

## Complete Text of Selected Solid Waste Bills

- AB 34 Williams Solid Waste compost facility: odor
- AB 341 Chesbro Solid Waste: diversion
- AB 1178 Ma Solid Waste: place of origin
- SB 515 Corbett Recycling: product stewardship: batteries
- SB 833 Vargas Solid waste: facilities permit
- SB 841 Wolk Solid Waste: enterprises: contracts



AMENDED IN ASSEMBLY MAY 10, 2011

AMENDED IN ASSEMBLY APRIL 14, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 34**

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**Introduced by Assembly Member Williams**

December 6, 2010

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An act to add Article 1.3 (commencing with Section 43223) to Chapter 2 of Part 4 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 34, as amended, Williams. Solid waste compost facilities: odor.

(1) Existing law, the California Integrated Waste Management Act of 1989, requires the Department of Resources Recycling and Recovery to adopt regulations governing the operation of organic composting sites, including odor management and threshold levels. The act prohibits the operation of a solid waste facility, as defined, without a solid waste facilities permit issued by the enforcement agency having jurisdiction over the facility.

This bill would define terms and require the department to ~~develop~~ *adopt*, by July 1, 2012, ~~a guidance document to assist regulations with which enforcement agencies in the adoption of would be required to comply when adopting site-specific objective odor performance thresholds for compost facilities.~~ The bill would authorize a compost facility operator to apply to an enforcement agency to adopt performance thresholds, ~~pursuant to a specified procedure, including the payment of and to pay an application fee, and would require the enforcement agency to take specified actions with regard to that application, thereby~~

~~imposing a state-mandated local program in accordance with a fee schedule adopted by the enforcement agency, thereby imposing a state-mandated local program.~~

The bill would prohibit an enforcement agency from verifying ~~that an odor~~ a complaint ~~that~~ originates from a compost facility ~~for which the enforcement agency has adopted performance standards,~~ unless the odor violates certain performance ~~threshold standards~~ *thresholds*. The bill would also require a compost facility operator who submits an application to an enforcement agency to adopt performance ~~standards~~ *thresholds* to also submit to the department an annual odor regulation fee according to a fee schedule that the department would be required to establish. The bill would require the fees to be deposited in the Integrated Waste Management Account, for expenditure by the department, upon appropriation by the Legislature.

(2) 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. Article 1.3 (commencing with Section 43223) is  
2 added to Chapter 2 of Part 4 of Division 30 of the Public Resources  
3 Code, to read:

4  
5 Article 1.3. Compost Facility Odor Performance Thresholds

6  
7 43223. The Legislature finds and declares all of the following:

8 (a) The people of the state have a primary interest in diverting  
9 compostable materials from the solid waste stream *and into*  
10 *compost facilities* that would otherwise be destined for landfills  
11 ~~and into compost facilities.~~

12 (b) Pursuit of this primary interest is ~~being impeded by the~~  
13 ~~existence and impeded by~~ inconsistent enforcement of subjective  
14 and inconsistent odor standards set by, or enforced under, ~~local,~~  
15 ~~regional~~ *local authority, regional authority*, or state legal authority,  
16 including, but not limited to, ordinances, statutes, regulations,

1 rules, guidance documents, permits, orders, or common law, that  
2 relates to nuisance, air quality, solid waste, or composting.

3 (c) The health, safety, and welfare of the people of the state will  
4 be promoted by making available to compost facility operators, a  
5 process for obtaining performance thresholds for odor control at  
6 those compost facilities.

7 ~~(d) The department should issue a guidance document to assist~~  
8 ~~enforcement agencies in setting performance thresholds.~~

9 *(d) The department should adopt regulations to direct*  
10 *enforcement agencies with regard to setting performance*  
11 *thresholds.*

12 43224. For purposes of this article, the following definitions  
13 shall apply:

14 (a) "Compost facility" means a compostable materials handling  
15 operation or facility that is required to have a solid waste facilities  
16 permit pursuant to this division.

17 (b) "Fenceline performance threshold" means a numerical  
18 dilution-to-threshold ratio, measured at the fenceline of the compost  
19 facility, which corresponds to the odor performance threshold.

20 (c) ~~"Performance threshold exceedance standard" exceedance~~  
21 means an odor measurement that exceeds a performance threshold.

22 (d) "Receptor performance threshold" means a numerical  
23 dilution-to-threshold ratio, measured at the ~~residence~~ *location* of  
24 a person making an odor complaint regarding a compost facility,  
25 which corresponds to the odor performance threshold.

26 (e) "Site-specific objective odor performance threshold" or  
27 "performance threshold" means a site-specific objective odor  
28 performance threshold for a compost facility.

29 43225. On or before July 1, 2012, the department shall ~~develop~~  
30 *adopt*, in consultation with stakeholders, ~~a guidance document to~~  
31 ~~assist enforcement agencies in the adoption of regulations with~~  
32 *which an enforcement agency would be required to comply when*  
33 *adopting* fenceline performance thresholds, receptor performance  
34 thresholds, and performance threshold exceedance standards for  
35 compost facilities. ~~The guidance document shall provide for~~  
36 *regulations shall require* all of the following:

37 (a) Each performance threshold shall be a numerical  
38 dilution-to-threshold ratio measured with a field olfactometer or  
39 similar device.

1 (b) The fenceline performance threshold shall be the numerical  
2 dilution-to-threshold ratio, measured at the fenceline of the compost  
3 facility, which corresponds to the odor performance threshold.

