or transferred
39 in the state, or imported into the state for use in the state in that
40 quarter. For lubricating oil sold by weight, a weight to volume

1 conversion factor of 7.5 pounds per gallon shall be used to
2 determine the fee. The board may adjust the fee not more than
3 once annually to reflect increases or decreases in the cost-of-living
4 index during the prior fiscal year, as measured by the California
5 Consumer Price Index issued by the Department of Industrial
6 Relations or a successor agency. Except as provided in subdivision
7 (b), no payment is required for oil that meets any of the following:

8 (1) Oil for which a payment has already been made to the board
9 pursuant to this section.

10 (2) Oil exported or sold for export from the state.

11 (3) Oil sold for use in vessels operated in interstate or foreign
12 commerce.

13 (4) Oil imported into the state in the engine crankcase,
14 transmission, gear box, or differential of an automobile, bus, truck;
15 vessel, plane, train, or heavy equipment or machinery.

16 (5) Bulk oil imported into, transferred in, or sold in the state to
17 a motor carrier, as defined in Section 408 of the Vehicle Code,
18 and used in a vehicle designated in subdivisions (a) and (b) of
19 Section 34500 of the Vehicle Code.

20 (6) The oil otherwise subject to payment pursuant to this
21 subdivision has a volume of five gallons or less.

22 (7) Oil sold as a finished lubricant containing at least 70 percent
23 rerefined base lubricant.

24 (b) If oil exempted from payment pursuant to subdivision (a)
25 is subsequently sold or transferred for use, or is used, in this state,
26 and the use does not qualify for exemption pursuant to subdivision
27 (a), the entity that sells, transfers, or uses the oil for a purpose that
28 is not exempt from payment, shall make the payment specified in
29 subdivision (a).

30 ~~SEC. 11.~~

31 *SEC. 12.* Section 48651 of the Public Resources Code is
32 amended to read:

33 48651. (a) The board shall pay a recycling incentive pursuant
34 to subdivision (a) of Section 48652 to every industrial generator,
35 curbside collection program, and certified used oil collection center,
36 for used lubricating oil collected from the public or generated by
37 the industrial generator, if either of the following conditions apply:

38 (1) The used lubricating oil is transported by a used oil hauler
39 to a used oil storage facility or to a used oil transfer facility for the
40 purpose of producing recycled oil as defined in Section 48620.

1 (2) The used lubricating oil is transported by a used oil hauler
2 directly to an in-state used oil recycling facility that is certified
3 pursuant to subdivision (a) of Section 48662, or to an out-of-state
4 used oil recycling facility registered pursuant to subdivision (b)
5 of Section 48662 or certified pursuant to subdivision (c) of Section
6 48662, for the purpose of producing recycled oil as defined in
7 Section 48620.

8 (b) A used oil storage facility or a used oil transfer facility that
9 accepts used oil pursuant to paragraph (1) of subdivision (a) shall
10 cause that oil to be transported by a used oil hauler to a used oil
11 recycling facility certified pursuant to subdivision (a) of Section
12 48662 or to an out-of-state used oil recycling facility registered
13 pursuant to subdivision (b) of Section 48662 or certified pursuant
14 to subdivision (c) of Section 48662 for the purpose of producing
15 recycled oil as defined in Section 48620.

16 ~~SEC. 12.~~

17 *SEC. 13.* Section 48651.5 is added to the Public Resources
18 Code, to read:

19 48651.5. (a) The board, with regard to promoting the recycling
20 of used lubricating oil into rerefined oil, shall pay a rerefining
21 incentive pursuant to subdivision (b) of Section 48652 if all of the
22 following conditions are met:

23 (1) The facility is an in-state or out-of-state recycling facility
24 that is certified in accordance with subdivision (c) of Section 48662
25 and produces rerefined base lubricant meeting the specifications
26 of rerefined oil as defined in Section 48620.2.

27 (2) The used oil was generated and collected within the state
28 and prior to treatment or processing has been tested to meet the
29 definition of used oil as specified in paragraph (1) of subdivision
30 (a) of Section 25250.1 of the Health and Safety Code.

31 (3) The facility submits to the board a completed used oil
32 rerefining incentive payment claim in the form and manner that
33 the board may prescribe.

34 (b) To further promote the safe management of used oil, the
35 board, using existing financial resources, shall identify and evaluate
36 the most environmentally beneficial uses of used lubricating oil.
37 On or before January 1, 2012, the board shall consider whether to
38 implement additional incentives pursuant to this section that
39 prioritize the highest and most beneficial uses of used lubricating
40 oil.

1 ~~SEC. 13.~~

2 *SEC. 14.* Section 48652 of the Public Resources Code is
3 amended to read:

4 48652. (a) The board shall set the recycling incentive at not
5 less than ten cents (\$0.10) per quart. The board may set the amount
6 at an amount higher than ten cents (\$0.10) if the board determines
7 that a higher amount is necessary to promote the collection and
8 recycling of used lubricating oil and sufficient funds are available
9 in the fund.

10 (b) On and after January 1, 2014, the board shall set the
11 rerefining incentive at not less than two cents (\$0.02) per gallon.
12 On and after January 1, 2015, the board may set the rerefining
13 incentive at a higher amount if the board determines that a higher
14 amount is necessary to promote rerefining of used lubricating oil
15 and sufficient funds are available in the fund.

16 (c) The board shall not change the amount of an incentive paid
17 pursuant to this section until at least one year has passed since the
18 amount was last set. The amount of an incentive paid by the board
19 shall remain at the previous amount for one month after setting
20 the incentive at a different amount. The board shall not raise the
21 amount of an incentive paid or implement other incentive options
22 pursuant to subdivision (b) of Section 48651.5 unless it finds that
23 the raise will not adversely affect funding required pursuant to
24 Sections 48631, 48653, and 48660.5.

25 ~~SEC. 14.~~

26 *SEC. 15.* Section 48653 of the Public Resources Code is
27 amended to read:

28 48653. The board shall deposit all amounts paid pursuant to
29 Section 48650 by manufacturers, civil penalties, and fines paid
30 pursuant to this chapter, and all other revenues received pursuant
31 to this chapter into the California Used Oil Recycling Fund, which
32 is hereby created in the State Treasury. Notwithstanding Section
33 13340 of the Government Code, the money in the fund is to be
34 appropriated solely as follows:

35 (a) Continuously appropriated to the board for expenditure for
36 the following purposes:

37 (1) To pay recycling incentives pursuant to Section 48651.

38 (2) To provide a reserve for contingencies, as may be available
39 after making other payments required by this section, in an amount
40 not to exceed one million dollars (\$1,000,000).

1 (3) To make payments for the implementation of local used oil
2 collection programs adopted pursuant to Article 10 (commencing
3 with Section 48690) to cities, based on the city's population, and
4 counties, based on the population of the unincorporated area of
5 the county. Notwithstanding subdivision (b) of Section 48656, the
6 total annual amount shall equal thirteen million dollars
7 (\$13,000,000), except that the board may issue the payments as
8 follows, if sufficient funds are not available in the fund:

9 (A) (i) One-half of the amount that remains in the fund after
10 the expenditures are made pursuant to paragraphs (1) and (2) and
11 subdivision (b).

12 (ii) The board may utilize additional amounts from the fund up
13 to, but not exceeding, thirteen million dollars (\$13,000,000).

14 (B) Pursuant to paragraph (2) of subdivision (d) of Section
15 48691, it is the intent of this paragraph that at least three million
16 dollars (\$3,000,000) be made available specifically for used oil
17 filter collection and recycling programs.

18 (C) Payments shall be determined by multiplying the total annual
19 amount by the fraction equal to the population of cities and counties
20 that are eligible for payments pursuant to Section 48690, divided
21 by the population of the state. The board shall use the latest
22 population estimates of the state generated by the Population
23 Research Unit of the Department of Finance in making the
24 calculations required by this paragraph.

25 (4) To implement Section 48660.5, in an amount not to exceed
26 two hundred thousand dollars (\$200,000) annually.

27 (5) For expenditures pursuant to Section 48656.

28 (b) The money in the fund may be expended by the board for
29 the administration of this chapter and by the department for
30 inspections and reports pursuant to Section 48661, only upon
31 appropriation by the Legislature in the annual Budget Act.

32 (c) (1) Except as provided in paragraph (2), the money in the
33 fund may be transferred to the Farm and Ranch Solid Waste
34 Cleanup and Abatement Account in the General Fund, upon
35 appropriation by the Legislature in the annual Budget Act, to pay
36 the costs associated with implementing and operating the Farm
37 and Ranch Solid Waste Cleanup and Abatement Grant Program
38 established pursuant to Chapter 2.5 (commencing with Section
39 48100).

1 (2) The money in the fund attributable to a charge increase or
2 adjustment made or authorized in an amendment to subdivision
3 (a) of Section 48650 by the act adding this paragraph shall not be
4 transferred to the Farm and Ranch Solid Waste Cleanup and
5 Abatement Account.

6 (d) Appropriations to the board to pay the costs necessary to
7 administer this chapter shall not exceed three million dollars
8 (\$3,000,000) annually.

9 (e) The Legislature hereby finds and declares its intent that three
10 hundred fifty thousand dollars (\$350,000) should be annually
11 appropriated from the California Used Oil Recycling Fund in the
12 annual Budget Act to the board, commencing with fiscal year
13 2010–11, for the purposes of Section 48655 and to conduct those
14 investigations and enforcement actions necessary to implement
15 subdivision (b) of Section 48651.

16 ~~SEC. 15.~~

17 *SEC. 16.* Section 48654 is added to the Public Resources Code,
18 to read:

19 48654. (a) It is the intent of the Legislature in enacting this
20 chapter that local government sponsored used motor oil collection
21 programs in rural counties continue to operate and be funded to
22 maintain or expand their existing collection efforts. As such,
23 funding should be increased according to increased costs due to
24 the imposition of new requirements under this chapter enacted in
25 the act that added this section in the 2009-10 Regular Session of
26 the Legislature.

27 (b) (1) The board shall provide funds from the California Used
28 Oil Recycling Fund to rural counties for local government
29 sponsored collection efforts to cover additional costs of testing or
30 reduced availability of the recycling incentive caused by increased
31 regulatory expenses pursuant to the addition of Section 25250.29
32 to the Health and Safety Code, and amendments to Sections 48623,
33 48631, 48632, 48651, 48662, and 48670, enacted in the act that
34 added this section in the 2009-10 Regular Session of the
35 Legislature.

36 (2) To qualify for such funding, the local government shall
37 demonstrate to the board that it has incurred additional costs and
38 that these costs could not have been avoided or lessened through
39 the use of a commercially viable alternative transporter or recycling
40 facilities that are in compliance with this chapter.

1 ~~SEC. 16.~~

2 *SEC. 17.* Section 48656 of the Public Resources Code is
3 amended to read:

4 48656. After all of the expenditures pursuant to Section 48653
5 have been made, notwithstanding paragraph (5) of subdivision (a)
6 of Section 48653, the balance remaining in the fund shall be
7 available to the board for the following purposes:

8 (a) The implementation of subdivisions (b) and (c) of Section
9 48631 and Section 48651.5, subject to both of the following
10 requirements:

11 (1) The allocation of funds to implement subdivisions (b) and
12 (c) of Section 48631 shall be at the discretion of the board to be
13 determined annually in a public meeting and pursuant to a vote of
14 the board.

15 (2) The board shall pay rerefining incentives pursuant to Section
16 48651.5 if sufficient funds are available in the fund.

17 (b) Annual revenues left unspent in excess of one million dollars
18 (\$1,000,000) shall be allocated pursuant to paragraph (3) of
19 subdivision (a) of Section 48653 for local collection programs
20 adopted pursuant to Article 10 (commencing with Section 48690).

21 ~~SEC. 17.~~

22 *SEC. 18.* Section 48660 of the Public Resources Code is
23 amended to read:

24 48660. (a) No used oil collection center shall be eligible for
25 the payment of recycling incentives until the board has certified
26 that the center is in compliance with the requirements in
27 subdivision (b). Before certification, the board may require the
28 center to submit any information that the board determines is
29 necessary to find that the center is in compliance with those
30 requirements. A center shall reapply for certification every four
31 years. The board may cancel the certification of a center if the
32 board finds that the center is not, or has not been, in compliance
33 with subdivision (b). The board may withhold the payment of
34 recycling incentives for used lubricating oil collected by a center
35 if the board finds that the center was not in compliance with
36 subdivision (b) during the time in which the used lubricating oil
37 was collected.

38 (b) To be eligible for certification by the board and for the
39 payment of recycling incentives, the used oil collection center shall
40 do all of the following:

1 (1) Accept used lubricating oil from the public at no charge
2 during the hours that the entity operating as the center is open for
3 business.

4 (2) Pay to a person, at his or her request, an amount equal to
5 the recycling incentive that the center will receive for used
6 lubricating oil brought to the center in containers by the person.
7 Nothing in this chapter prohibits a person from donating used
8 lubricating oil to a center. The recycling incentive may be in the
9 form of a credit that may be applied toward the purchase of goods
10 or services offered by the center, as determined by the board. The
11 credit shall be in the form of a voucher or coupon with a value of
12 at least twice the incentive amount to be paid pursuant to Section
13 48652 and have no other limits for use, unless prescribed by the
14 board.

15 (3) Provide information to the board for informing the public
16 of the center's acceptance of used lubricating oil.

17 (4) Provide notice to the public of the center's acceptance of
18 used lubricating oil from the public through periodic advertising
19 in local media and onsite signs that meet the following
20 requirements:

21 (A) Onsite signs shall be of a design and specification prescribed
22 by the board and shall state that the center is certified by the state
23 and collects used oil from the public at no charge.

24 (B) A certified center shall post an exterior sign of a design and
25 specification prescribed by the board in a location that is easily
26 visible from a public street. In addition, the certified center shall
27 post an informational sign of a design and specification prescribed
28 by the board so that it is easily readable from the location where
29 the used oil is received from the public.

30 (C) If local zoning ordinances prevent signs of a size consistent
31 with this paragraph, the exterior symbolic sign shall be of the
32 maximum allowable size.

33 (c) Notwithstanding subdivision (b), a used oil collection center
34 may refuse to accept used lubricating oil that has been
35 contaminated in a manner other than that which would occur
36 through normal use.

37 (d) Notwithstanding subdivision (b), a used oil collection center
38 shall not knowingly accept used lubricating oil for which a payment
39 has not been made pursuant to Section 48650.

1 ~~SEC. 18.~~

2 *SEC. 19.* Section 48660.5 of the Public Resources Code is
3 amended to read:

4 48660.5. (a) If the board finds that a shipment of used oil from
5 a certified used oil collection center, curbside collection program,
6 or uncertified publicly funded used oil collection center in a small
7 rural county is contaminated by hazardous materials in excess of
8 that which generally occurs in normal use, which renders the used
9 oil infeasible for recycling, and requires that the used oil be
10 destroyed at a substantially higher cost than the cost generally to
11 recycle used oil, the board shall, upon application by the used oil
12 collection center or curbside collection program, reimburse the
13 center or program for the additional disposal cost, subject to the
14 eligibility requirements of subdivision (b), except as provided in
15 subdivision (c).

16 (b) A certified used oil collection center, curbside collection
17 program, or uncertified publicly funded used oil collection center
18 in a small rural county is eligible for reimbursement only if it
19 demonstrates to the satisfaction of the board all of the following,
20 except that paragraph (1) does not apply to a publicly funded used
21 oil collection center in a small rural county:

22 (1) The center or program has established procedures to ensure
23 that the used oil it generates and accepts from the public will not
24 be mixed with other hazardous wastes, especially
25 halogen-contaminated and polychlorinated biphenyl-contaminated
26 wastes. These procedures shall include, but not be limited to,
27 instructing the public and employees that used oil shall not be
28 mixed with other hazardous waste. The board shall not require a
29 center or program to test used oil received from the public as part
30 of these procedures.