4 (c) The receptor performance threshold shall be the numerical  
5 dilution-to-threshold ratio measured at the ~~residence~~ *location* of a  
6 person making an odor complaint regarding the compost facility,  
7 which corresponds to the odor performance threshold.

8 ~~(d) The guidance document shall require enforcement agencies,~~  
9 ~~when~~

10 *(d) When developing standards to be used in determining a*  
11 *performance threshold exceedance, to an enforcement agency shall*  
12 *ensure that odor measurements are verifiable and repeatable and*  
13 *that the odor at a residence is the same odor as the odor originating*  
14 *at the compost facility.*

15 ~~(e) The guidance document shall set standards limiting the the~~  
16 ~~complaint location originated from the compost facility.~~

17 *(e) The enforcement agency shall include, in the standards, a*  
18 *limit on the maximum number of performance threshold*  
19 *exceedance standards that can occur in a 24-hour period.*

20 43226. (a) A compost facility operator may apply to an  
21 enforcement agency to adopt fenceline performance thresholds,  
22 receptor performance thresholds, and performance threshold  
23 exceedance standards for that compost facility. *The compost facility*  
24 *operator shall make this application pursuant to paragraph (2) of*  
25 *subdivision (a) of Section 21620 of Title 27 of the California Code*  
26 *of Regulations, and for purposes of the procedures set forth in that*  
27 *regulation, the application shall be considered an amendment to*  
28 *a report of facility information.*

29 (b) The compost facility operator's application for performance  
30 thresholds shall include proposed performance thresholds for the  
31 facility and an explanation of why those performance thresholds  
32 would be appropriate in light of the relevant circumstances.

33 (c) (1) Except as provided in paragraph (2), the application  
34 shall be accompanied by a filing fee according to a fee schedule  
35 established by the enforcement agency to reflect the costs of  
36 processing the application.

37 (2) If the enforcement agency has not established a fee for a  
38 performance thresholds application as of the date that an  
39 application is filed, the operator is not required to submit a fee to  
40 the enforcement agency.

1 (d) Within 60 days after the date of receipt of a performance  
2 thresholds application, the enforcement agency shall provide the  
3 facility operator with draft performance thresholds for the facility.  
4 If the draft performance thresholds are different from the  
5 performance thresholds proposed in the application, the  
6 enforcement agency shall include an explanation of the differences.

7 (e) Within 30 days after the date of receipt of the enforcement  
8 agency's draft performance thresholds and accompanying  
9 explanation, the compost facility operator may submit a response  
10 to the enforcement agency.

11 (f) Within 120 days of receipt of a performance threshold  
12 application, the enforcement agency shall provide the facility  
13 operator and department with final performance thresholds for the  
14 facility and an explanation of why the performance thresholds are  
15 appropriate in light of the relevant circumstances. The explanation  
16 shall include all elements required in connection with the draft  
17 performance threshold.

18 (g) The department may reject the final performance thresholds  
19 within 30 days of completion. If the department rejects the final  
20 performance thresholds pursuant to subdivision (f), the department  
21 shall explain the reasons for rejection and offer suggestions for  
22 remedying the department's concerns.

23 (h) The final performance thresholds shall be deemed accepted  
24 by the department if no action is taken by the department within  
25 30 days of receipt of the final performance thresholds.

26 (i) Within 30 days after the enforcement agency provides the  
27 facility operator and the department with final performance  
28 standards pursuant to subdivision (f) and the department fails to  
29 take action pursuant to subdivision (h), or within 30 days after the  
30 department rejects the final performance thresholds pursuant to  
31 subdivision (g), the compost facility operator may appeal the final  
32 performance thresholds to the department, which shall conduct a  
33 de novo review of the performance thresholds.

34 (2) The evidence before the department shall consist of the  
35 record before the enforcement agency and any other relevant  
36 evidence that, in the judgment of the department, should be  
37 considered to effectuate and implement the policies of this division.

38 (3) The department shall make a finding that the enforcement  
39 agency's final performance thresholds were one of the following:

40 (A) Appropriate and proper.

1 (B) Inappropriate.

2 (C) Improper.

3 (4) ~~Upon finding that the enforcement agency's final~~  
4 ~~performance threshold were inappropriate or improper, the~~  
5 ~~department shall issue final performance thresholds that are~~  
6 ~~appropriate and proper, together with an explanation including all~~  
7 ~~elements required in connection with the enforcement agency's~~  
8 ~~draft performance threshold.~~

9 (5) ~~Within 30 days after receipt of department's decision~~  
10 ~~pursuant to paragraph (32), the compost facility operator may file~~  
11 ~~with the superior court a petition for writ of mandate for review~~  
12 ~~of the decision under Section 1094.5 of the Code of Civil~~  
13 ~~Procedure, and the court shall exercise its independent judgment~~  
14 ~~on the evidence pursuant to subdivision (e) of Section 1094.5 of~~  
15 ~~the Code of Civil Procedure.~~

16 43227. An enforcement agency shall not verify ~~an odor~~  
17 ~~complaint originating from a compost facility, for which the~~  
18 ~~enforcement agency has adopted performance thresholds pursuant~~  
19 ~~to Section 43226, unless the odor violates performance threshold~~  
20 ~~exceedance standards. *a complaint regarding an odor originating*~~  
21 ~~*from a compost facility unless the odor exceeds a performance*~~  
22 ~~*threshold established pursuant to this article for that facility.*~~

23 43228. A compost facility operator who elects to submit an  
24 application to an enforcement agency to adopt performance  
25 standards pursuant to this article shall also submit to department  
26 thresholds pursuant to this article shall also submit to the  
27 department an annual odor regulation fee according to a fee  
28 schedule established by the department. The department shall set  
29 the fee schedule pursuant to this section based on the reasonable  
30 regulatory costs to the department incident to implementing this  
31 section and shall deposit the fees in the Integrated Waste  
32 Management Account, for expenditure by the department, upon  
33 appropriation by the Legislature to implement this section ~~article.~~

34 SEC. 2. No reimbursement is required by this act pursuant to  
35 Section 6 of Article XIII B of the California Constitution because  
36 a local agency or school district has the authority to levy service  
37 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.

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AMENDED IN ASSEMBLY MAY 5, 2011

AMENDED IN ASSEMBLY APRIL 6, 2011

CALIFORNIA LEGISLATURE—2011—12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 341**

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**Introduced by Assembly Member Chesbro**

February 10, 2011

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An act to amend Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, to add Sections 40004, 41734.5, and 41780.01 to, and to add Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 341, as amended, Chesbro. Solid waste: diversion.

(1) The California Integrated Waste Management Act of 1989, which is administered by the Department of Resources Recycling and Recovery, 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.

This bill would require the department, on January 1, 2020, and annually thereafter, to ensure that 75% of all solid waste generated is source reduced, recycled, or composted.

(2) 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 department to review an amendment to a nondisposal facility element and 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 department or comment and review by a local task force.

(3) 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, defined as *to include* a commercial or public entity, that contracts for solid waste services and generates more than 4 cubic yards of total solid waste per week or is a multifamily residential dwelling ~~or~~ of 5 units or more to take specified action.

The bill would require a jurisdiction to implement a commercial solid waste recycling program meeting specified elements but would not require the jurisdiction to revise its source reduction and recycling element if the jurisdiction adds or expands a commercial solid waste recycling program to meet this requirement. The bill would authorize a local agency to charge and collect a fee from a commercial waste generator to recover the local agency's estimated costs incurred in complying with the commercial solid waste recycling program requirements. By requiring a jurisdiction to implement a commercial solid waste recycling program, this bill would impose a state-mandated local program.

The bill would require the department to review a jurisdiction's compliance with the above requirement as a part of the department's review of a jurisdiction's compliance with the 50% solid waste diversion requirement.

(4) Existing law requires each state agency to submit an annual report to the department summarizing its progress in reducing solid waste that is due on September 1 of each year starting in 2009.

This bill would change the due date to May 1 of each year.

(5) Existing law requires an operator of a solid waste facility that wants to change the design or operation of the solid waste facility in a manner not authorized by the current permit to apply for a revised permit. Within 60 days of receipt of the application for the revised permit, the enforcement agency is required to inform the operator, and in some circumstances the department, of its determination to allow the change without revision of the permit, disallow the change, require a revision of the permit to allow the change, or require review under the California Environmental Quality Act before a decision is made.

This bill would also require the enforcement agency to give notice of its determination to allow certain changes without a revision to the permit through a modification to the permit allowed by regulations developed by the department.

(6) 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:

1 (1) Approximately 64 percent of the state's solid waste disposal  
2 is from commercial sources, including commercial, industrial,  
3 construction, and demolition activities. In addition, 8 percent of  
4 the state's solid waste disposal is from multifamily residential  
5 housing that is often collected along with the commercial waste  
6 stream.

7 (2) The state's local governments have made significant progress  
8 in reducing the amount of solid waste disposal from single-family  
9 residential sources that make up 28 percent of the state's disposal,  
10 but have faced more challenges in reducing disposal from the  
11 commercial and multifamily sources.

12 (3) The disposal of recyclable materials in the commercial solid  
13 waste stream prevents materials from circulating in the state  
14 economy to produce jobs and new products. Reducing the disposal  
15 of these materials will conserve landfill capacity and contribute  
16 to a reduction in greenhouse gas emissions and climate change.

17 (4) The state has long been a national and international leader  
18 in environmental stewardship efforts and mandating the diversion  
19 of solid waste away from disposal. Bold environmental leadership  
20 and a new approach are needed to divert commercial solid waste  
21 away from disposal.

22 (5) By exercising a leadership role, the state will lead the  
23 business community toward a future in which the environment  
24 and the economy both grow stronger together by recycling  
25 materials, which creates new jobs, instead of burying resources,  
26 which exit the economy forever.

27 (6) By requiring commercial recycling, the state will help  
28 businesses reduce costly disposal fees and reclaim valuable  
29 resources.

30 SEC. 2. Section 40004 is added to the Public Resources Code,  
31 to read:

32 40004. (a) The Legislature finds and declares all of the  
33 following:

34 (1) Solid waste diversion and disposal reduction require the  
35 availability of adequate solid waste processing and composting  
36 capacity.

37 (2) The existing network of public and private solid waste  
38 processing and composting facilities provides a net environmental  
39 benefit to the communities served, and represents a valuable asset  
40 and resource of this state, one that must be sustained and expanded

1 to provide the additional solid waste processing capacity that will  
2 be required to achieve the additional solid waste diversion targets  
3 expressed in Section 41780.01 and the commercial solid waste  
4 recycling requirement expressed in Section 42649.

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

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

21 (c) By setting new commercial solid waste recycling  
22 requirements in Section 42649, the Legislature does not intend to  
23 limit a right afforded to local governments pursuant to Section  
24 40059, or to modify or abrogate in any manner the rights of a local  
25 government or solid waste enterprise with regard to a solid waste  
26 handling franchise or contract.