31 (2) The shipment contains not more than five gallons or pounds
32 of contaminants combined, based on the contaminant
33 concentrations and the total volume or weight of the shipment.

34 (c) In a calendar year, a used oil collection center, curbside
35 collection program, or uncertified publicly funded used oil
36 collection center in a small rural county shall be reimbursed for
37 not more than one shipment and for not more than five thousand
38 dollars (\$5,000) in disposal costs for halogen-contaminated waste
39 or not more than the actual net additional costs of disposing of

1 polychlorinated biphenyl-contaminated wastes, subject to the
2 availability of funds pursuant to Section 48656.

3 ~~SEC. 19.~~

4 *SEC. 20.* Section 48662 of the Public Resources Code is
5 amended to read:

6 48662. (a) The board shall certify or recertify a used oil
7 recycling facility located in this state for which the board has
8 received a report from the department pursuant to Section 48661,
9 unless the board determines that the facility is engaged in a
10 repeating or recurring pattern of noncompliance that poses a
11 significant threat to public health and safety or the environment.

12 (b) (1) The board shall require an out-of-state recycling facility,
13 that receives used oil from a California generator and to which a
14 recycling incentive may be paid, to register with the board
15 declaring under penalty of perjury that the facility is operating in
16 substantial compliance with Part 279 (commencing with Section
17 279.1) of Title 40 of the Code of Federal Regulations. An
18 out-of-state recycling facility registering with the board pursuant
19 to this subdivision shall, upon request, provide the board or the
20 department with a copy of any inspection report issued for the
21 facility by, or any other enforcement related documents available
22 to, the agency responsible for enforcing Part 279 (commencing
23 with Section 279.1) of Title 40 of the Code of Federal Regulations
24 at the facility.

25 (2) The out-of-state used oil recycling facility shall declare,
26 under penalty of perjury, to the board that used oil that it receives
27 from a California generator to whom a recycling incentive may
28 be paid is recycled to meet the purity standards for recycled oil,
29 as defined in Section 48620. An out-of-state recycling facility
30 registering with the board pursuant to this subdivision shall, upon
31 request, provide the board or the department with a copy of records
32 demonstrating that the used oil has been recycled to meet those
33 purity standards.

34 (c) The board shall certify or recertify a rerefiner of used oil for
35 which the board has received a report from the department that
36 the facility meets either of the following requirements:

37 (1) The used oil recycling facility located in this state is certified
38 pursuant to subdivision (a) and produces rerefined base lubricant
39 meeting the specifications in Section 48620.2.

1 (2) The used oil recycling facility is an out-of-state facility that
2 has demonstrated to the satisfaction of the department all of the
3 following:

4 (A) The facility substantially meets the requirements in Part
5 279 (commencing with Section 279.1) of Title 40 of the Code of
6 Federal Regulations.

7 (B) The facility produces rerefined base lubricant meeting the
8 specifications in Section 48620.2. An out-of-state recycling facility
9 registering with the board pursuant to this subdivision shall, upon
10 request, provide the board or the department with a copy of records
11 demonstrating that the used oil has been recycled to meet the
12 specifications for rerefined oil, as defined in Section 48620.2.

13 (d) An out-of-state facility that seeks certification shall annually
14 certify in writing to the board, under penalty of perjury, that the
15 facility substantially meets the requirements in paragraph (2) of
16 subdivision (c).

17 (e) Paragraph (2) of subdivision (c) does not require the
18 department to inspect or prohibit the department from inspecting
19 an out-of-state facility to determine whether the department is
20 satisfied that the facility substantially meets the requirements for
21 certification.

22 (f) As a condition of demonstrating compliance pursuant to
23 paragraph (2) of subdivision (c), a facility shall enter into an
24 agreement with the department pursuant to Section 25201.9 of the
25 Health and Safety Code to pay the department's full expenses of
26 conducting the review and any inspection costs the department
27 may incur in determining whether the facility meets the
28 requirements for certification.

29 (g) If the board denies certification to a facility subject to
30 subdivision (a) or (c), the board may subsequently certify the
31 facility if it determines that the facility meets the standards for
32 certification.

33 ~~SEC. 20.~~

34 *SEC. 21.* Section 48670 of the Public Resources Code is
35 amended to read:

36 48670. (a) To be eligible for payment of a recycling incentive,
37 an industrial generator of used lubricating oil, a used oil collection
38 center, or a curbside collection program shall report to the board,
39 for each quarter, based on the following reporting limitations and
40 requirements:

1 (1) The amount of lubricating oil purchased and the amount of
2 used lubricating oil that is transported to a certified used oil
3 recycling facility, to a used oil storage facility, or to a used oil
4 transfer facility, or that is transported to an out-of-state recycling
5 facility registered with the board to be operating in substantial
6 compliance with Part 279 (commencing with Section 279.1) of
7 Title 40 of the Code of Federal Regulations.

8 (2) The amount of used lubricating oil collected from the public,
9 for use in determining the recycling incentive payment, that is
10 transported to a certified used oil recycling facility, to a used oil
11 storage facility, or to a used oil transfer facility, or that is
12 transported to an out-of-state recycling facility registered with the
13 board to be operating in substantial compliance with Part 279
14 (commencing with Section 279.1) of Title 40 of the Code of
15 Federal Regulations. However, a certified collection center with
16 service bays located in a small rural county shall be eligible for a
17 recycling incentive based on 60 percent of the total oil recycled
18 by collecting used oil from the public and servicing motor vehicles.
19 If the center documents, in the form prescribed by the board, that
20 the portion that resulted from public collection exceeds 60 percent
21 of the total oil recycled, the center shall be eligible for the incentive
22 payment based on the actual amount of used oil accepted from the
23 public and recycled.

24 (b) The reports shall be submitted on or before the 45th day
25 following each quarter, in the form and manner that the board may
26 prescribe, and shall include copies of manifests or modified
27 manifest receipts from used oil haulers.

28 (c) The board may delegate to the executive officer of the board
29 the authority to accept reports submitted after the 45th day and to
30 reduce, eliminate, or approve the amount of incentive fee to be
31 paid due to the late submission of the report. The board may
32 provide, by regulation, for a longer reporting period for industrial
33 generators that generate less than 1,000 gallons of used oil
34 annually.

35 ~~SEC. 21.~~

36 *SEC. 22.* Section 48673 of the Public Resources Code is
37 amended to read:

38 48673. (a) A used oil recycling facility issued a permit by the
39 department to produce recycled oil, as defined in Section 25250.1
40 of the Health and Safety Code, and an out-of-state recycling facility

1 that is either registered with the board pursuant to subdivision (b)
2 of Section 48662 or certified by the board pursuant to subdivision
3 (c) of Section 48662, shall report to the board for each quarter the
4 amount of California used oil received and the resultant amount
5 of recycled oil produced.

6 (b) A facility subject to this section shall provide estimates,
7 where feasible, of the amount that is used lubricating oil and the
8 amount that is used industrial oil.

9 (c) The reports required by this section shall be submitted on
10 or before the last day of the month following each quarter, in the
11 form and manner that the board may prescribe.

12 ~~SEC. 22.~~

13 *SEC. 23.* Section 48674 of the Public Resources Code is
14 amended to read:

15 48674. After receiving payments pursuant to paragraph (3) of
16 subdivision (a) of Section 48653, each local government shall
17 submit a report to the board, in the manner specified by the board,
18 that includes any amendments to the local used oil collection
19 program adopted pursuant to Section 48690, a description of all
20 measures taken to implement the program, and a description of
21 how payments were expended.

22 ~~SEC. 23.~~

23 *SEC. 24.* Section 48690 of the Public Resources Code is
24 amended to read:

25 48690. A local government is eligible for a payment pursuant
26 to paragraph (3) of subdivision (a) of Section 48653, if it develops
27 and submits a local used oil collection program to the board
28 pursuant to Section 48691 and files a report pursuant to Section
29 48674. The board shall make a payment to every local government
30 that submits a program and files a report unless the board finds
31 that the program or its implementation does not comply with
32 criteria contained in this article. The board may make a payment
33 to another entity that will implement the program of a local
34 government in lieu of making a payment to that local government
35 with the concurrence of that local government. A payment issued
36 by the board pursuant to this section may take the form of an
37 advance payment. If a local government does not implement a
38 used oil collection program or chooses not to accept the payment
39 pursuant to paragraph (3) of subdivision (a) of Section 48653, the
40 board may allocate that local government's payment to another

1 local government that commits to implementing a used oil
2 collection program pursuant to Section 48691 and serving the
3 residents of the nonparticipating local government, if any program
4 implemented within the boundaries of the nonparticipating
5 jurisdiction is approved by the nonparticipating jurisdiction.

6 ~~SEC. 24.~~

7 *SEC. 25.* Section 48691 of the Public Resources Code is
8 amended to read:

9 48691. (a) A local used oil collection program shall provide
10 for used lubricating oil collection by either of the following or a
11 combination of the two:

12 (1) Ensuring that at least one certified used oil collection center
13 is available for every 100,000 residents not served by curbside
14 used oil collection, that accepts oil from the public at no charge,
15 at least 20 hours each week, on four days each week, of which
16 three hours each week are outside the weekday hours of 8 a.m.
17 through 5:30 p.m.

18 (2) Providing used oil curbside collection at least once a month.

19 (b) A local used oil collection program shall include a public
20 education program that informs the public of locally available used
21 oil recycling opportunities.

22 (c) A local government may implement its used oil collection
23 program in conjunction with other similar programs in order to
24 improve used oil recycling efficiency.

25 (d) A local government that has implemented the used oil
26 collection and education elements of subdivisions (a) and (b) may
27 also include, in the local used oil collection program one or both
28 of the following:

29 (1) Provisions for the mitigation and the collection of oil and
30 oil byproducts, including other solid waste that may be mixed with
31 oil or oil byproducts from stormwater runoff, including devices to
32 capture that stormwater runoff, such as the use of storm drain inlet
33 filter devices.

34 ~~A devices.~~ A local government shall not receive a payment
35 pursuant to Section 48690 for the purposes identified pursuant to
36 this paragraph unless the local government certifies that it has a
37 stormwater management program that is approved by the
38 appropriate California regional water quality control board and
39 that the provisions in the local used oil collection program approved

1 for funding under this paragraph are consistent with that approved
2 stormwater management program.

3 (2) A used oil filter collection and recycling program.

4 ~~SEC. 25.~~

5 *SEC. 26.* No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.

O

AMENDED IN SENATE JULY 14, 2009
AMENDED IN ASSEMBLY MAY 11, 2009
AMENDED IN ASSEMBLY MAY 4, 2009
AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 907

Introduced by Assembly Member Chesbro

February 26, 2009

An act to amend Sections 48100, 48623, 48631, 48632, 48645, 48650, 48651, 48652, 48653, 48656, 48660, 48660.5, 48662, 48670, 48673, 48674, 48690, and 48691 of, to add Sections 48620.2 and 48651.5 to, and to repeal Sections 48633 and 48634 of, the Public Resources Code, relating to oil, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 907, as amended, Chesbro. California Oil Recycling Enhancement Act: rerefined oil.

(1) The California Oil Recycling Enhancement Act, administered by the California Integrated Waste Management Board, among other things, defines terms and establishes the used oil recycling program, consisting of a recycling incentive system, grants or loans to local governments and nonprofit entities for specified purposes related to used lubricating oil collection and recycling and stormwater pollution from used oil and oil byproducts, development and implementation of an information and education program to promote alternatives to the illegal disposal of used oil, and a reporting, monitoring, and enforcement program to

ensure that laws relating to used oil are properly carried out. A violation of the act is a crime.

This bill would define the term “rerefined oil” and revise the definition of “used oil hauler” for purposes of the act, and would revise and recast the used oil recycling program, so that, among other things, it would no longer provide for loans, and it would provide for the development and implementation of an information and education program to promote methods to reduce the amounts of used oil generated and to promote the use of rerefined oil in automotive and industrial lubricants. The bill would revise the purposes for which grants under the program may be made and would authorize grants additionally to be made to private entities.

(2) The act generally requires every oil manufacturer to pay to the board an amount equal to \$0.04 for every quart, or \$0.16 for every gallon, of lubricating oil sold or transferred in the state, or imported into the state for use in the state.

This bill would increase those amounts to \$0.06 per quart and \$0.24 per gallon, would authorize the board to adjust the fee annually, as specified, and would exempt from the payment of the fee oil sold as finished lubricant containing ~~100%~~ 70% rerefined base lubricant.

(3) The act requires the board to pay a recycling incentive to every industrial generator, curbside collection program, and certified used oil collection center, for used lubricating oil if certain conditions apply, and to an electric utility, as defined, for certain used lubricating oil. Existing law requires the board to set the recycling incentive amount at not less than \$0.04 per quart, and authorizes the board to set the amount at a higher amount if the board determines that a higher amount is necessary to promote recycling of used lubricating oil and sufficient funds are available in the California Used Oil Recycling Fund.

This bill would revise the conditions applicable to used lubricating oil that must be met before the board is required to pay the recycling incentive, and would delete the requirement that the board pay the recycling incentive to an electric utility for certain used lubricating oil.

The bill additionally would require the board to pay a rerefining incentive to certain recycling facilities that produce rerefined base lubricant meeting specified requirements. The bill would require the board, on or before January 1, 2012, to consider whether to implement additional incentives that prioritize the highest and most beneficial uses of used lubricating oil.

The bill would require the board to increase the recycling incentive to not less than \$0.10 per quart and to set the rerefining incentive at not less than \$0.02 per-quart *gallon*, and would authorize the board to increase those amounts if it determines that a higher amount is necessary to promote the collection and recycling of used lubricating oil or the rerefining of used lubricating oil, as applicable, and sufficient funds are available in the California Used Oil Recycling Fund.

(4) The act requires the board to deposit the charges described in (2) above, civil penalties and fines paid pursuant to the act, and all other revenues received pursuant to the act, in the California Used Oil Recycling Fund, part of which is continuously appropriated to the board to pay recycling incentives, to provide a reserve for contingencies, to make specified payments for implementation of certain local used oil collection programs in a total amount equal to \$10,000,000 or one-half the amount remaining in the fund after specified expenditures are made, for certain grants and loans, and for reimbursement for certain disposal costs of contaminated used oil. The act authorizes money in the fund, upon appropriation by the Legislature, among other things, to be transferred to the Farm and Ranch Solid Waste Cleanup and Abatement Account in the General Fund, to pay costs associated with implementing and operating the farm and ranch solid waste cleanup and abatement grant program:

This bill would increase the amount available for payments for implementation of local used oil collection programs to \$13,000,000, thereby making an appropriation. The bill would prohibit money in the California Used Oil Recycling Fund attributable to increasing or adjusting the charge on oil manufacturers described in (2) above from being transferred to the Farm and Ranch Solid Waste Cleanup and Abatement Account.

(5) The act prohibits a used oil collection center from being eligible for the payment of recycling incentives until the board has certified the center. Certification eligibility includes compliance with public notice and operational requirements. The act requires a center to reapply for certification every 2 years.

This bill instead would require a center to reapply for certification every 4 years and would revise the certification eligibility requirements.

(6) Under the act, if the board finds that a shipment of used oil from a certified used oil collection center or a curbside collection program is contaminated by hazardous material and other specified requirements are met, the board, upon application of the center or program, is required

to reimburse the center or program for the additional disposal cost of the used oil, subject to eligibility requirements and payment limitations.

This bill would include uncertified publicly funded used oil collection centers in small rural counties in those entities eligible to receive that reimbursement, and would modify the eligibility requirements and payment limitations.

(7) The act imposes certification requirements for used oil recycling facilities.

This bill also would impose certification requirements on rerefiners of used oil. The bill would require certain out-of-state recycling facilities to make specified certifications of compliance with certain federal and state laws, thereby imposing a state-mandated local program, by creating a new crime.