27 SEC. 3. Section 41730 of the Public Resources Code is  
28 amended to read:

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

38 SEC. 4. Section 41731 of the Public Resources Code is  
39 amended to read:

1 41731. Except as provided in Section 41750.1, each county  
2 shall prepare, adopt, and, except for a city and county, transmit to  
3 the cities located in the county a nondisposal facility element that  
4 includes all of the information required by this chapter and that is  
5 consistent with the implementation of a county source reduction  
6 and recycling element adopted pursuant to this part. The  
7 nondisposal facility element and any updates to the element shall  
8 not be subject to the approval of the majority of cities with the  
9 majority of the population in the incorporated area.

10 SEC. 5. Section 41734 of the Public Resources Code is  
11 amended to read:

12 41734. (a) (1) Prior to adopting a nondisposal facility element,  
13 the city, county, or regional agency shall submit the element to  
14 the task force created pursuant to Section 40950 for review and  
15 comment.

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

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

27 SEC. 6. Section 41734.5 is added to the Public Resources Code,  
28 to read:

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

34 (b) Updates shall be provided to the department within 30 days  
35 of any change in information.

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

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



1 (e) Updates to the nondisposal facility elements are not subject  
2 to approval by the department.

3 SEC. 7. Section 41735 of the Public Resources Code is  
4 amended to read:

5 41735. (a) Notwithstanding Division 13 (commencing with  
6 Section 21000), the adoption or update of a nondisposal facility  
7 element shall not be subject to environmental review.

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

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

13 41736. It is not the intent of the Legislature to require cities  
14 and counties to revise their source reduction and recycling elements  
15 to comply with the requirements of this chapter.

16 SEC. 9. Section 41780.01 is added to the Public Resources  
17 Code, to read:

18 41780.01. On or before January 1, 2020, and annually  
19 thereafter, the department shall ensure that 75 percent of solid  
20 waste generated is source reduced, recycled, or composted.

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 department has determined to be  
26 complete, or any element of the plan that the department has  
27 determined to be complete, the department shall determine whether  
28 the plan or element is in compliance with Article 2 (commencing  
29 with Section 40050) of Chapter 1 of Part 1, Chapter 2 (commencing  
30 with Section 41000), and Chapter 5 (commencing with Section  
31 41750), and, based upon that determination, the department shall  
32 approve, 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 department has determined to be complete, the department shall  
36 determine whether the element that the department has determined  
37 to be complete is in compliance with Chapter 4.5 (commencing  
38 with Section 41730) and Article 1 (commencing with Section  
39 41780) of Chapter 6, and, based upon that determination, the

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

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

4 (A) Not consider the estimated capacity of the facility or  
5 facilities in the element unless the department 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 toward the jurisdiction's efforts to comply with Section 41780.

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

20 SEC. 11. Chapter 12.8 (commencing with Section 42649) is  
21 added to Part 3 of Division 30 of the Public Resources Code, to  
22 read:

23

24 CHAPTER 12.8. RECYCLING OF COMMERCIAL SOLID WASTE

25

26 42649. (a) It is the intent of the Legislature to require  
27 businesses to recycle solid waste that they generate.

28 (b) It is the intent of the Legislature to allow jurisdictions  
29 flexibility in developing and maintaining commercial solid waste  
30 recycling programs.

31 42649.1. For purposes of this chapter, the following terms  
32 mean the following:

33 (a) "Business" means a commercial or public entity, including,  
34 but not limited to, a firm, partnership, proprietorship, joint stock  
35 company, corporation, or association that is organized as a  
36 for-profit or nonprofit entity, or a multifamily residential dwelling.

37 (b) "Commercial waste generator" means a business subject to  
38 subdivision (a) of Section 42649.2.

39 (c) "Self-hauler" means a business that hauls its own waste  
40 rather than contracting for that service.

1 42649.2. (a) The owner or operator of a business that contracts  
2 for solid waste services and generates more than four cubic yards  
3 of total solid waste per week or is a multifamily residential  
4 dwelling of five units or more shall arrange for recycling services,  
5 consistent with state or local laws or requirements, including a  
6 local ordinance or agreement, applicable to the collection, handling,  
7 or recycling of solid waste, to the extent that these services are  
8 offered and reasonably available from a local service provider.

9 (b) A commercial waste generator shall take either of the  
10 following actions:

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

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

18 42649.3. (a) Each jurisdiction shall implement a commercial  
19 solid waste recycling program appropriate for that jurisdiction  
20 designed to divert solid waste from businesses subject to Section  
21 426492, whether or not the jurisdiction has met the requirements  
22 of Section 41780.

23 (b) If a jurisdiction already has a commercial solid waste  
24 recycling program as one of its diversion elements that meets the  
25 requirements of this section, it shall not be required to implement  
26 a new or expanded commercial solid waste recycling program.

27 (c) The commercial solid waste recycling program shall be  
28 directed at a commercial waste generator, as defined in subdivision  
29 (b) of Section 42649.1, and may include, but is not limited to, any  
30 of the following:

31 (1) Implementing a mandatory commercial solid waste recycling  
32 policy or ordinance.

33 (2) Requiring a mandatory commercial solid waste recycling  
34 program through a franchise contract or agreement.

35 (3) Requiring all commercial solid waste to go through a mixed  
36 processing system that diverts material from disposal.

37 (d) The commercial solid waste recycling program shall include  
38 education and outreach to businesses.

39 (e) The commercial solid waste recycling program may include  
40 enforcement and monitoring provisions.

1 (f) The commercial solid waste recycling program may include  
2 certification requirements for self-haulers.

3 (g) The department shall review a jurisdiction's compliance  
4 with this section as part of the department's review required by  
5 Section 41825.

6 42649.4. (a) If a jurisdiction adds or expands a commercial  
7 solid waste recycling program to meet the requirements of Section  
8 42649.3, the jurisdiction shall not be required to revise its source  
9 reduction and recycling element, or obtain the department's  
10 approval pursuant to Article 1 (commencing with Section 41800)  
11 of Chapter 7 of Part 1.

12 (b) If an addition or expansion of a jurisdiction's commercial  
13 solid waste recycling program is necessary, the jurisdiction shall  
14 update in its annual report required pursuant to Section 41821.

15 42649.5. (a) This chapter does not limit the authority of a local  
16 agency to adopt, implement, or enforce a local commercial solid  
17 waste recycling requirement that is more stringent or  
18 comprehensive than the requirements of this section or limit the  
19 authority of a local agency in a county with a population of less  
20 than 200,000 to require commercial solid waste recycling.

21 (b) This chapter does not modify, limit, or abrogate in any  
22 manner any of the following:

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

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

28 ~~(3) The existing right of a business to sell, donate, or otherwise~~  
29 ~~transfer its recyclable materials to any person or entity for~~  
30 ~~recycling.~~

31 *(3) The existing right of a business to sell or donate its*  
32 *recyclable materials.*

33 42649.6. A local agency may charge and collect a fee from a  
34 commercial waste generator in order to recover the local agency's  
35 estimated costs incurred in complying with this chapter.

36 ~~42649.7. (a) This chapter does not require a commercial entity~~  
37 ~~in the business of buying or selling recyclable materials to disclose~~  
38 ~~data, information, or writings, as defined by Section 250 of the~~  
39 ~~Evidence Code, relating to recyclable materials, including, but not~~  
40 ~~limited to, the quantity, price, or types of recyclable materials.~~

1 ~~(b) Subdivision (a) does not limit the authority of the department~~  
2 ~~to collect data, information, or writings from a solid waste facility.~~

3 SEC. 12. Section 42926 of the Public Resources Code is  
4 amended to read:

5 42926. (a) In addition to the information provided to the  
6 department pursuant to Section 12167.1 of the Public Contract  
7 Code, each state agency shall submit an annual report to the  
8 department summarizing its progress in reducing solid waste as  
9 required by Section 42921. The annual report shall be due on or  
10 before May 1, 2012, and on or before May 1 in each subsequent  
11 year. The information in this report shall encompass the previous  
12 calendar year.

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

15 (1) Calculations of annual disposal reduction.

16 (2) Information on the changes in waste generated or disposed  
17 of due to increases or decreases in employees, economics, or other  
18 factors.

19 (3) A summary of progress made in implementing the integrated  
20 waste management plan.

21 (4) The extent to which the state agency intends to utilize  
22 programs or facilities established by the local agency for the  
23 handling, diversion, and disposal of solid waste. If the state agency  
24 does not intend to utilize those established programs or facilities,  
25 the state agency shall identify sufficient disposal capacity for solid  
26 waste that is not source reduced, recycled, or composted.

27 (5) Other information relevant to compliance with Section  
28 42921.

29 (c) The department shall use, but is not limited to the use of,  
30 the annual report in the determination of whether the agency's  
31 integrated waste management plan needs to be revised.

32 SEC. 13. Section 44004 of the Public Resources Code is  
33 amended to read:

34 44004. (a) An operator of a solid waste facility shall not make  
35 a significant change in the design or operation of the solid waste  
36 facility that is not authorized by the existing permit, unless the  
37 change is approved by the enforcement agency, the change  
38 conforms with this division and all regulations adopted pursuant  
39 to this division, and the terms and conditions of the solid waste  
40 facilities permit are revised to reflect the change.

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

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

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

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

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

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

20 (2) Allow the following changes without a revision to the permit  
21 through a modification to the permit allowed pursuant to  
22 regulations developed by the department:

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

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

33 (3) Disallow the change because it does not conform with the  
34 requirements of this division or the regulations adopted pursuant  
35 to this division.

36 (4) Require a revision of the solid waste facilities permit to  
37 allow the change.

38 (5) Require review under Division 13 (commencing with Section  
39 21000) before a decision is made.

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

7 (f) Under circumstances that present an immediate danger to  
8 the public health and safety or to the environment, as determined  
9 by the enforcement agency, the 180-day filing period may be  
10 waived.

11 (g) (1) A permit revision is not required for the temporary  
12 suspension of activities at a solid waste facility if the suspension  
13 meets either of the following criteria:

14 (A) The suspension is for the maintenance or minor  
15 modifications to a solid waste unit or to solid waste management  
16 equipment.

17 (B) The suspension is for temporarily ceasing the receipt of  
18 solid waste at a solid waste management facility and the owner or  
19 operator is in compliance with all other applicable terms and  
20 conditions of the solid waste facilities permit and minimum  
21 standards adopted by the department.

22 (2) An owner or operator of a solid waste facility who  
23 temporarily suspends operations shall remain subject to the closure  
24 and postclosure maintenance requirements of this division and to  
25 all other requirements imposed by federal law pertaining to the  
26 operation of a solid waste facility.