(8) The act imposes reporting requirements on industrial generators of used lubricating oil, used oil collection centers, and curbside collection programs, to be eligible for payment of a recycling incentive.

This bill would revise those reporting requirements.

(9) This bill would make other related changes to the act.

(10) Because a violation of the act is a crime, the bill would impose a state-mandated local program by, among other things, bringing rerefiners of used lubricating oil within the ambit of the act.

(11) 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.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 48100 of the Public Resources Code is
2 amended to read:

3 48100. (a) The Legislature hereby finds and declares that
4 illegal disposal of solid waste on property owned by innocent
5 parties is a longstanding problem needing attention and that grants
6 provided under this chapter will support the cleanup of farm and
7 ranch property.

8 (b) The board shall establish a farm and ranch solid waste
9 cleanup and abatement grant program for the purposes of cleaning

1 up and abating the effects of illegally disposed solid waste pursuant
2 to this chapter.

3 (c) (1) The Farm and Ranch Solid Waste Cleanup and
4 Abatement Account is hereby created in the General Fund and
5 may be expended by the board, upon appropriation by the
6 Legislature in the annual Budget Act, for the purposes of this
7 chapter.

8 (2) The following funds shall be deposited into the account:

9 (A) Money appropriated by the Legislature from the Integrated
10 Waste Management Fund or the California Used Oil Recycling
11 Fund to the board for the grant program, or from the California
12 Tire Recycling Management Fund to the board for the purposes
13 set forth in paragraph (10) of subdivision (b) of Section 42889.

14 (B) Notwithstanding Section 16475 of the Government Code,
15 any interest earned on the money in the account.

16 (3) The board may expend the money in the account for both
17 of the following purposes:

18 (A) To pay the costs of implementing this chapter, which costs
19 shall not exceed 7 percent of the funds available for the grant
20 program.

21 (B) To make payments for grants authorized by this chapter.

22 (4) Upon authorization by the Legislature in the annual Budget
23 Act, the sum of all funds transferred into the account from other
24 funds or accounts shall not exceed one million dollars (\$1,000,000)
25 annually.

26 (5) Except as provided in paragraph (2) of subdivision (c) of
27 Section 48653 and notwithstanding any other provision of law,
28 the grant program shall be funded from the following funds:

29 (A) The Integrated Waste Management Fund.

30 (B) The California Tire Recycling Management Fund, for the
31 purposes set forth in paragraph (10) of subdivision (b) of Section
32 42889.

33 (C) The California Used Oil Recycling Fund.

34 (d) For purposes of this chapter, the following definitions shall
35 apply:

36 (1) "Native American tribe" has the same meaning as tribe, as
37 defined in subdivision (b) of Section 44201.

38 (2) "Public entity" means a city, county, or resource
39 conservation district.

1 SEC. 2. Section 48620.2 is added to the Public Resources Code,
2 to read:

3 48620.2. "Rerefined oil" means a lubricant base stock or oil
4 base that has been derived from used oil and meets all the following
5 criteria:

6 (a) Processed using a series of mechanical or chemical methods,
7 or both, including, but not limited to, vacuum distillation, followed
8 by solvent refining or hydrotreating.

9 (b) Capable of meeting the Physical and Compositional
10 Properties, in addition to the Contaminants and Toxicological
11 Properties, as defined under the American Society for Testing and
12 Materials (ASTM) D6074-99 standard.

13 (c) Processed into a material that has a quality level suitable for
14 use in a finished lubricant.

15 SEC. 3. Section 48623 of the Public Resources Code is
16 amended to read:

17 48623. "Used oil hauler" means a hazardous waste hauler
18 registered pursuant to Chapter 6.5 (commencing with Section
19 25100) of Division 20 of the Health and Safety Code who
20 transports used oil to a used oil recycling facility certified pursuant
21 to Article 7 (commencing with Section 48660), to a used oil storage
22 facility, to a used oil transfer facility, or to an out-of-state recycling
23 facility registered with the board to be operating in substantial
24 compliance with Part 279 (commencing with Section 279.1) of
25 Title 40 of the Code of Federal Regulations.

26 SEC. 4. Section 48631 of the Public Resources Code is
27 amended to read:

28 48631. The used oil recycling program shall include, but is not
29 limited to, all of the following:

30 (a) A recycling incentive system as described in Article 6
31 (commencing with Section 48650).

32 (b) Public and private *partnership*, including, but not limited
33 to, grants and contracts, between the board and local governments,
34 nonprofit entities, and private entities for the purposes specified
35 in Section 48632.

36 (c) Development and implementation of an information and
37 education program to promote safe and proper used oil collection
38 and treatment methods, methods to reduce used oil generation,
39 and advances in new and existing technologies, including, but not

1 limited to, use of rerefined oil in automotive and industrial
2 lubricants.

3 (d) A reporting, monitoring, and enforcement program to ensure
4 that all statutes and regulations relating to used oil are properly
5 carried out.

6 SEC. 5. Section 48632 of the Public Resources Code is
7 amended to read:

8 48632. The board may, pursuant to subdivision (b) of Section
9 48631, issue grants to or contract with local governments, nonprofit
10 entities, and private entities, for any of the following purposes:

11 (a) Providing and maintaining collection and recycling
12 opportunities for used lubricating oil and filters that are in addition
13 to those included in the local used oil collection programs adopted
14 pursuant to Article 10 (commencing with Section 48690).

15 (b) Research, testing, and demonstration projects for in-service
16 uses, collection technologies, and end-of-life used oil management.

17 (c) Developing uses and markets for low environmental impact
18 products resulting from the recycling of used oil, including, but
19 not limited to, promoting the manufacture of rerefined lubricating
20 oil.

21 (d) Product advancements and developments in lubricating oil
22 resulting from, but not limited to, new requirements or technologies
23 in fuel efficiency and performance, synthetic or biobased lubricants,
24 alternative fuels, and methods to extend lubricating oil life.

25 (e) Education and mitigation projects relating to stormwater
26 pollution and its impacts on receiving waters, soils, and oceans.

27 (f) A local government shall not receive a grant or contract
28 pursuant to this section for any purpose identified in subdivision
29 (e) unless the local government certifies that it has a stormwater
30 management program that is approved by the appropriate California
31 regional water quality control board and that the project approved
32 for funding under subdivision (e) is consistent with that approved
33 stormwater management program.

34 (g) An information and education program pursuant to
35 subdivision (c) of Section 48631.

36 SEC. 6. Section 48633 of the Public Resources Code is
37 repealed.

38 SEC. 7. Section 48634 of the Public Resources Code is
39 repealed.

1 SEC. 8. Section 48645 of the Public Resources Code is
2 amended to read:

3 48645. Except for payments made to local governments
4 pursuant to paragraph (3) of subdivision (a) of Section 48653, final
5 approval of applicant and project eligibility standards, scoring and
6 evaluation processes, and awarding of grants under this chapter
7 shall be made in a public meeting of, and pursuant to a vote of,
8 the board.

9 SEC. 9. Section 48650 of the Public Resources Code is
10 amended to read:

11 48650. (a) Every oil manufacturer shall pay to the board, on
12 or before the last day of the month following each quarter, an
13 amount equal to six cents (\$0.06) for every quart, or twenty-four
14 cents (\$0.24) for every gallon, of lubricating oil sold or transferred
15 in the state, or imported into the state for use in the state in that
16 quarter. For lubricating oil sold by weight, a weight to volume
17 conversion factor of 7.5 pounds per gallon shall be used to
18 determine the fee. The board may adjust the fee not more than
19 once annually to reflect increases or decreases in the cost-of-living
20 index during the prior fiscal year as measured by the California
21 Consumer Price Index issued by the Department of Industrial
22 Relations or a successor agency. Except as provided in subdivision

23 (b), no payment is required for oil that meets any of the following:
24 (1) Oil for which a payment has already been made to the board
25 pursuant to this section.

26 (2) Oil exported or sold for export from the state.

27 (3) Oil sold for use in vessels operated in interstate or foreign
28 commerce.

29 (4) Oil imported into the state in the engine crankcase,
30 transmission, gear box, or differential of an automobile, bus, truck,
31 vessel, plane, train, or heavy equipment or machinery.

32 (5) Bulk oil imported into, transferred in, or sold in the state to
33 a motor carrier, as defined in Section 408 of the Vehicle Code,
34 and used in a vehicle designated in subdivisions (a) and (b) of
35 Section 34500 of the Vehicle Code.

36 (6) The oil otherwise subject to payment pursuant to this
37 subdivision has a volume of five gallons or less.

38 (7) Oil sold as a finished lubricant containing ~~100~~ 70 percent
39 rerefined base lubricant.

1 (b) If oil exempted from payment pursuant to subdivision (a)
2 is subsequently sold or transferred for use, or is used, in this state,
3 and the use does not qualify for exemption pursuant to subdivision
4 (a), the entity that sells, transfers, or uses the oil for a purpose that
5 is not exempt from payment, shall make the payment specified in
6 subdivision (a).

7 SEC. 10. Section 48651 of the Public Resources Code is
8 amended to read:

9 48651. (a) The board shall pay a recycling incentive pursuant
10 to subdivision (a) of Section 48652 to every industrial generator,
11 curbside collection program, and certified used oil collection center,
12 for used lubricating oil collected from the public or generated by
13 the industrial generator, if either of the following conditions apply:

14 (1) The used lubricating oil is transported by a used oil hauler
15 to a used oil storage facility or to a used oil transfer facility.

16 (2) The used lubricating oil is transported by a used oil hauler
17 directly to an in-state used oil recycling facility that is certified
18 pursuant to subdivision (a) of Section 48662, or to an out-of-state
19 used oil recycling facility registered pursuant to subdivision (b)
20 of Section 48662 or certified pursuant to subdivision (c) of Section
21 48662.

22 (b) A used oil storage facility or a used oil transfer facility that
23 accepts used oil pursuant to paragraph (1) of subdivision (a) shall
24 cause that oil to be transported by a used oil hauler to a used oil
25 recycling facility certified pursuant to subdivision (a) of Section
26 48662 or to an out-of-state used oil recycling facility registered
27 pursuant to subdivision (b) of Section 48662 or certified pursuant
28 to subdivision (c) of Section 48662.

29 SEC. 11. Section 48651.5 is added to the Public Resources
30 Code, to read:

31 48651.5. (a) The board, with regard to promoting the recycling
32 of used lubricating oil into rerefined oil, shall pay a rerefining
33 incentive pursuant to subdivision (b) of Section 48652 if all of the
34 following conditions are met:

35 (1) The facility is an in-state or out-of-state recycling facility
36 that is certified in accordance with subdivision (c) of Section 48662
37 and produces rerefined base lubricant meeting the specifications
38 of rerefined oil as defined in Section 48620.2.

39 (2) The used oil was generated and collected within the state
40 and prior to treatment or processing has been tested to meet the

1 definition of used oil as specified in paragraph (1) of subdivision
2 (a) of Section 25250.1 of the Health and Safety Code.

3 (3) The facility submits to the board a completed used oil
4 rerefining incentive payment claim in the form and manner that
5 the board may prescribe.

6 (b) To further promote the safe management of used oil, the
7 board, using existing financial resources, shall identify and evaluate
8 the most environmentally beneficial uses of used lubricating oil.
9 On or before January 1, 2012, the board shall consider whether to
10 implement additional incentives pursuant to this section that
11 prioritize the highest and most beneficial uses of used lubricating
12 oil.

13 SEC. 12. Section 48652 of the Public Resources Code is
14 amended to read:

15 48652. (a) The board shall set the recycling incentive at not
16 less than ten cents (\$0.10) per quart. The board may set the amount
17 at an amount higher than ten cents (\$0.10) if the board determines
18 that a higher amount is necessary to promote the collection and
19 recycling of used lubricating oil and sufficient funds are available
20 in the fund.

21 (b) The board shall set the rerefining incentive at not less than
22 two cents (\$0.02) per ~~quart~~ *gallon*. The board may set the amount
23 at an amount higher than two cents (\$0.02) per ~~quart~~ *gallon* if the
24 board determines that a higher amount is necessary to promote
25 rerefining of used lubricating oil and sufficient funds are available
26 in the fund.

27 (c) The board shall not change the amount of an incentive paid
28 pursuant to this section until at least one year has passed since the
29 amount was last set. The amount of an incentive paid by the board
30 shall remain at the previous amount for one month after setting
31 the incentive at a different amount. The board shall not raise the
32 amount of an incentive paid or implement other incentive options
33 pursuant to subdivision (b) of Section 48651.5 unless it finds that
34 the raise will not adversely affect funding required pursuant to
35 Sections 48631, 48653, and 48660.5.

36 SEC. 13. Section 48653 of the Public Resources Code is
37 amended to read:

38 48653. The board shall deposit all amounts paid pursuant to
39 Section 48650 by manufacturers, civil penalties, and fines paid
40 pursuant to this chapter, and all other revenues received pursuant

1 to this chapter into the California Used Oil Recycling Fund, which
2 is hereby created in the State Treasury. Notwithstanding Section
3 13340 of the Government Code, the money in the fund is to be
4 appropriated solely as follows:

5 (a) Continuously appropriated to the board for expenditure for
6 the following purposes:

7 (1) To pay recycling incentives pursuant to Section 48651.

8 (2) To provide a reserve for contingencies, as may be available
9 after making other payments required by this section, in an amount
10 not to exceed one million dollars (\$1,000,000).

11 (3) To make payments for the implementation of local used oil
12 collection programs adopted pursuant to Article 10 (commencing
13 with Section 48690) to cities, based on the city's population, and
14 counties, based on the population of the unincorporated area of
15 the county. Notwithstanding subdivision (b) of Section 48656, the
16 total annual amount shall equal thirteen million dollars
17 (\$13,000,000), except that the board may issue the payments as
18 follows, if sufficient funds are not available in the fund:

19 (A) (i) One-half of the amount that remains in the fund after
20 the expenditures are made pursuant to paragraphs (1) and (2) and
21 subdivision (b).

22 (ii) The board may utilize additional amounts from the fund up
23 to, but not exceeding, thirteen million dollars (\$13,000,000).

24 (B) Pursuant to paragraph (2) of subdivision (d) of Section
25 48691, it is the intent of this paragraph that at least three million
26 dollars (\$3,000,000) be made available specifically for used oil
27 filter collection and recycling programs.

28 (C) Payments shall be determined by multiplying the total annual
29 amount by the fraction equal to the population of cities and counties
30 that are eligible for payments pursuant to Section 48690, divided
31 by the population of the state. The board shall use the latest
32 population estimates of the state generated by the Population
33 Research Unit of the Department of Finance in making the
34 calculations required by this paragraph.

35 (4) To implement Section 48660.5, in an amount not to exceed
36 two hundred thousand dollars (\$200,000) annually.

37 (5) For expenditures pursuant to Section 48656.

38 (b) The money in the fund may be expended by the board for
39 the administration of this chapter and by the department for

1 inspections and reports pursuant to Section 48661, only upon
2 appropriation by the Legislature in the annual Budget Act.

3 (c) (1) Except as provided in paragraph (2), the money in the
4 fund may be transferred to the Farm and Ranch Solid Waste
5 Cleanup and Abatement Account in the General Fund, upon
6 appropriation by the Legislature in the annual Budget Act, to pay
7 the costs associated with implementing and operating the Farm
8 and Ranch Solid Waste Cleanup and Abatement Grant Program
9 established pursuant to Chapter 2.5 (commencing with Section
10 48100).

11 (2) The money in the fund attributable to a charge increase or
12 adjustment made or authorized in an amendment to subdivision
13 (a) of Section 48650 by the measure adding this paragraph shall
14 not be transferred to the Farm and Ranch Solid Waste Cleanup
15 and Abatement Account.

16 (d) Appropriations to the board to pay the costs necessary to
17 administer this chapter shall not exceed three million dollars
18 (\$3,000,000) annually.