27 (3) The enforcement agency may impose any reasonable  
28 conditions relating to the maintenance of the solid waste facility,  
29 environmental monitoring, and periodic reporting during the period  
30 of temporary suspension. The department may also impose any  
31 reasonable conditions determined to be necessary to ensure  
32 compliance with applicable state standards.

33 (h) (1) (A) Before making its determination pursuant to  
34 subdivision (d), the enforcement agency shall submit the proposed  
35 determination to the department for comment and hold at least one  
36 public hearing on the proposed determination. The enforcement  
37 agency shall give notice of the hearing pursuant to Section 65091  
38 of the Government Code, except that the notice shall be provided  
39 to all owners of real property within a distance other than 300 feet  
40 of the real property that is the subject of the hearing, if specified

1 in the regulations adopted by the department pursuant to  
2 subdivision (i). The enforcement agency shall also provide notice  
3 of the hearing to the department when it submits the proposed  
4 determination to the department.

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

13 (C) The enforcement agency shall consider environmental justice  
14 issues when preparing and distributing the notice to ensure that  
15 the notice is concise and understandable for  
16 limited-English-speaking populations.

17 (2) If the department comments pursuant to paragraph (1), the  
18 department shall specify whether the proposed determination is  
19 consistent with the regulation adopted pursuant to subdivision (i).

20 (i) (1) The department shall, to the extent resources are  
21 available, adopt regulations that implement subdivision (h) and  
22 define the term "significant change in the design or operation of  
23 the solid waste facility that is not authorized by the existing  
24 permit."

25 (2) While formulating and adopting the regulations required  
26 pursuant to paragraph (1), the department shall consider  
27 recommendations of the Working Group on Environmental Justice  
28 and the advisory group made pursuant to Sections 71113 and 71114  
29 and the report required pursuant to Section 71115.

30 SEC. 14. Section 50001 of the Public Resources Code is  
31 amended to read:

32 50001. (a) Except as provided by subdivision (b), after a  
33 countywide or regional agency integrated waste management plan  
34 has been approved by the Department of Resources Recycling and  
35 Recovery pursuant to Division 30 (commencing with Section  
36 40000), a person shall not establish or expand a solid waste facility,  
37 as defined in Section 40194, in the county unless the solid waste  
38 facility meets one of the following criteria:

39 (1) The solid waste facility is a disposal facility or a  
40 transformation facility, the location of which is identified in the



1 countywide siting element or amendment to that element, which  
2 has been approved pursuant to Section 41721.

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

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

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

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

27 SEC. 15. No reimbursement is required by this act pursuant to  
28 Section 6 of Article XIII B of the California Constitution because  
29 a local agency or school district has the authority to levy service  
30 charges, fees, or assessments sufficient to pay for the program or  
31 level of service mandated by this act, within the meaning of Section  
32 17556 of the Government Code.



AMENDED IN ASSEMBLY MAY 10, 2011

AMENDED IN ASSEMBLY APRIL 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1178**

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**Introduced by Assembly Member Ma  
(Coauthor: Assembly Member Cedillo)**

February 18, 2011

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An act to amend Sections 40002, 40900.1, and 41903 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1178, as amended, Ma. Solid waste: place of origin.

Existing law authorizes a city or county to assess special fees of a reasonable amount on the importation of waste from outside of the county to publicly owned or privately owned facilities.

~~This bill would also authorize a local agency to assess those special fees. The bill would prohibit a city, or county, or local agency from otherwise restricting or limiting in any way the importation of solid waste into that city or county based on place of origin because ensuring adequate and appropriate capacity for disposal of solid waste is a matter of state and regional concern, except as specified with regard to solid waste facilities or the local land use authority.~~

~~Existing law prohibits a city or county from exporting solid waste to any other jurisdiction unless the exporting city or county has implemented an approved city or county household hazardous waste element and a source reduction and recycling element, or has submitted a countywide integrated waste management plan, with which it is in compliance.~~

~~This bill would also apply that prohibition to a local agency. The bill would make related changes.~~

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

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

1 SECTION 1. Section 40002 of the Public Resources Code is  
2 amended to read:

3 40002. (a) As an essential part of the state's comprehensive  
4 program for solid waste management, and for the preservation of  
5 health and safety, and the well-being of the public, the Legislature  
6 declares that it is in the public interest for the state, as sovereign,  
7 to authorize and require local agencies, as subdivisions of the state,  
8 to make adequate provision for solid waste handling, both within  
9 their respective jurisdictions and in response to regional needs  
10 consistent with the policies, standards, and requirements of this  
11 division and all regulations adopted pursuant to this division. The  
12 provisions of this division which authorize and require local  
13 agencies to provide adequate solid waste handling and services,  
14 and the actions of local agencies taken pursuant thereto, are  
15 intended to implement this state policy.

16 (b) The Legislature further declares that restrictions on the  
17 disposal of solid waste that discriminate on the basis of the place  
18 of origin of the waste are an obstacle to, and conflict with,  
19 statewide and regional policies to ensure adequate and appropriate  
20 capacity for solid waste disposal.

21 SEC. 2. Section 40900.1 of the Public Resources Code is  
22 amended to read:

23 40900.1. The Legislature hereby further finds and declares all  
24 of the following:

25 (a) It is important to encourage state agencies to plan and  
26 implement programs that will reduce the amount of solid waste  
27 going to disposal facilities through source reduction, recycling,  
28 and composting.

29 (b) Local agencies, other than a host jurisdiction, and federal  
30 agencies should be encouraged to plan and implement programs  
31 that will reduce the amount of solid waste going to disposal  
32 facilities through source reduction, recycling, and composting.