19 (e) The Legislature hereby finds and declares its intent that three
20 hundred fifty thousand dollars (\$350,000) should be annually
21 appropriated from the California Used Oil Recycling Fund in the
22 annual Budget Act to the board, commencing with fiscal year
23 2010–11, for the purposes of Section 48655 and to conduct those
24 investigations and enforcement actions necessary to implement
25 subdivision (b) of Section 48651.

26 SEC. 14. Section 48656 of the Public Resources Code is
27 amended to read:

28 48656. After all of the expenditures pursuant to Section 48653
29 have been made, notwithstanding paragraph (5) of subdivision (a)
30 of Section 48653, the balance remaining in the fund shall be
31 available to the board for the following purposes:

32 (a) The implementation of subdivisions (b) and (c) of Section
33 48631 and Section 48651.5, subject to both of the following
34 requirements:

35 (1) The allocation of funds to implement subdivisions (b) and
36 (c) of Section 48631 shall be at the discretion of the board to be
37 determined annually in a public meeting and pursuant to a vote of
38 the board.

39 (2) The board shall pay rerefining incentives pursuant to Section
40 48651.5 provided sufficient funds are available in the fund.

1 (b) Annual revenues left unspent in excess of one million dollars
2 (\$1,000,000) shall be allocated pursuant to paragraph (3) of
3 subdivision (a) of Section 48653 for local collection programs
4 adopted pursuant to Article 10 (commencing with Section 48690).

5 SEC. 15. Section 48660 of the Public Resources Code is
6 amended to read:

7 48660. (a) No used oil collection center shall be eligible for
8 the payment of recycling incentives until the board has certified
9 that the center is in compliance with the requirements in
10 subdivision (b). Before certification, the board may require the
11 center to submit any information that the board determines is
12 necessary to find that the center is in compliance with those
13 requirements. A center shall reapply for certification every four
14 years. The board may cancel the certification of a center if the
15 board finds that the center is not, or has not been, in compliance
16 with subdivision (b). The board may withhold the payment of
17 recycling incentives for used lubricating oil collected by a center
18 if the board finds that the center was not in compliance with
19 subdivision (b) during the time in which the used lubricating oil
20 was collected.

21 (b) To be eligible for certification by the board and for the
22 payment of recycling incentives, the used oil collection center shall
23 do all of the following:

24 (1) Accept used lubricating oil from the public at no charge
25 during the hours that the entity operating as the center is open for
26 business.

27 (2) Pay to a person, at his or her request, an amount equal to
28 the recycling incentive that the center will receive for used
29 lubricating oil brought to the center in containers by the person.
30 Nothing in this chapter prohibits a person from donating used
31 lubricating oil to a center. The recycling incentive may be in the
32 form of a credit that may be applied toward the purchase of goods
33 or services offered by the center, as determined by the board. The
34 credit shall be in the form of a voucher or coupon with a value of
35 at least twice the incentive amount to be paid pursuant to Section
36 48652 and have no other limits for use, unless prescribed by the
37 board.

38 (3) Provide information to the board for informing the public
39 of the center's acceptance of used lubricating oil.

1 (4) Provide notice to the public of the center's acceptance of
2 used lubricating oil from the public through periodic advertising
3 in local media and onsite signs that meet the following
4 requirements:

5 (A) Onsite signs shall be of a design and specification prescribed
6 by the board and shall state that the center is certified by the state
7 and collects used oil from the public at no charge.

8 (B) A certified center shall post an exterior sign of a design and
9 specification prescribed by the board in a location that is easily
10 visible from a public street. In addition, the certified center shall
11 post an informational sign of a design and specification prescribed
12 by the board so that it is easily readable from the location where
13 the used oil is received from the public.

14 (C) If local zoning ordinances prevent signs of a size consistent
15 with this paragraph, the exterior symbolic sign shall be of the
16 maximum allowable size.

17 (c) Notwithstanding subdivision (b), a used oil collection center
18 may refuse to accept used lubricating oil that has been
19 contaminated in a manner other than that which would occur
20 through normal use.

21 (d) Notwithstanding subdivision (b), a used oil collection center
22 shall not knowingly accept used lubricating oil for which a payment
23 has not been made pursuant to Section 48650.

24 SEC. 16. Section 48660.5 of the Public Resources Code is
25 amended to read:

26 48660.5. (a) If the board finds that a shipment of used oil from
27 a certified used oil collection center, curbside collection program,
28 or an uncertified publicly funded used oil collection center in a
29 small rural county is contaminated by hazardous materials in excess
30 of that which generally occurs in normal use, which renders the
31 used oil infeasible for recycling, and requires that the used oil be
32 destroyed at a substantially higher cost than the cost generally to
33 recycle used oil, the board shall, upon application by the used oil
34 collection center or curbside collection program, reimburse the
35 center or program for the additional disposal cost, subject to the
36 eligibility requirements of subdivision (b), except as provided in
37 subdivision (c).

38 (b) A certified used oil collection center, curbside collection
39 program, or an uncertified publicly funded used oil collection
40 center in a small rural county is eligible for reimbursement only

1 if it demonstrates to the satisfaction of the board all of the
2 following, except that paragraph (1) does not apply to a publicly
3 funded used oil collection center in a small rural county:

4 (1) The center or program has established procedures to ensure
5 that the used oil it generates and accepts from the public will not
6 be mixed with other hazardous wastes, especially
7 halogen-contaminated and polychlorinated biphenyl-contaminated
8 wastes. These procedures shall include, but not be limited to,
9 instructing the public and employees that used oil shall not be
10 mixed with other hazardous waste. The board shall not require a
11 center or program to test used oil received from the public as part
12 of these procedures.

13 (2) The shipment contains not more than five gallons or pounds
14 of contaminants combined, based on the contaminant
15 concentrations and the total volume or weight of the shipment.

16 (c) In a calendar year, a used oil collection center, curbside
17 collection program, or uncertified publicly funded used oil
18 collection center in a small rural county shall be reimbursed for
19 not more than one shipment and for not more than five thousand
20 dollars (\$5,000) in disposal costs, for halogen-contaminated waste
21 or not more than the actual net additional costs of disposing of
22 polychlorinated biphenyl-contaminated wastes, subject to the
23 availability of funds pursuant to Section 48656.

24 SEC. 17. Section 48662 of the Public Resources Code is
25 amended to read:

26 48662. (a) The board shall certify or recertify any used oil
27 recycling facility located in this state for which the board has
28 received a report from the department pursuant to Section 48661,
29 unless the board determines that the facility is engaged in a
30 repeating or recurring pattern of noncompliance that poses a
31 significant threat to public health and safety or the environment.

32 (b) Except as provided in paragraph (2) of subdivision (c), the
33 board shall require an out-of-state recycling facility, that receives
34 used oil from a California generator to which a recycling incentive
35 may be paid, to register with the board, declaring, under penalty
36 of perjury, that the facility is operating in substantial compliance
37 with Part 279 (commencing with Section 279.1) of Title 40 of the
38 Code of Federal Regulations.

1 (c) The board shall certify or recertify a rerefiner of used oil for
2 which the board has received a report from the department that
3 the facility meets either of the following requirements:

4 (1) The used oil recycling facility located in this state is certified
5 pursuant to subdivision (a) and produces rerefined base lubricant
6 meeting the specifications as defined in Section 48620.2.

7 (2) The used oil recycling facility is an out-of-state facility that
8 has demonstrated to the satisfaction of the department all of the
9 following:

10 (A) The facility substantially meets the requirements in Part
11 279 (commencing with Section 279.1) of Title 40 of the Code of
12 Federal Regulations.

13 (B) The facility produces rerefined base lubricant meeting the
14 specifications as defined in Section 48620.2.

15 (C) The facility meets California standards for used oil handling,
16 waste classification, and disposal specified in Section ____ of the
17 Health and Safety Code.

18 (d) An out-of-state facility that seeks certification shall annually
19 certify in writing to the board, under penalty of perjury, that the
20 facility substantially meets the requirements in paragraph (2) of
21 subdivision (c).

22 (e) Paragraph (2) of subdivision (c) does not require the
23 department to inspect or prohibit the department from inspecting
24 an out-of-state facility to determine whether the department is
25 satisfied that the facility substantially meets the requirements for
26 certification.

27 (f) As a condition of demonstrating compliance pursuant to
28 paragraph (2) of subdivision (c), a facility shall enter into an
29 agreement with the department pursuant to Section 25201.9 of the
30 Health and Safety Code to pay the department's full expenses of
31 conducting the review and any inspection costs the department
32 may incur in determining whether the facility meets the
33 requirements for certification.

34 (g) If the board denies certification to a facility subject to
35 subdivision (a) or (c), the board may subsequently certify the
36 facility if it determines that the facility meets the standards for
37 certification.

38 SEC. 18. Section 48670 of the Public Resources Code is
39 amended to read:

1 48670. (a) To be eligible for payment of a recycling incentive,
2 an industrial generator of used lubricating oil, a used oil collection
3 center, or a curbside collection program shall report to the board,
4 for each quarter, based on the following reporting limitations and
5 requirements:

6 (1) The amount of lubricating oil purchased and the amount of
7 used lubricating oil that is transported to a certified used oil
8 recycling facility, to a used oil storage facility or to a used oil
9 transfer facility, or that is transported to an out-of-state recycling
10 facility registered with the board to be operating in substantial
11 compliance with Part 279 (commencing with Section 279.1) of
12 Title 40 of the Code of Federal Regulations.

13 (2) The amount of used lubricating oil collected from the public,
14 for use in determining the recycling incentive payment, that is
15 transported to a certified used oil recycling facility, to a used oil
16 storage facility, or to a used oil transfer facility, or that is
17 transported to an out-of-state recycling facility registered with the
18 board to be operating in substantial compliance with Part 279
19 (commencing with Section 279.1) of Title 40 of the Code of
20 Federal Regulations. However, a certified collection center with
21 service bays located in a small rural county shall be eligible for a
22 recycling incentive based on 60 percent of the total oil recycled
23 by collecting used oil from the public and servicing motor vehicles.
24 If the center documents, in the form prescribed by the board, that
25 the portion that resulted from public collection exceeds 60 percent
26 of the total oil recycled, the center shall be eligible for the incentive
27 payment based on the actual amount of used oil accepted from the
28 public and recycled.

29 (b) The reports shall be submitted on or before the 45th day
30 following each quarter, in the form and manner that the board may
31 prescribe, and shall include copies of manifests or modified
32 manifest receipts from used oil haulers.

33 (c) The board may delegate to the executive officer of the board
34 the authority to accept reports submitted after the 45th day and to
35 reduce, eliminate, or approve the amount of incentive fee to be
36 paid due to the late submission of the report. The board may
37 provide, by regulation, for a longer reporting period for industrial
38 generators that generate less than 1,000 gallons of used oil
39 annually.

1 SEC. 19. Section 48673 of the Public Resources Code is
2 amended to read:

3 48673. (a) A used oil recycling facility issued a permit by the
4 department to produce recycled oil, as defined in Section 25250.1
5 of the Health and Safety Code, and an out-of-state recycling facility
6 that is either registered with the board pursuant to subdivision (b)
7 of Section 48662 or certified by the board pursuant to subdivision
8 (c) of Section 48662, shall report to the board for each quarter the
9 amount of California used oil received and the resultant amount
10 of recycled oil produced.

11 (b) A facility subject to this section shall provide estimates,
12 where feasible, of the amount that is used lubricating oil and the
13 amount that is used industrial oil.

14 (c) The reports required by this section shall be submitted on
15 or before the last day of the month following each quarter, in the
16 form and manner that the board may prescribe.

17 SEC. 20. Section 48674 of the Public Resources Code is
18 amended to read:

19 48674. After receiving payments pursuant to paragraph (3) of
20 subdivision (a) of Section 48653, each local government shall
21 submit ~~a~~ *an annual* report to the board, in the manner specified by
22 the board, that includes any amendments to the local used oil
23 collection program adopted pursuant to Section 48690, a
24 description of all measures taken to implement the program, and
25 a description of how payments were expended.

26 SEC. 21. Section 48690 of the Public Resources Code is
27 amended to read:

28 48690. A local government is eligible for a payment pursuant
29 to paragraph (3) of subdivision (a) of Section 48653, if it develops
30 and submits a local used oil collection program to the board
31 pursuant to Section 48691 and files a report pursuant to Section
32 48674. The board shall make a payment to every local government
33 that submits a program and files a report unless the board finds
34 that the program or its implementation does not comply with
35 criteria contained in this article. The board may make a payment
36 to another entity that will implement the program of a local
37 government in lieu of making a payment to that local government
38 with the concurrence of that local government. A payment issued
39 by the board pursuant to this section may take the form of an
40 advance payment. If a local government does not implement a

1 used oil collection program or chooses not to accept the payment
2 pursuant to paragraph (3) of subdivision (a) of Section 48653, the
3 board may allocate that local government's payment to another
4 local government that commits to implementing a used oil
5 collection program pursuant to Section 48691 and serving the
6 residents of the nonparticipating local government provided that
7 any program implemented within the boundaries of the
8 nonparticipating jurisdiction is approved by the nonparticipating
9 jurisdiction.

10 SEC. 22. Section 48691 of the Public Resources Code is
11 amended to read:

12 48691. (a) A local used oil collection program shall provide
13 for used lubricating oil collection by either of the following or a
14 combination of the two:

15 (1) Ensuring that at least one certified used oil collection center
16 is available for every 100,000 residents not served by curbside
17 used oil collection, that accepts oil from the public at no charge,
18 at least 20 hours each week, on four days each week, of which
19 three hours each week are outside the weekday hours of 8 a.m.
20 through 5:30 p.m.

21 (2) Providing used oil curbside collection at least once a month.

22 (b) A local used oil collection program shall include a public
23 education program that informs the public of locally available used
24 oil recycling opportunities.

25 (c) A local government may implement its used oil collection
26 program in conjunction with other similar programs in order to
27 improve used oil recycling efficiency.

28 (d) A local government that has implemented the used oil
29 collection and education elements of subdivisions (a) and (b) may
30 also include, in the local used oil collection program one or both
31 of the following:

32 (1) Provisions for the mitigation and the collection of oil and
33 oil byproducts, including other solid waste that may be mixed with
34 oil or oil byproducts from stormwater runoff, including devices to
35 capture that stormwater runoff, such as the use of storm drain inlet
36 filter devices. A local government shall not receive a payment
37 pursuant to Section 48690 for the purposes identified pursuant to
38 this paragraph unless the local government certifies that it has a
39 stormwater management program that is approved by the
40 appropriate California regional water quality control board and

1 that the provisions in the local used oil collection program approved
2 for funding under this paragraph are consistent with that approved
3 stormwater management program.

4 (2) A used oil filter collection and recycling program.

5 SEC. 23. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.

O

Assemblyman Chesbro's Proposed Amendments

Section 48100 of the Public Resources Code is amended to read:

48100. (a) The Legislature hereby finds and declares that illegal disposal of solid waste on property owned by innocent parties is a longstanding problem needing attention and that grants provided under this chapter will support the cleanup of farm and ranch property.

(b) The board shall establish a farm and ranch solid waste cleanup and abatement grant program for the purposes of cleaning up and abating the effects of illegally disposed solid waste pursuant to this chapter.

(c) (1) The Farm and Ranch Solid Waste Cleanup and Abatement Account is hereby created in the General Fund and may be expended by the board, upon appropriation by the Legislature in the annual Budget Act, for the purposes of this chapter.

(2) The following funds shall be deposited into the account:

(A) Money appropriated by the Legislature from the Integrated Waste Management Fund or the California Used Oil Recycling Fund to the board for the grant program, or from the California Tire Recycling Management Fund to the board for the purposes set forth in paragraph (10) of subdivision (b) of Section 42889.