1 (c) Each state agency shall, to the extent feasible and within  
2 existing budgetary constraints, develop and implement source  
3 reduction, recycling, and composting programs that will reduce  
4 the amount of solid waste going to disposal facilities. Those  
5 programs shall be consistent with Executive Order W-7-91, which  
6 ordered state agencies to establish recycling programs, reduce  
7 paper waste, purchase recycled products, and implement measures  
8 that minimize the generation of waste.

9 (d) Local, state, and federal agencies generating solid waste that  
10 is sent to a host jurisdiction for disposal should be encouraged to  
11 provide the host jurisdiction with information on the amount of  
12 solid waste and regarding any solid waste source reduction,  
13 recycling, or composting programs that have been implemented  
14 by the agency, to assist the host jurisdiction in developing and  
15 implementing the planning requirements of this division.

16 (e) Restrictions or limits on the importation of solid waste based  
17 on the place of origin are not aspects of solid waste handling  
18 subject to local government determination because they  
19 unreasonably limit the disposal of solid waste.

20 SEC. 3. Section 41903 of the Public Resources Code is  
21 amended to read:

22 41903. (a) ~~A city, county, or local agency~~ *or county* may assess  
23 special fees of a reasonable amount on the importation of waste  
24 from outside of the county to publicly owned or privately owned  
25 facilities.

26 ~~(b) A city, county, or local agency~~ *(1) A city or county* may not  
27 otherwise restrict or limit in any way the importation of solid waste  
28 into that city or ~~county based on the place of origin, because~~  
29 ~~ensuring adequate and appropriate capacity for disposal of solid~~  
30 ~~waste is a matter of state and regional concern.~~ *county based on*  
31 *the place of origin.*

32 *(2) Paragraph (1) does not do any of the following:*

33 *(A) Restrict a publicly owned solid waste facility from limiting*  
34 *or restricting its acceptance of solid waste from outside the*  
35 *jurisdiction of the public agency that owns the facility.*

36 *(B) Require a privately owned solid waste facility or privately*  
37 *operated solid waste facility to accept solid waste from outside*  
38 *the city or county where the facility is located.*

1 (C) Prevent a city or county from exercising its land use  
2 authority, including making a zoning, permitting, or other land  
3 use determination.

4 (c) A city, ~~county, or local agency~~ or county shall not export  
5 solid waste to any other jurisdiction unless the exporting city or  
6 county has done either of the following:

7 (1) Implemented, within one year following the date when the  
8 countywide integrated waste management plan is required to be  
9 submitted to the department pursuant to subdivision (a) or (b) of  
10 Section 41791, or a later date established or permitted by the  
11 department, both an approved city or county household hazardous  
12 waste element and a source reduction and recycling element.

13 (2) Submitted a countywide integrated waste management plan,  
14 with which it is in compliance.

15 (d) Notwithstanding subdivision (c), until one year following  
16 the date when the countywide integrated waste management plan  
17 is required to be submitted to the department pursuant to  
18 subdivision (a) or (b) of Section 41791, or a later date established  
19 by the department, nothing in this section shall be construed as  
20 prohibiting the export of solid waste.

21 (e) The department may waive the requirements of subdivision  
22 (c) if the department determines that all additional reasonable  
23 source reduction and recycling programs are being implemented  
24 in the city or county or if the department determines that the system  
25 to export waste supports or enhances the city or county source  
26 recovery and recycling element.

ESJPA Import/Export Survey

	Export	Tons total	Tons Exported	Percent Export	Control export	Allow others	Restrictions	Prohibit Import	Permitted capacity	Nearing capacity within 15 years	Plans after closure
Amador	Kiefer	35,000	35,000	100%	No	Closed	NA	NA	NA	NA	NA
Butte	Ostrom Road	175,000	35,000	20%	Yes, Only unincorporated	Small amounts, self haul	No		40 +	No	Conversion tech
Calaveras	No			0%	No	Alpine agreement	Yes	County code	7.5 M CY	No	Expansion, diversion. Extension
Colusa	Ostrom Road	21,811	21,463	98%	Yes	No	NA	Limited space Stoneyford	35 years	No	Transfer, export
El Doreado	Carson City, Lockwood, Forward, Potrero Hills	108,984	107,833	99%	Yes but allows haulers flexibility	NA	NA	No	Sludge only 1100 tpy	No	In planning
Glenn	Not officially some leakage	19,050	minimal		No, cheaper elsewhere	Prohibited County ordinance	NA	Limited space, parcel fee	+/- 5 years	Yes	Expansion in design
Lassen	No	No			NA	No	NA	County Ordinance against out-of-county	662,000 CY	18-20 year	Regional landfill, and/or transfer
Madera	No	No			Yes	No but some leakage		Limited availability, LF paid by residents	8.9 million CY		Expansion. Possible export
Nevada	Ostrom Road	42,000	42,000	100%	Contract has provisions for destination landfill	Yes	No	NA	Closed 1993	NA	NA
Sierra	Yes, contaminated soil				Hauler contract prohibition. Some households	Yes, not encouraged, high fee	High price	Limited landfill life	7-10 years	Yes	Transfer, trickle LF, C&D LF
Trinity	Anderson, Shasta Co.	7,300	7,300	100%	Yes	Yes	Non-county charged 3 times, not eligible events		NA	NA	NA





AMENDED IN SENATE MAY 2, 2011

SENATE BILL

No. 515

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Introduced by Senator Corbett

February 17, 2011

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An act to add Article 3 (commencing with Section 42450.1) to Chapter 8 of Part 3 of, and Article 5 (commencing with Section 44220) to Chapter 3 of Part 4 of, Division 30 of the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

SB 515, as amended, Corbett. Recycling: product stewardship: batteries: universal waste management facilities.