(B) Notwithstanding Section 16475 of the Government Code, any interest earned on the money in the account.

(3) The board may expend the money in the account for both of the following purposes:

(A) To pay the costs of implementing this chapter, which costs shall not exceed 7 percent of the funds available for the grant program.

(B) To make payments for grants authorized by this chapter.

(4) Upon authorization by the Legislature in the annual Budget Act, the sum of all funds transferred into the account from other funds or accounts shall not exceed one million dollars (\$1,000,000) annually.

~~(5) Except as provided in paragraph (2) of subdivision (c) of Section 48662 and notwithstanding Notwithstanding any other provision of law, the grant program shall be funded from the following funds:~~

~~(A) The Integrated Waste Management Fund.~~

~~(B) The California Tire Recycling Management Fund, for the purposes set forth in paragraph (10) of subdivision (b) of Section 42889.~~

~~(C) The California Used Oil Recycling Fund.~~

(d) For purposes of this chapter, the following definitions shall apply:

(1) "Native American tribe" has the same meaning as tribe, as defined in subdivision (b) of Section 44201.

(2) "Public entity" means a city, county, or resource conservation district.

Section 48623 of the Public Resources Code is amended to read:

48623. "Used oil hauler" means a hazardous waste hauler registered pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code who transports used oil to a used oil recycling facility ~~that is certified or registered with the board pursuant to Article 7 (commencing with Section 48660), Section 48662, to a used oil storage facility, or to a used oil transfer facility, or to an out-of-state recycling facility registered with the board to be operating in compliance with Part 279 commencing with Section 270.1 of Title 40 of the Code of Federal Regulations.~~

Section 48624 of the Public Resources Code is amended to read:

48624. "Used oil recycling facility" means a facility which is issued a hazardous waste facilities permit or grant of interim status by the department pursuant to Section 25200 or 25200.5 of the Health and Safety Code to convert used oil into recycled oil, or an out-of-state facility operating in substantial compliance with Part 270 (commencing with Section 270.1) of Title 40 of the Code of Federal Regulations for the purpose of recycling used oil.

Section 48631 of the Public Resources Code is amended to read:

48631. The used oil recycling program shall include, but is not limited to, all of the following:

(a) A recycling incentive system as described in Article 6 (commencing with Section 48650).

(b) ~~Public and private partnership, including, but not limited to, grants and contracts, between the board and local governments, nonprofit entities, and contracts between the board and private~~ entities for the purposes specified in Section 48632.

(c) Development and implementation of an information and education program to promote safe and proper used oil collection and treatment methods, methods to reduce used oil generation, and advances in new and existing technologies, including, but not limited to, use of rerefined oil in automotive and industrial lubricants.

(d) A reporting, monitoring, and enforcement program to ensure that all statutes and regulations relating to used oil are properly carried out.

Section 48632 of the Public Resources Code is amended to read:

48632. The board may, pursuant to subdivision (b) of Section 48631, issue grants ~~to or~~ and contracts with local governments, ~~and contract with~~ nonprofit entities, and private entities, for any of the following purposes, with priority given to grant projects that promote ~~partnerships between local governments and private entities:~~

(a) Providing and maintaining collection and recycling opportunities for used lubricating oil and filters that are in addition to those included in the local used oil collection programs adopted pursuant to Article 10 (commencing with Section 48690).

(b) Research, testing, and demonstration projects for in-service uses, collection technologies, and end-of-life used oil management.

(c) Developing uses and markets for low environmental impact products resulting from the recycling of used oil, including, but not limited to, promoting the manufacture of rerefined lubricating oil.

(d) Product advancements and developments in lubricating oil resulting from, but not limited to, new requirements or technologies in fuel efficiency and performance, synthetic or biobased lubricants, alternative fuels, and methods to extend lubricating oil life.

(e) Education and mitigation projects relating to stormwater pollution and its impacts on receiving waters, soils, and oceans.

(f) A local government shall not receive a grant or contract pursuant to this section for any purpose identified in subdivision (e) unless the local government certifies that it has a stormwater management program that is approved by the appropriate California regional water quality control board and that the project approved for funding under subdivision (e) is consistent with that approved stormwater management program.

(g) An information and education program pursuant to subdivision

(c) of Section 48631.

Section 48650 of the Public Resources Code is amended to read:

48650. (a) Every oil manufacturer shall pay to the board, on or before the last day of the month following each quarter, an amount equal to ~~six cents (\$0.06)~~ four cents (\$0.04) for every quart, or ~~twenty-four cents (\$0.24)~~ sixteen cents (\$0.16) for every gallon of lubricating oil sold or transferred in the state, or imported into the state for use in the state in that quarter. For lubricating oil sold by weight, a weight to volume conversion factor of 7.5 pounds per gallon shall be used to determine the fee. ~~The board may adjust the fee not more than once annually to reflect increases or decreases in the cost of living index during the prior fiscal year as measured by the California Consumer Price Index, issued by the Department of Industrial Relations or a successor agency.~~ Except as provided in subdivision (b), no payment is required for oil that meets any of the following:

- (1) Oil for which a payment has already been made to the board pursuant to this section.
- (2) Oil exported or sold for export from the state.
- (3) Oil sold for use in vessels operated in interstate or foreign commerce.
- (4) Oil imported into the state in the engine crankcase, transmission, gear box, or differential of an automobile, bus, truck, vessel, plane, train, or heavy equipment or machinery.
- (5) Bulk oil imported into, transferred in, or sold in the state to a motor carrier, as defined in Section 408 of the Vehicle Code, and used in a vehicle designated in subdivisions (a) and (b) of Section 34500 of the Vehicle Code.
- (6) The oil otherwise subject to payment pursuant to this subdivision has a volume of five gallons or less.
- (7) Oil sold as a finished lubricant containing at least 70 percent re-refined base lubricant.

(b) If oil exempted from payment pursuant to subdivision (a) is subsequently sold or transferred for use, or is used, in this state, and the use does not qualify for exemption pursuant to subdivision (a), the entity that sells, transfers, or uses the oil for a purpose that is not exempt from payment, shall make the payment specified in subdivision (a).

Section 48651 of the Public Resources Code is amended to read:

48651. (a) The board shall pay a recycling incentive pursuant to subdivision (a) of Section 48652 to every industrial generator, curbside collection program, and certified used oil collection center, for used lubricating oil collected from the public or generated by the industrial generator, if either of the following conditions apply:

- (1) The used lubricating oil is transported by a used oil hauler to a used oil storage facility or to a used oil transfer.
- (2) The used lubricating oil is transported by a used oil hauler directly to an in-state used oil recycling facility that is certified pursuant to subdivision (a) of Section 48662, or to an out-of-state used oil recycling facility registered pursuant to subdivision (b) of Section 48662 or certified pursuant to paragraph (2) of subdivision (c) of Section 48662.

(b) A used oil storage facility or a used oil transfer facility that accepts used oil pursuant to paragraph (1) of subdivision (a)

shall cause that oil to be transported by a used oil hauler to an in-state used oil recycling facility that is certified pursuant to subdivision (a) of Section 48662 or to an out-of-state used oil recycling facility registered pursuant to subdivision (b) of Section 48662 or certified pursuant to paragraph (2) of subdivision (c) of Section 48662.

Section 48651.5 of the Public Resources Code is amended to read:

48651.5. (a) ~~Beginning July 1, 2010, the board, with regard to promoting rereefined oil the recycling of used lubricating oil into rereefined oil shall pay a rerefining incentive pursuant to subdivision (b) of Section 48652 to a recycling facility for rereefined lubricating oil produced from used oil if all of the following conditions are met:~~

(1) The facility is an in-state or out-of-state recycling facility that is certified in accordance with subdivision (c) of Section 48662 and produces rereefined base lubricant meeting the specifications of rereefined oil as defined in Section 48620.2.

(2) The used oil was generated and collected within the state and prior to treatment or processing has been tested to meet the definition of used oil as specified in paragraph (1) of subdivision (a) of Section 25250.1 of the Health and Safety Code.

(3) The facility submits to the board a completed used oil rerefining incentive payment claim in the form and manner that the board may prescribe.

(b) To further promote the safe management of used oil, the board, using existing financial resources, shall identify and evaluate the most environmentally beneficial uses of used lubricating oil. On or before January 1, 2012, the board shall consider whether to implement additional incentives pursuant to this section that prioritize the highest and most beneficial uses of used lubricating oil.

Section 48652 of the Public Resources Code is amended to read:

48652. (a) ~~The board shall set the recycling incentive at not less than ten cents (\$0.10) four cents (\$0.04) per quart. The board may set the amount at an amount higher than ten cents (\$0.10) four cents (\$0.04) if the board determines that a higher amount is necessary to promote the collection and recycling of used lubricating oil and sufficient funds are available in the fund.~~

(b) The board shall set the rerefining incentive at not less than two cents (\$0.02) per gallon. The board may set the amount at an amount higher than two cents (\$0.02) per gallon if the board determines that a higher amount is necessary to promote rereefined ~~rerefining of used lubricating oil~~ and sufficient funds are available in the fund.

(c) The board shall not change the amount of an incentive paid pursuant to this section until at least one year has passed since the amount was last set. The amount of an incentive paid by the board shall remain at the previous amount for one month after setting the incentive at a different amount. The board shall not raise the amount of an incentive paid or implement other incentive options pursuant to subdivision (b) of Section 48651.5 unless it finds that the raise will not adversely affect funding required pursuant to Sections 48631, 48653, and 48660.5.

Section 48653 of the Public Resources Code is amended to read:

48653. The board shall deposit all amounts paid pursuant to Section 48650 by manufacturers, civil penalties, and fines paid

pursuant to this chapter, and all other revenues received pursuant to this chapter into the California Used Oil Recycling Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the fund is to be appropriated solely as follows:

(a) Continuously appropriated to the board for expenditure for the following purposes:

(1) To pay recycling incentives pursuant to Section 48651.

(2) To provide a reserve for contingencies, as may be available after making other payments required by this section, in an amount not to exceed one million dollars (\$1,000,000).

(3) To make advance payments for the implementation of local used oil collection programs adopted pursuant to Article 10 (commencing with Section 48690) to cities, based on the city's population, and counties, based on the population of the unincorporated area of the county.

~~Payments shall be determined by multiplying the total annual amount by the fraction equal to the population of cities and counties that are eligible for payments pursuant to Section 48690, divided by the population of the state. The board shall use the latest population estimates of the state generated by the Population Research Unit of the Department of Finance in making the calculations required by this paragraph. Notwithstanding subdivision (b) of Section 48656, the total annual amount shall equal thirteen million dollars (\$13,000,000) or ten million dollars (\$10,000,000) subject to clauses (A) and (B) of subparagraph (2), except that the board may issue the payments as follows if sufficient funds are not available:~~

~~(A) If sufficient funds are not available to initially issue full funding pursuant to paragraph (3) of subdivision (a), the board shall provide funding as follows: (i) One half of the amount that remains in the fund after the expenditures are made pursuant to paragraphs (1) and (2) and subdivision (b).~~

~~(i) For the purposes set forth in paragraph (3) of subdivision (a), one-half of the amount that remains in the fund after the expenditures are made pursuant to paragraphs (1) and (2) of subdivision (a), and subdivision (b). The board may utilize additional amounts from the fund up to, but not exceeding, ten million dollars (\$10,000,000).~~

~~(ii) As fiscally appropriate, for the purposes set forth in Section 48656, provided that the board shall give priority to the distribution of funding in clause (i) of this subparagraph for the purposes set forth in paragraph (3) of subdivision (a) may utilize additional amounts from the fund up to, but not exceeding, thirteen million dollars (\$13,000,000).~~

~~(B) Pursuant to paragraph (2) of subdivision (d) of Section 48691, it is the intent of this paragraph that at least three million dollars (\$3,000,000) or one million dollars (\$1,000,000) be made available specifically for used oil filter collection and recycling programs.~~

~~(C) Payments shall be determined by multiplying the total annual amount by the fraction equal to the population of cities and counties that are eligible for payments pursuant to Section 48690, divided by the population of the state. The board shall use the latest population estimates of the state generated by the Population Research Unit of the Department of Finance in making the calculations required by this paragraph.~~

(4) To implement Section 48660.5, in an amount not to exceed two hundred thousand dollars (\$200,000) annually.

(5) For expenditures pursuant to Section 48656.

(b) The money in the fund may be expended by the board for the

administration of this chapter and by the department for inspections and reports pursuant to Section 48661, only upon appropriation by the Legislature in the annual Budget Act.

(c) ~~(1) Except as provided in paragraph (2), the money in the fund may be transferred to the Farm and Ranch Solid Waste Cleanup and Abatement Account in the General Fund, upon appropriation by the Legislature in the annual Budget Act, to pay the costs associated with implementing and operating the Farm and Ranch Solid Waste Cleanup and Abatement Grant Program established pursuant to Chapter 2.5 (commencing with Section 48100).~~

~~(2) The money in the fund is not available to a change increase of adjustment made or authorized in an amendment to subdivision (a) of Section 48650 by the measure adding this paragraph shall not be transferred to the Farm and Ranch Solid Waste Cleanup and Abatement Account.~~

(d) Appropriations to the board to pay the costs necessary to administer this shall not exceed three million dollars (\$3,000,000) annually.

(e) The Legislature hereby finds and declares its intent that three hundred fifty thousand dollars (\$350,000) should be annually appropriated from the California Used Oil Recycling Fund in the annual Budget Act to the board, commencing with fiscal year 2010-11, for the purposes of Section 48655 and to conduct those investigations and enforcement actions necessary to implement subdivision (b) of Section 48651.

Section 48660.5 of the Public Resources Code is amended to read:

48660.5. (a) If the board finds that a shipment of used oil from a certified used oil collection center, curbside collection program, or an uncertified publicly funded used oil collection center in a small rural county is contaminated by hazardous materials in excess of that which generally occurs in normal use, which renders the used oil infeasible for recycling, and requires that the used oil be destroyed at a substantially higher cost than the cost generally to recycle used oil, the board shall, upon application by the used oil collection center or curbside collection program, reimburse the center or program for the additional disposal cost, subject to the eligibility requirements of subdivision (b), except as provided in subdivision (c).

(b) A certified used oil collection center, curbside collection program, or an uncertified publicly funded used oil collection center in a small rural county is eligible for reimbursement only if it demonstrates to the satisfaction of the board all of the following, except that paragraph (1) does not apply to an uncertified publicly funded used oil collection center in a small rural county:

(1) The center or program has established procedures to ensure that the used oil it generates and accepts from the public will not be mixed with other hazardous wastes, especially halogen-contaminated and polychlorinated biphenyl-contaminated wastes. These procedures shall include, but not be limited to, instructing the public and employees that used oil shall not be mixed with other hazardous waste. The board shall not require a center or program to test used oil received from the public as part of these procedures.

(2) The shipment contains not more than five gallons or pounds of contaminants combined, based on the contaminant concentrations and the total volume or weight of the shipment.

(c) In a calendar year, a certified used oil collection center, curbside collection program, or uncertified publicly funded used oil collection center in a small rural county shall be reimbursed for not more than one shipment and for not more than five thousand dollars (\$5,000) in disposal costs, for halogen-contaminated waste or not more than the actual net additional costs of disposing of polychlorinated biphenyl-contaminated wastes, subject to the availability of funds pursuant to Section 48656 paragraph (4) of subdivision (a) of Section 48653.

Section 48661 of the Public Resources Code is amended to read:

~~48661. (a) On and after July 1, 1992, the department shall annually inspect used oil recycling facilities located in this state.~~

(b) Within 135 days following inspection, the department shall submit a report to the board, describing all of the following:

(1) Any violations of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

(2) Any corrective actions ordered or agreed to by the department.

(3) Progress by the facility in correcting violations identified in previous inspections.

(c) In the report required by subdivision (b), the department shall specifically state whether any of the following occurred:

(1) The department has identified violations of subdivision (c) of Section 25250.1 of the Health and Safety Code regarding achievement of minimum standards of purity for recycled oil.

(2) The department has identified violations of regulations requiring financial responsibility assurance for liability, closure, and postclosure obligations.

(3) Where prior contamination has been identified, the facility has an approved corrective action plan and has not been found to be in violation of its requirements.

(4) The department has identified violations that meet the criteria for class 1 violations, as defined in Section 66260.10 of Title 22 of the California Code of Regulations.

Section 48662 of the Public Resources Code is amended to read:

48662. (a) The board shall certify or recertify any used oil recycling facility located in this state for which the board has received a report from the department pursuant to Section 48661, unless the board determines that the facility is engaged in a repeating or recurring pattern of noncompliance that poses a significant threat to public health and safety or the environment.

(b) Except as provided in paragraph (2) of subdivision (c), the board shall require an out-of-state recycling facility, that receives used oil from a California generator to which whom a recycling incentive may be paid, to register with the board, declaring, under penalty of perjury, that the facility is operating in substantial compliance with Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations. ~~An out-of-state recycling facility registering with the board pursuant to this subdivision shall, upon request, provide the board or the department with a copy of any inspection report or any other enforcement related documents issued for the facility by the agency responsible for enforcing Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations at the facility.~~

(c) The board shall certify or recertify a rerefiner of used oil for which the board has received a report from the department that

the facility meets either of the following requirements:

(1) The used oil recycling facility located in this state is certified pursuant to subdivision (a) and produces rerefined base lubricant meeting the specifications as defined in Section 48620.2.

(2) The used oil recycling facility is an out-of-state facility that has demonstrated to the satisfaction of the department all of the following:

(A) The facility substantially meets the requirements in Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations.

(B) The facility produces rerefined base lubricant meeting the specifications as defined in Section 48620.2.

(C) The facility meets California standards for used oil handling, waste classification, and disposal specified in Section ___ of the Health and Safety Code.

(d) An out-of-state facility that seeks certification shall annually certify in writing to the board, under penalty of perjury, that the facility substantially meets the requirements in paragraph (2) of subdivision (c).

(e) Paragraph (2) of subdivision (c) does not require the department to inspect or prohibit the department from inspecting an out-of-state facility to determine whether the department is satisfied that the facility substantially meets the requirements for certification.

(f) As a condition of demonstrating compliance pursuant to paragraph (2) of subdivision (c), a facility shall enter into an agreement with the department pursuant to Section 25201.9 of the Health and Safety Code to pay the department's full expenses of conducting the review and any inspection costs the department may incur in determining whether the facility meets the requirements for certification.

(g) If the board denies certification to a facility subject to subdivision (a) or (c), the board may subsequently certify the facility if it determines that the facility meets the standards for certification.

Section 48670 of the Public Resources Code is amended to read:

48670. (a) To be eligible for payment of a recycling incentive, an industrial generator of used lubricating oil, a used oil collection center, or a curbside collection program shall report to the board, for each quarter, based on the following reporting limitations and requirements:

(1) The amount of lubricating oil purchased and the amount of used lubricating oil that is transported to a certified ~~in-state used oil recycling facility, to a used oil storage facility, or to a used oil transfer facility, or that is transported to an out-of-state used oil recycling facility registered pursuant to subdivision (b) of Section 48662 or certified pursuant to paragraph (2) of subdivision (c) of Section 48662~~ with the board to be operating in substantial compliance with Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations.

(2) ~~The amount of used lubricating oil collected from the public, for use in determining the recycling incentive payment, that is transported to a certified in-state used oil recycling facility, to a used oil storage facility, or to a used oil transfer facility, or that is transported to an out-of-state used oil recycling facility registered pursuant to subdivision (b) of Section 48662 or certified~~

~~pursuant to paragraph (2) of subdivision (c) of Section 48662 with the board to be operating in substantial compliance with Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations.~~ However, a certified collection center with service bays located in a small rural county shall be eligible for a recycling incentive based on 60 percent of the total oil recycled by collecting used oil from the public and servicing motor vehicles. If the center documents, in the form prescribed by the board, that the portion that resulted from public collection exceeds 60 percent of the total oil recycled, the center shall be eligible for the incentive payment based on the actual amount of used oil accepted from the public and recycled.

(b) (1) The reports shall be submitted on or before the 45th day following each quarter, in the form and manner that the board may prescribe, and shall include copies of manifests or modified manifest receipts from used oil haulers.

~~(2) The copies of manifests or modified manifest receipts required by paragraph (1) shall be signed by the generator of the used oil and shall specify the receiving used oil facility.~~

(c) The board may delegate to the executive officer of the board the authority to accept reports submitted after the 45th day and to reduce, eliminate, or approve the amount of incentive fee to be paid due to the late submission of the report. The board may provide, by regulation, for a longer reporting period for industrial generators that generate less than 1,000 gallons of used oil annually.

Section 48673 of the Public Resources Code is amended to read:

48673. (a) A used oil recycling facility issued a permit by the department to produce recycled oil, as defined in Section 25250.1 of the Health and Safety Code, and an out-of-state recycling facility that is either registered with the board pursuant to ~~subdivision (b) of Section 48662~~ or certified by the board pursuant to ~~paragraph (2) of subdivision (c) of Section 48662~~ shall report to the board for each quarter the amount of oil from a used oil received and the methods and amounts recycled in disposition resultant amount of recycled oil produced.

(b) A facility subject to this section shall provide estimates, where feasible, of the amount that is used lubricating oil and the amount that is used industrial oil.

(c) The reports required by this section shall be submitted on or before the last day of the month following each quarter, in the form and manner that the board may prescribe.

Section 48691 of the Public Resources Code is amended to read:

48691. (a) A local used oil collection program shall provide for used lubricating oil collection by either of the following or a combination of the two:

(1) Ensuring that at least one certified used oil collection center is available for every 100,000 residents not served by curbside used oil collection, that accepts oil from the public at no charge ~~during the hours the center is open for business, at least 20 hours each week, on four days each week, of which three hours each week are outside the weekday hours of 8 a.m. through 5:30 p.m.~~

(2) Providing used oil curbside collection at least once a month.

(b) A local used oil collection program shall include a public education program that informs the public of locally available used oil recycling opportunities.

(c) A local government may implement its used oil collection program in conjunction with other similar programs in order to improve used oil recycling efficiency.

(d) A local government that has implemented the used oil collection and education elements of subdivisions (a) and (b) may also include, in the local used oil collection program one or both of the following:

(1) Provisions for the mitigation and the collection of oil and oil byproducts, including other solid waste that may be mixed with oil or oil byproducts from stormwater runoff, including devices to capture that stormwater runoff, such as the use of storm drain inlet filter devices. A local government shall not receive a payment pursuant to Section 48690 for the purposes identified pursuant to this paragraph unless the local government certifies that it has a stormwater management program that is approved by the appropriate California regional water quality control board and that the provisions in the local used oil collection program approved for funding under this paragraph are consistent with that approved stormwater management program.

(2) A used oil filter collection and recycling program.

SEC. 22. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

AMENDED IN SENATE MAY 20, 2009
AMENDED IN SENATE MAY 13, 2009
AMENDED IN SENATE APRIL 22, 2009

SENATE BILL

No. 55

Introduced by Senator Corbett

January 15, 2009

An act to amend ~~Sections 14588.1 and 14588.2~~ *Section 14551* of, and to ~~add Section 14588.3 to repeal Section 14523.5~~ of, the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

SB 55, as amended, Corbett. Recycling: ~~handling fees: supermarket sites: California redemption value containers.~~

The Department of Conservation is required to establish reporting periods of 6 months each for redemption rates and recycling rates for specified types of beverage containers. The act also requires the department to determine the redemption rates and recycling rates for those beverage containers for each reporting period and to issue a report on those determinations. The act defines various words for purposes of those provisions, including redemption rate.

This bill would delete the provisions that require the department to establish reporting periods for redemption rates and that require the department to determine redemption rates for specified types of beverage containers. The bill also would delete the definition of redemption rate.

~~(1) Under existing law, the California Beverage Container Recycling and Litter Reduction Act, every beverage container sold or offered for sale in this state is required to have a minimum refund value. A distributor is required to pay a redemption payment for every beverage~~

~~container sold or offered for sale in the state to the Department of Conservation and the department is required to deposit those amounts in the California Beverage Container Recycling Fund. The money in the fund is continuously appropriated to the department for the payment of refund values and processing fees. A violation of the act is a crime. Existing law requires the department to adopt guidelines and methods for paying handling fees to supermarket sites. To ensure that handling fees paid to the supermarket site are not used for the purpose of engaging in unfair and predatory pricing, existing law requires an audit upon certain complaints filed with the department and sets forth a procedure for handling the audit.~~

~~This bill would revise the auditing procedure and would revise the definition of "unfair and predatory pricing."~~

~~(2) Existing law requires the department to convene an informal hearing if the director of the department determines there is probable cause that a supermarket site has engaged in unfair and predatory pricing. Existing law allows the respondent to rebut the presumption of unfair and predatory pricing by demonstrating specified facts to the director.~~

~~This bill would eliminate this opportunity to rebut the presumption of unfair predatory pricing.~~

~~(3) Existing law prohibits a supermarket site from receiving handling fees for a period of 6 months to 5 years, depending on certain criteria, if the director determines that a supermarket site has engaged in unfair and predatory pricing.~~

~~This bill would decrease the period of time that a supermarket site is ineligible to receive handling fees to a period of 2 months to 3 years, depending on certain criteria, if the director determines that the supermarket site has engaged in unfair and predatory pricing.~~

~~(4) Existing law establishes the amount that a beverage distributor shall pay the department for each beverage container sold or offered for sale in this state.~~

~~This bill would prohibit a certified recycling center that receives handling fees from paying scrap value for redeemed beverage containers and instead would require the recycling center to pay only the refund value established in statute for each type of beverage container. The bill would impose a state-mandated local program by creating a new crime relating to beverage containers.~~

~~(5) 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.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~yes-no.~~

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

1 SECTION 1. Section 14523.5 of the Public Resources Code is
2 repealed.

3 ~~14523.5. "Redemption rate" means the proportion of empty~~
4 ~~beverage containers returned to processors measured in the manner~~
5 ~~prescribed in Section 14551.~~

6 SEC. 2. Section 14551 of the Public Resources Code is
7 amended to read:

8 14551. (a) The department shall establish reporting periods
9 for the reporting of ~~redemption rates and~~ recycling rates. Each
10 reporting period shall be six months. The department shall
11 determine all of the following for each reporting period and shall
12 issue a report on its determinations, within 130 days of the end of
13 each reporting period:

14 (1) Sales of beverages in aluminum beverage containers, bimetal
15 beverage containers, glass beverage containers, plastic beverage
16 containers, and other beverage containers in this state, including
17 refillable beverage containers.

18 (2) Returns for recycling, and returns not for recycling, of empty
19 aluminum beverage containers, bimetal beverage containers, glass
20 beverage containers, plastic beverage containers, and other
21 beverage containers in this state, including refillable beverage
22 containers returned to distributors pursuant to Section 14572.5.
23 These numbers shall be calculated using the average current
24 weights of beverage containers, as determined and reported by the
25 department. ~~To these numbers shall be added and separately~~
26 ~~reported the following, if greater than, or equal to, zero:~~

27 ~~(A) All empty postfilled aluminum, glass, and plastic food or~~
28 ~~drink packaging materials sold in the state, returned for recycling,~~
29 ~~and reported by weight to the department which do not have a~~
30 ~~refund value less the number specified in subparagraph (B):~~

1 ~~(B) The number of beverage containers which comprise the first~~
2 ~~five percentage points of the redemption rate without including~~
3 ~~the empty postfilled aluminum, glass, and plastic food or drink~~
4 ~~packaging materials sold in the state, returned for recycling and~~
5 ~~reported by weight to the department which do not have a refund~~
6 ~~value.~~

7 ~~(3) An aluminum beverage container redemption rate, the~~
8 ~~numerator of which shall be the number of empty aluminum~~
9 ~~beverage containers returned, including refillable aluminum~~
10 ~~beverage containers and empty postfilled aluminum food or drink~~
11 ~~packaging material included in paragraph (2), and the denominator~~
12 ~~of which shall be the number of aluminum beverage containers~~
13 ~~sold in this state.~~

14 ~~(4)~~

15 (3) An aluminum beverage container recycling rate, the
16 numerator of which shall be the number of empty aluminum
17 beverage containers returned for recycling, including refillable
18 aluminum beverage containers, and the denominator of which shall
19 be the number of aluminum beverage containers sold in this state.

20 ~~(5) A bimetal beverage container redemption rate, the numerator~~
21 ~~of which shall be the number of empty bimetal beverage containers~~
22 ~~returned, and the denominator of which shall be the number of~~
23 ~~bimetal beverage containers sold in this state.~~

24 ~~(6)~~

25 (4) A bimetal beverage container recycling rate, the numerator
26 of which shall be the number of empty bimetal containers returned
27 for recycling, including refillable bimetal beverage containers, and
28 the denominator of which shall be the number of bimetal beverage
29 containers sold in this state.

30 ~~(7) A glass beverage container redemption rate, the numerator~~
31 ~~of which shall be the number of empty glass beverage containers~~
32 ~~returned, including refillable glass beverage containers and empty~~
33 ~~postfilled food or drink packaging materials included in paragraph~~
34 ~~(2), and the denominator of which shall be the number of glass~~
35 ~~beverage containers sold in this state.~~

36 ~~(8)~~

37 (5) A glass beverage container recycling rate, the numerator of
38 which shall be the number of empty glass beverage containers
39 returned for recycling, including refillable glass beverage

1 containers, and the denominator of which shall be the number of
2 glass beverage containers sold in this state.

3 ~~(9) A plastic beverage container redemption rate, the numerator~~
4 ~~of which shall be the number of empty plastic beverage containers~~
5 ~~returned, including refillable plastic beverage containers and empty~~
6 ~~postfilled food or drink packaging materials included in paragraph~~
7 ~~(2), and the denominator of which shall be the number of plastic~~
8 ~~beverage containers sold in this state.~~

9 ~~(10)~~

10 (6) A plastic beverage container recycling rate, the numerator
11 of which shall be the number of empty plastic beverage containers
12 returned for recycling, including refillable plastic beverage
13 containers, and the denominator of which shall be the number of
14 plastic beverage containers sold in this state.

15 ~~(11) A redemption rate for other beverage containers, the~~
16 ~~numerator of which shall be the number of empty beverage~~
17 ~~containers other than those containers specified in paragraphs (1)~~
18 ~~to (10), inclusive, returned, and the denominator of which shall be~~
19 ~~the number of beverage containers, other than those containers~~
20 ~~specified in paragraphs (1) to (10), inclusive, sold in this state.~~

21 ~~(12)~~

22 (7) A recycling rate for other beverage containers, the numerator
23 of which shall be the number of empty beverage containers other
24 than those containers specified in paragraphs (1) to ~~(10)~~ (6),
25 inclusive, returned for recycling, and the denominator of which
26 shall be the number of beverage containers, other than those
27 containers specified in paragraphs (1) to ~~(10)~~ (6), inclusive, sold
28 in this state.

29 ~~(13)~~

30 (8) The department may define categories of other beverage
31 containers, and report ~~a redemption rate and~~ a recycling rate for
32 each such category of *those categories* of other beverage containers.

33 ~~(14)~~

34 (9) The volumes of materials collected from certified recycling
35 centers, by city or county, as requested by the city or county, if
36 the reporting is consistent with the procedures established pursuant
37 to Section 14554 to protect proprietary information.

38 (b) The department shall determine the manner of collecting
39 the information for the reports specified in subdivision (a),

1 including establishing procedures, to protect any proprietary
2 information concerning the sales and purchases.

3 ~~SECTION 1. Section 14588.1 of the Public Resources Code~~
4 ~~is amended to read:~~

5 ~~14588.1. (a) As used in this chapter, "unfair and predatory~~
6 ~~pricing" means the payment to consumers by a supermarket site,~~
7 ~~that receives handling fees for the redemption of beverage~~
8 ~~containers, in an amount that exceeds~~
9 ~~the California refund value for that container.~~

10 ~~(b) For purposes of this chapter, "rural region" means a~~
11 ~~nonurban area identified by the department on an annual basis~~
12 ~~using the loan-eligibility criteria of the Rural Housing Service of~~
13 ~~the United States Department of Agriculture, Rural Development~~
14 ~~Administration, or its successor agency. Those criteria include,~~
15 ~~but are not limited to, places, open country, cities, towns, or census~~
16 ~~designated places with populations that are less than 10,000~~
17 ~~persons. The department may designate an area with population~~
18 ~~of between 10,000 and 50,000 persons as a rural region, unless the~~
19 ~~area is identified as part of, or associated with, an urban area, as~~
20 ~~determined by the department on an individual basis.~~

21 ~~SEC. 2. Section 14588.2 of the Public Resources Code is~~
22 ~~amended to read:~~

23 ~~14588.2. (a) To ensure that handling fees paid to a supermarket~~
24 ~~site are not used for the purpose of engaging in unfair and predatory~~
25 ~~pricing, and to otherwise further the intent of this chapter, the~~
26 ~~department shall follow all of the requirements of this section upon~~
27 ~~the complaint of either of the following:~~

28 ~~(1) Any certified recycler located within five miles of the~~
29 ~~supermarket site alleged to have engaged in unfair and predatory~~
30 ~~pricing if not located in a rural region.~~

31 ~~(2) Any certified recycler located within 10 miles of the~~
32 ~~supermarket site alleged to have engaged in unfair and predatory~~
33 ~~pricing if located in a rural region.~~

34 ~~(b) (1) Within 50 days of receiving the complaint, the~~
35 ~~department shall complete an audit of the payments for the~~
36 ~~redemption of beverage containers being paid by the supermarket~~
37 ~~site for the purpose of determining whether the supermarket site~~
38 ~~is engaged in unfair and predatory pricing.~~

39 ~~(2) The department shall withhold from public disclosure any~~
40 ~~proprietary information collected by the department in the course~~

1 of the audit mandated by paragraph (1). The department shall
2 exercise its discretion in determining what information is
3 proprietary.

4 (e) (1) If the director determines there is probable cause that a
5 supermarket site, against which a complaint has been made, has
6 engaged in unfair and predatory pricing, the director shall, within
7 60 days of receiving the complaint, convene an informal hearing
8 before the director, or the director's designee.

9 (2) At least 10 days before the hearing, the director shall forward
10 the results of the audit to the complainant and respondent.

11 (3) At the hearing, the director, or the director's designee, shall
12 review the audit conducted pursuant to subdivision (b) and any
13 evidence presented by the complainant that a supermarket site has
14 engaged in unfair and predatory pricing. The director, or the
15 director's designee, shall also review any evidence presented by
16 the respondent that the respondent has not engaged in unfair and
17 predatory pricing.

18 (4) The director, or the director's designee, may dismiss a
19 complaint made pursuant to subdivision (a) upon determining
20 either of the following:

21 (A) The complaint is without basis.

22 (B) The complaint is repetitious of prior similar complaints
23 against the same supermarket site for which the director or the
24 director's designee has determined that no unfair and predatory
25 pricing occurred.

26 (d) Within 20 days of the completion of the hearing, the director,
27 or the director's designee, shall determine whether the supermarket
28 site has engaged in unfair and predatory pricing. This determination
29 shall be based upon the audit conducted pursuant to subdivision
30 (b), and upon any clear and convincing evidence of unfair and
31 predatory pricing presented at the hearing.

32 (e) During the time period from the date of the receipt of a
33 complaint pursuant to subdivision (a), until the date the director
34 makes a determination pursuant to subdivision (d), the supermarket
35 site against which the allegation of unfair and predatory pricing is
36 made shall not receive handling fees that were earned during the
37 period commencing with the date of the alleged unfair and
38 predatory pricing. However, nothing in this subdivision shall affect
39 the payment of handling fees to a supermarket site that is found
40 not to have engaged in unfair and predatory pricing pursuant to

1 this section, or to the activities of a supermarket site prior to the
2 date of the alleged unfair and predatory pricing.

3 (f) If, after complying with the procedure established pursuant
4 to this section, the director, or the director's designee, determines
5 that a supermarket site has engaged in unfair and predatory pricing,
6 the site is ineligible to receive handling fees as specified by this
7 section.

8 (1) If the determination of unfair and predatory pricing is the
9 first for the site, the site is ineligible to receive handling fees for
10 two months from the date that the respondent is found to have
11 engaged in unfair and predatory pricing.

12 (2) If the determination of unfair and predatory pricing is the
13 second for the site, the site is ineligible to receive handling fees
14 for six months from the date that the respondent is found to have
15 engaged in unfair and predatory pricing.

16 (3) If the determination of unfair and predatory pricing is the
17 third or more for the site, the site is ineligible to receive handling
18 fees for three years after the date that the respondent is found to
19 have engaged in unfair and predatory pricing.

20 (g) The complainant or respondent may obtain a review of the
21 determination made pursuant to this section by filing in the superior
22 court a petition for a writ of mandate within 30 days following the
23 issuance of the determination. Section 1094.5 of the Code of Civil
24 Procedure shall govern judicial proceedings pursuant to this
25 subdivision, except that the court shall exercise its independent
26 judgment. If a petition for a writ of mandate is not filed within the
27 time limits set forth in this subdivision, the determination made
28 pursuant to this subdivision is not subject to review by any court
29 or agency.

30 (h) If either party appeals the determination of the director, or
31 the director's designee, pursuant to subdivision (g), and the
32 department prevails, the department may recover any costs
33 associated with its defense of the complaint.

34 SEC. 3. Section 14588.3 is added to the Public Resources Code,
35 to read:

36 14588.3. If a certified recycling center receives handling fees,
37 it shall not pay scrap value for redeemed beverage containers, but
38 shall only pay the refund value established for each beverage
39 container pursuant to Section 14560.

1 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
2 ~~Section 6 of Article XIII B of the California Constitution because~~
3 ~~the only costs that may be incurred by a local agency or school~~
4 ~~district will be incurred because this act creates a new crime or~~
5 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
6 ~~for a crime or infraction, within the meaning of Section 17556 of~~
7 ~~the Government Code, or changes the definition of a crime within~~
8 ~~the meaning of Section 6 of Article XIII B of the California~~
9 ~~Constitution.~~

O

CAW Proposed Amendments

Beverage Container Recycling: Problem and Solution Detail

For the last several years, beverage container recycling rates have grown, and with them, program expenditures. Program revenues have remained virtually unchanged. In 2008-09 program expenditures exceeded program revenues by about \$89 million. For 2009-10 program expenditures are projected to exceed revenues by roughly \$85 million (regardless of any GF transfer). After CRV payments to consumers, the single largest (and fastest growing) program expenditure is the projected \$98 to \$106 million needed to subsidize beverage industry recycling costs (reduce processing fees).

Program Income and Expenditures must be brought into balance by either:

- Increasing Revenue (10 cent CRV & Program Expansion);
- Reducing Expenditures (Eliminating Beverage Industry subsidies); or
- Some combination of the above.

Recycling & Revenue Components:

- 1) Expand Program. Strike CRV exemption for beverages based on container type and size (amends Section 14504 – Definition of Beverage).
 - Non-milk beverages in paper and aseptic cartons/boxes.
 - 100% fruit & vegetable juice in containers 46 ounces and larger.
 - Flavored milk and yogurt drinks.
 - Wine & liquor.

Analysis. While the recycling rate for beverage containers covered by the program is expected to reach 80%, the recycling rate for beverage containers currently exempt from the program is less than 25%. Eliminating these exemptions and expanding the program will increase recycling by level the playing field for all beverages. This change is projected to increase net program revenue by \$80-\$90 million annually.

- 2) Increase CRV. Shift the threshold for the 10 cent CRV from containers 24 ounces and larger to containers 20 ounces and larger (amends Section 14560 – CRV).

Analysis. Containers 20 – 23 ounces are general sold as singles (not 6 packs or cases), with a price point of one dollar or more. These larger, plastic containers have contributed disproportionately to the fund imbalance for two reasons: while the average CRV on plastic containers 'sold' is 5.9 cents, the average CRV on plastic containers 'recycled' is 6.6 cents. In 2008, this imbalance multiplied by the more than 5.6 billion plastic containers recycled cost the program more than \$40 million. Additionally, increased recycling and reduced scrap prices have increased plastic processing payments from \$42 million in 2008, to a projected \$92 million in

2010. This is the single largest and fastest growing program expenditure. Shifting the 10 cent threshold is projected to increase net program revenue by \$40-50 million annually.

Fiscal reform and Expenditure Reduction

- 3) Accelerate CRV Collection. Reduce the grace period for beverage distributors to pay CRV by 60 days, from the last day of the 3rd month following the sale to the last day of the 1st month following the sale (amends Section 14574).

Analysis. Under the original law, CRV was due and payable 30-40 days after a beverage was sold. This provision was changed to provide beverage distributors with 90-120 days after a container is sold to pay CRV. At the same time, recyclers pay CRV to consumers at the time of transaction, processors pay recyclers within two days, and the state is obligated to pay processors within 20 days. As a result, it is likely that the CRV on a recycled container is paid by the state 30-60 days before the distributor pays the CRV to the state on that same container. This payment differential may result in a cash-flow imbalance of \$100 to \$200 million. By accelerating the CRV payment by 60 days, roughly \$200 million in program revenue can be advanced into the current fiscal year.

- 4) Reduce Department administrative expenses by 10 percent compared to 2008-09 (adds Section 14580.5).
- 5) Suspend, reduce and otherwise modify program expenditures to save \$ 26.5 million in 2009-10 expenditures (by amending Section 14581) as follows:
 - a) Maintain supermarket-based recycler handling fees at current levels.
 - b) Increase Local Conservation Corp recycling jobs funding from \$19.5 million to \$22 million.
 - c) Suspends \$1.5 million recycling grants for 2009-10.
 - d) Suspends \$5 million for public education for 2009-10.
 - e) Reduces recycling market development grant funds from \$20 million to \$2 million.
 - f) Increases plastic market development payments from \$5 million to \$8 million.
 - g) Eliminates \$20 million in Community recycling grants.
- 6) Maintain Processing Fee Reduction levels at the January 1, 2009 level through December 31, 2009.
- 7) Maintain the same level of funds for Processing Fee Reduction for 2010 and 2011 as was available in 2009 (\$100 million)
- 8) Suspends authority for Department to 'proportionally reduce' Handling Fees, Local Conservation Corp funds, for fiscal years 2009-10 and 2010-11 (amends Section 14581).

9) Authorize Department to transfer \$55 million in specified unencumbered funds from prior years to 2009-10.

10) Implement Strategy for addressing 'Unservd Zone' problem by:

- a) Expansion of Department role and authority in establishing recycling centers in unserved zones.
- b) Authorize supplemental handling fee for recycling centers in unserved zones.
- c) Establishment of uniform statewide 'rental payment' for establishment of recycling centers in convenience zones.
- d) Authorization of reduced operating hours for recycling centers serving specified unserved zones.
- e) Expansion of exemption authority from 35% to 45%.
- f) Suspension of in-store take back obligation for retailers in zones 'unserved' as of June 31, 2009, during transition period (2009 thru Dec 31, 2010) while new centers are established.
- g) On and after January 1, 2011, suspend in-store take back obligation for retailers as long as less than 10 percent of zones state-wide are unserved.

RN: 0918782

July 28, 2009

To the Members of the California State Senate:

I am signing Senate Bill 63.

This bill eliminates the Integrated Waste Management Board (Board) and transfers its regulatory and programmatic functions to the new Department of Resources, Recycling and Recovery at the Natural Resources Agency.

I proposed legislation earlier this year that would have distributed the Board's responsibilities between the California Environmental Protection Agency and the Natural Resources Agency. The proposal approved by the Legislature instead shifts all of the Board's functions to the Natural Resources Agency. While the crucial goal of eliminating the Board has been achieved, it is also of the utmost importance to ensure that the new Department most effectively serves its constituencies. To that end, I am directing my staff to work with the Legislature to make any changes to SB 63 necessary to ensure the measure best addresses my Administration's environmental protection goals and that programmatic functions are housed in the most appropriate agency.

Sincerely,

Arnold Schwarzenegger

Senate Bill No. 63

CHAPTER 21

An act to amend Sections 11553 and 12805 of the Government Code, and to amend Sections 14510.5, 14510.6, 40110, 40431, 40501, 71300, 71301, 71302, 71303, 71304, and 71305 of, to amend the heading of Chapter 3 (commencing with Section 40400) of Part 1 of Division 30 of, to add Sections 40120.05, 40506.5, and 40506.7 to, to repeal Sections 40433, 40500, and 40504 of, to repeal and add Section 40430 of, and to repeal and add Article 1 (commencing with Section 40400) of Chapter 3 of Part 1 of Division 30 of, the Public Resources Code, relating to waste management, and making an appropriation therefor.

[Approved by Governor July 28, 2009. Filed with
Secretary of State July 28, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

SB 63, Strickland. Waste management.

(1) Existing law creates the California Integrated Waste Management Board with specified powers and duties.

This bill would abolish the California Integrated Waste Management Board and transfer its duties and responsibilities to the Department of Resources Recycling and Recovery, which would be created by the bill in the Natural Resources Agency, under the direction of an executive officer known as the Director of Resources Recycling and Recovery.

The bill would authorize the director to accept on behalf of the department federal grants, and require the grants to be deposited in the Special Deposit Fund, which is continuously appropriated, thereby making an appropriation.

(2) Under existing law, the Department of Conservation administers the California Beverage Container Recycling and Litter Reduction Act.

This bill would transfer those duties to the Division of Recycling that the bill would establish within the newly created Department of Resources Recycling and Recovery.

(3) Existing law establishes the Office of Education and the Environment in the California Integrated Waste Management Board.

This bill would transfer the Office of Education and the Environment to the California Environmental Protection Agency.

Appropriation: yes.

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

SECTION 1. Section 11553 of the Government Code is amended to read:

11553. (a) Effective January 1, 1988, an annual salary of eighty-one thousand six hundred thirty-five dollars (\$81,635) shall be paid to each of the following:

- (1) Chairperson of the Unemployment Insurance Appeals Board.
- (2) Chairperson of the Agricultural Labor Relations Board.
- (3) President of the Public Utilities Commission.
- (4) Chairperson of the Fair Political Practices Commission.
- (5) Chairperson of the Energy Resources Conservation and Development Commission.
- (6) Chairperson of the Public Employment Relations Board.
- (7) Chairperson of the Workers' Compensation Appeals Board.
- (8) Administrative Director of the Division of Industrial Accidents.
- (9) Chairperson of the State Water Resources Control Board.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

(c) Notwithstanding subdivision (b), any salary increase is subject to Section 11565.5.

SEC. 2. Section 12805 of the Government Code is amended to read:

12805. (a) The Resources Agency is hereby renamed the Natural Resources Agency. The Natural Resources Agency consists of the departments of Forestry and Fire Protection, Conservation, Fish and Game, Boating and Waterways, Parks and Recreation, Resources Recycling and Recovery, and Water Resources; the State Lands Commission; the Colorado River Board; the San Francisco Bay Conservation and Development Commission; the Central Valley Flood Protection Board; the Energy Resources Conservation and Development Commission; the Wildlife Conservation Board; the Delta Protection Commission; the Native American Heritage Commission; the California Conservation Corps; the California Coastal Commission; the State Coastal Conservancy; the California Tahoe Conservancy; the Santa Monica Mountains Conservancy; the Coachella Valley Mountains Conservancy; the San Joaquin River Conservancy; the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy; the Baldwin Hills Conservancy; the San Diego River Conservancy; and the Sierra Nevada Conservancy.

(b) No existing supplies, forms, insignias, signs, or logos shall be destroyed or changed as a result of changing the name of the Resources Agency to the Natural Resources Agency, and those materials shall continue to be used until exhausted or unserviceable.

SEC. 3. Section 14510.5 of the Public Resources Code is amended to read:

14510.5. "Department" means the Division of Recycling in the Department of Resources Recycling and Recovery.

SEC. 4. Section 14510.6 of the Public Resources Code is amended to read:

14510.6. "Director" means the Director of Resources Recycling and Recovery.

SEC. 5. Section 40110 of the Public Resources Code is amended to read:

40110. "Board" means the Department of Resources Recycling and Recovery, or the Director of Resources Recycling and Recovery, as appropriate.

SEC. 6. Section 40120.05 is added to the Public Resources Code, to read:

40120.05. "Director" means the Director of Resources Recycling and Recovery.

SEC. 7. The heading of Chapter 3 (commencing with Section 40400) of Part 1 of Division 30 of the Public Resources Code is amended to read:

CHAPTER 3. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

SEC. 8. Article 1 (commencing with Section 40400) of Chapter 3 of Part 1 of Division 30 of the Public Resources Code is repealed.

SEC. 9. Article 1 (commencing with Section 40400) is added to Chapter 3 of Part 1 of Division 30 of the Public Resources Code, to read:

Article 1. General Provisions

40400. There is in the Natural Resources Agency the Department of Resources Recycling and Recovery. The Department of Resources Recycling and Recovery shall be administered under the control of an executive officer known as the Director of Resources Recycling and Recovery. Any reference in any law or regulation to the State Solid Waste Management Board, the California Waste Management Board, or the California Integrated Waste Management Board shall hereafter apply to the Department of Resources Recycling and Recovery. The Director of Resources Recycling and Recovery shall hear and decide appeals of decisions of the Department of Resources Recycling and Recovery made pursuant to this division.

40401. (a) (1) Except as otherwise specified by statute, the Department of Resources Recycling and Recovery succeeds to and is vested with all of the authority, duties, powers, purposes, responsibilities, and jurisdiction of the former California Integrated Waste Management Board.

(2) There shall be a Division of Recycling in the Department of Resources Recycling and Recovery. Except as otherwise specified by statute, the Division of Recycling in the Department of Resources Recycling and Recovery succeeds to and is vested with all of the authority, duties, powers, purposes, responsibilities, and jurisdiction of the Department of Conservation in the performance of a function carrying out Division 12.1 (commencing with Section 14500).

(b) (1) All employees of the former California Integrated Waste Management Board who, on January 1, 2010, are serving in the state civil

service, other than as temporary employees, are transferred to the Department of Resources Recycling and Recovery.

(2) The status, position, and rights of those persons transferred pursuant to this subdivision shall not be affected and shall be retained by them as employees of the department to which they are transferred pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from civil service.

(c) (1) All officers and employees of the Department of Conservation who, on January 1, 2010, are serving in the state civil service, other than as temporary employees, and are engaged in the performance of a function carrying out Division 12.1 (commencing with Section 14500), shall be transferred to the Division of Recycling in the Department of Resources Recycling and Recovery.

(2) The status, position, and rights of those persons transferred pursuant to this subdivision shall not be affected and shall be retained by them as officers and employees of the department to which they are transferred pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from civil service.

(d) Any regulations adopted before January 1, 2010, by the former California Integrated Waste Management Board and the Department of Conservation relating to carrying out the duties and responsibilities transferred pursuant to subdivision (a), that are in effect on January 1, 2010, shall remain in effect on and after January 1, 2010, and are enforceable until readopted, amended, or repealed.

(e) The Department of Resources Recycling and Recovery shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land and other real or personal property, held for the benefit or use of all bodies, offices, and officers whose duties, powers, and functions have been transferred pursuant to subdivision (a).

40402. The Department of Resources Recycling and Recovery may expend the money in any appropriation or in any special fund in the State Treasury made available by law for the administration of the statutes the administration of which is committed to the department, or for the use, support, or maintenance of any board, bureau, commission, department, office, or officer whose duties, powers, and functions have been transferred to and conferred upon the department. The department shall make those expenditures in accordance with law in carrying out the purposes for which the appropriations were made or the special funds created.

SEC. 10. Section 40430 of the Public Resources Code is repealed.

SEC. 11. Section 40430 is added to the Public Resources Code, to read:

40430. The Director of Resources Recycling and Recovery shall be appointed by, and hold office at the pleasure of, the Governor. The director's appointment shall be subject to confirmation by the Senate. The director shall receive the annual salary provided for by Chapter 6 (commencing at Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code applies to the director.

SEC. 12. Section 40431 of the Public Resources Code is amended to read:

40431. The Director of Resources Recycling and Recovery may appoint those deputies, officers, and other employees that he or she finds necessary for the performance of the functions of the Department of Resources Recycling and Recovery. The staff of the department shall be subject to the relevant system and procedures of the state civil service. The State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code) applies to those personnel.

SEC. 13. Section 40433 of the Public Resources Code is repealed.

SEC. 14. Section 40500 of the Public Resources Code is repealed.

SEC. 15. Section 40501 of the Public Resources Code is amended to read:

40501. The Department of Resources Recycling and Recovery may hold any hearings and conduct any investigations in any part of the state necessary to carry out its powers and duties.

SEC. 16. Section 40504 of the Public Resources Code is repealed.

SEC. 17. Section 40506.5 is added to the Public Resources Code, to read:

40506.5. (a) The Director of Resources Recycling and Recovery, with approval of the Director of Finance, may accept, on behalf of the Department of Resources Recycling and Recovery and its various divisions, federal grants for the purposes for which the Department of Resources Recycling and Recovery is established. The grants shall be deposited in the Special Deposit Fund in the State Treasury provided for by Section 16370 of the Government Code, and may be expended under those terms and conditions as may be required by the federal government.

(b) Whenever the Department of Resources Recycling and Recovery has received and deposited any money in the State Treasury to the credit of the General Fund in an excessive amount or in error, or whenever a refund of all or a portion of that money is due a person, firm, or corporation because of the termination of an agreement or other lawful reasons, payment of the refund shall be made upon the filing of a claim by the Director of Resources Recycling and Recovery with the Controller. The Controller shall draw a warrant for payment of the refund from any appropriation made for that purpose.

SEC. 18. Section 40506.7 is added to the Public Resources Code, to read:

40506.7. For the purposes of disseminating information relating to its activities, powers, duties, or functions, the Department of Resources Recycling and Recovery may issue publications, construct and maintain exhibits, and perform acts and carry out functions that in the opinion of the Director of Resources Recycling and Recovery will best disseminate the information. The publications may be distributed free of charge to public libraries and to other state departments and state officers. The Department

of Resources Recycling and Recovery may exchange copies with contemporary publications. All money received by the Department of Resources Recycling and Recovery from the sale of publications, exclusive of money received by any separate division of the department from the sale of publications, shall be paid into the State Treasury to the credit of the General Fund.

SEC. 19. Section 71300 of the Public Resources Code is amended to read:

71300. (a) For purposes of this part "office" means the Office of Education and the Environment of the California Environmental Protection Agency, as established pursuant to this section.

(b) The Office of Education and the Environment is hereby established in the California Environmental Protection Agency. The office shall report to the Secretary for Environmental Protection. The office shall dedicate its effort to implementing the statewide environmental educational program prescribed pursuant to this part. The office, through staffing and resources, shall give a high priority to implementing the statewide environmental education program.

(c) The office, under the direction of the Secretary for Environmental Protection, in cooperation with the State Department of Education, the State Board of Education, and the Secretary for Education, shall develop and implement a unified education strategy on the environment for elementary and secondary schools in the state. The office shall develop a unified education strategy to do all of the following:

(1) Coordinate instructional resources and strategies for providing active pupil participation with onsite conservation efforts.

(2) Promote service-learning opportunities between schools and local communities.

(3) Assess the impact to participating pupils of the unified education strategy on pupil achievement and resource conservation.

(4) On or before June 30, 2006, the office shall report to the Legislature and the Governor on its progress in developing, implementing, and assessing the unified education strategy.

(d) The State Department of Education, State Board of Education, and Secretary for Education shall develop and implement to the extent feasible, a teacher training and implementation plan, to guide the implementation of the unified education strategy, for the education of pupils, faculty, and administrators on the importance of integrating environmental concepts and programs in schools throughout the state. The strategy shall project the phased implementation of elementary, middle, and high school programs.

(e) In implementing this part, the office may hold public meetings to receive and respond to comments from affected state agencies, stakeholders, and the public regarding the development of resources and materials pursuant to this part.

(f) In implementing this part, the office shall coordinate with other agencies and groups with expertise in education and the environment,

including, but not limited to, the California Environmental Education Interagency Network.

(g) Any instructional materials developed pursuant to this part shall be subject to the requirements of Chapter 1 (commencing with Section 60000) of Part 33 of the Education Code, including, but not limited to, reviews for legal and social compliance before the materials may be used in elementary or secondary public schools.

SEC. 20. Section 71301 of the Public Resources Code is amended to read:

71301. (a) As part of the unified education strategy, the office, under the direction of the Secretary for Environmental Protection, in cooperation with the Natural Resources Agency, the State Department of Education, the State Board of Education, and the Secretary for Education, shall develop education principles for the environment for elementary and secondary school pupils. The principles may be updated every four years beginning July 1, 2008. The principles shall be aligned to the academic content standards adopted by the State Board of Education pursuant to Section 60605 of the Education Code. The principles shall be used to do all of the following:

(1) To direct state agencies that include environmental education components for elementary and secondary education in regulatory decisions or enforcement actions.

(2) To align state agency environmental education programs and materials that are developed for elementary and secondary education.

(b) The education principles for the environment shall include, but not be limited to, concepts relating to the following topics:

- (1) Environmental sustainability.
- (2) Water.
- (3) Air.
- (4) Energy.
- (5) Forestry.
- (6) Fish and wildlife resources.
- (7) Oceans.
- (8) Toxics and hazardous waste.
- (9) Integrated waste management.
- (10) Integrated pest management.
- (11) Public health and the environment.
- (12) Pollution prevention.
- (13) Resource conservation and recycling.
- (14) Environmental justice.

(c) The principles shall be aligned to the applicable academic content standards adopted by the State Board of Education and shall not duplicate or conflict with any academic content standards.

(d) (1) The education principles for the environment shall be incorporated, as the State Board of Education determines to be appropriate, in criteria developed for textbook adoption required pursuant to Section

60200 or 60400 of the Education Code in Science, Mathematics, English/Language Arts, and History/Social Sciences.

(2) If the State Board of Education determines that the education principles for the environment are not appropriate for inclusion in the textbook adoption criteria cited in paragraph (1), the State Board of Education shall collaborate with the office to make the changes necessary to ensure that the principles are included in the textbook adoption criteria in Science, Mathematics, English/Language Arts, and History/Social Sciences.

(e) If the content standards required pursuant to Section 60605 of the Education Code are revised, the education principles for the environment shall be appropriately considered for inclusion into part of the revised academic content standards.

SEC. 21. Section 71302 of the Public Resources Code is amended to read:

71302. (a) Using the education principles for the environment required in Section 71301, the office, under the direction of the Secretary for Environmental Protection, shall develop, in cooperation with the Natural Resources Agency, the State Department of Education, and the State Board of Education, a model environmental curriculum that incorporates these education principles for the environment. The model curriculum shall be aligned with applicable State Board of Education adopted academic content standards in Science, Mathematics, English/Language Arts, and History/Social Sciences, to the extent that any of those content areas are addressed in the model curriculum.

(b) The model curriculum shall be submitted to the Curriculum Development and Supplemental Materials Commission for review. The commission shall submit its recommendation to the Secretary for Environmental Protection and to the Secretary of the Natural Resources Agency by July 1, 2005.

(1) The Secretary for Environmental Protection and the Secretary of the Natural Resources Agency shall review and comment on the model curriculum by January 1, 2006.

(2) The model curriculum along with the comments by the Secretary for Environmental Protection and the Secretary of the Natural Resources Agency shall be submitted to the State Board of Education for its approval.

SEC. 22. Section 71303 of the Public Resources Code is amended to read:

71303. (a) As determined appropriate by the Superintendent of Public Instruction, the State Department of Education shall incorporate into publications that provide examples of curriculum resources for teacher use, those materials developed by the office that provide information on the education principles for the environment required in Section 71300.

(b) If the Superintendent of Public Instruction determines that materials developed by the office that provide information on the education principles for the environment are not appropriate for inclusion in publications that provide examples of curriculum resources for teacher use, the Superintendent

of Public Instruction shall collaborate with the office to make the changes necessary to ensure that the materials are included in that information.

(c) The model environmental curriculum approved by the State Board of Education, pursuant to Section 71302 shall be made available by the office to elementary and secondary schools to the extent that funds are available for this purpose. The State Department of Education shall make the model curriculum available electronically including posting the model curriculum on its Internet Web site.

(d) The State Department of Education, to the extent feasible and to the extent that funds are available for this purpose, shall encourage the development and use of instructional materials and active pupil participation in campus and community environmental education programs. To the extent feasible, the environmental education programs should be considered in the development and promotion of after school programs for elementary and secondary school pupils and state and local professional development activities to provide teachers with content background and resources to assist in teaching about the environment.

(e) (1) The California Environmental Protection Agency shall assume costs associated with the printing of the approved model curriculum as set forth in subdivision (c). The California Environmental Protection Agency shall use, for these purposes, funds that are available for its administrative costs.

(2) From funds available for its administrative costs, the State Department of Education shall post and maintain the model curriculum on its Internet Web site and pay any costs associated with any related online questionnaire on its Internet Web site as set forth in subdivision (c).

(3) The State Department of Education shall explore implementation of this section from its baseline resources dedicated to this purpose and if funding is not available from that source, then funding may be provided to the department, pursuant to appropriation by the Legislature, under Section 71305.

SEC. 23. Section 71304 of the Public Resources Code is amended to read:

71304. (a) The office, under the direction of the Secretary for Environmental Protection, shall be responsible for the statewide coordination of regulatory administrative decisions that require the development or encourage the promotion of environmental education for elementary and secondary school pupils.

(b) All California Environmental Protection Agency or Natural Resources Agency boards, departments, or offices that take regulatory actions or take enforcement actions requiring the development of, or encouraging the promotion of, environmental education for elementary and secondary school pupils shall, prior to adoption or approval of the action, seek comments on the action from the office in order to promote consistency with this part and cross-media coordination.

(c) The office shall coordinate with all state agencies to develop and distribute environmental education materials.

SEC. 24. Section 71305 of the Public Resources Code is amended to read:

71305. (a) The Environmental Education Account is hereby established within the State Treasury. Moneys in the account may, upon appropriation by the Legislature, be expended by the California Environmental Protection Agency for the purposes of this part. The Secretary for Environmental Protection shall administer this part, including, but not limited to, the account.

(b) Notwithstanding any other provision of law to the contrary, the agency may accept and receive federal, state, and local funds and contributions of funds from a public or private organization or individual. The account may also receive proceeds from a judgment in state or federal court, when the funds are contributed or the judgment specifies that the proceeds are to be used for the purposes of this part. The account may receive those funds, contributions, or proceeds from judgments, that are specifically designated for use for environmental education purposes. Private contributors shall not have the authority to further influence or direct the use of their contributions.

(c) Notwithstanding any other provision of law, a state agency that requires the development of, or encourages the promotion of, environmental education for elementary and secondary school pupils, may contribute to the account.

(d) The agency shall immediately deposit any funds contributed pursuant to subdivision (b) into the account.