(1) The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, requires retailers of rechargeable batteries to have in place a system for the acceptance and collection of rechargeable batteries.

The bill would require, by ~~September 30, 2012~~ *April 1, 2013*, a producer, or the household battery stewardship organization created by one or more producers, of a household battery to submit a household battery stewardship plan to the department, which would be required to include specified elements. The bill would allow a registered hazardous waste transporter to elect to submit a household battery stewardship plan to the department on behalf of one or more producers and would require a hazardous waste transporter making that election to comply with the provisions of the bill applicable to a household battery stewardship organization.

The bill would require the department to review a household battery stewardship plan submitted to the department and *either* deem the plan

~~either complete or incomplete within 45 30 days after receipt or take specified actions.~~

The bill would prohibit a producer, wholesaler, or retailer, on and after January 1, 2014, from selling a household battery unless the plan for that battery is deemed complete by the department. The act would require a producer or the household battery stewardship organization to implement the household battery program pursuant to the household battery stewardship plan, including achieving a specified collection rate, *and contacting cities, counties, districts, and regional agencies either to reimburse the local public agency for the mutually agreed upon cost of collecting household batteries or provide for the pickup of household batteries, or both.* The bill would require each producer or household battery stewardship organization implementing a household battery stewardship plan to prepare and submit to the department an annual report describing the activities carried out pursuant to the household battery stewardship plan.

The bill would require a producer or household battery stewardship organization submitting a household battery stewardship plan to pay the department a plan review fee, as determined by the department, when submitting the plan to the department and to pay an administrative fee, as determined by the department, when submitting the annual report. ~~The bill would provide for the imposition of administrative civil penalties upon a producer that does not comply with the bill's requirements or a wholesaler or retailer selling household batteries in violation of the bill.~~ The bill would create the Household Battery Stewardship Account in the existing Integrated Waste Management Fund and would require that the fees be deposited into that account and that the penalties be deposited into the Household Battery Stewardship Penalty Subaccount that the bill would create in that account. The bill would authorize the fees and penalties to be expended, upon appropriation by the Legislature, to cover the department's program implementation costs and would authorize all funds collected or received by the department under the program, except for the fees, to be expended as incentives to enhance recyclability and redesign efforts and to reduce environmental and safety impacts of household batteries.

(2) Existing law requires the Department of Toxic Substances Control (DTSC) to exercise enforcement and regulatory authority with regard to the hazardous waste accepted at a facility that accepts both hazardous waste and other solid waste.

This bill would require DTSC, upon the request of an applicant for a project to construct, expand, or retrofit a solid waste facility to process, collect, or recycle a universal waste, as defined, to appoint an administrative liaison to serve as the applicant's single point of contact, and to provide other information and assistance.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the  
2 following:
- 3 (a) In early 2006, all household batteries were classified by the  
4 state as universal waste and prohibited from being disposed of in  
5 solid waste landfills. Under state law, "household batteries" means  
6 batteries made of mercury, alkaline, carbon-zinc, and  
7 nickel-cadmium, and other batteries typically generated as  
8 household waste, including, but not limited to, batteries used in  
9 hearing aids, cameras, watches, computers, calculators, flashlights,  
10 lanterns, standby and emergency lighting, portable radios,  
11 television sets, meters, toys, and clocks, but excluding lead-acid  
12 batteries, batteries that are sold in a "covered electronic device,"  
13 as defined in Section 42463 of the Public Resources Code, and  
14 batteries that are not easily removable or are not intended or  
15 designed to be removed from the products, other than by the  
16 manufacturer.
- 17 (b) Effective July 1, 2006, state law prohibited most retailers  
18 from selling rechargeable batteries in the state unless they have a  
19 system in place for collecting used rechargeable batteries from  
20 consumers.
- 21 (c) Approximately 80 percent of batteries sold in this state are  
22 alkaline batteries and are not covered under the retail take-back  
23 requirements.
- 24 (d) Local governments throughout the state are responsible for  
25 the collection and management of household batteries, and to  
26 manage this hazardous waste, these local governments and  
27 taxpayers pay a range of between eight hundred dollars (\$800) per  
28 ton to two thousand seven hundred dollars (\$2,700) per ton, or  
29 tens of millions of dollars each year.

1 (e) Because other types of recycling programs have proven to  
2 have limited success, state and regional governments in Europe  
3 and Canada have adopted producer responsibility programs to  
4 redirect the responsibility for the end-of-life management of  
5 discarded hazardous and hard-to-manage products from local  
6 governments and retailers primarily to producers.

7 (f) After many public hearings and discussions, the former  
8 California Integrated Waste Management Board adopted an overall  
9 Framework for an Extended Producer Responsibility (EPR)  
10 guidance document as a policy priority in January 2008.

11 (g) The program established by this act is intended to reduce  
12 costs to local government, to harmonize the state's producer  
13 responsibility obligations with other national and international  
14 programs, and to enhance the protection of public health and  
15 environment through safer product design, use, and end-of-life  
16 management.

17 (h) The plan review fee and the administrative fee imposed  
18 pursuant to Section 42450.10 of the Public Resources Code are  
19 regulatory fees within the meaning of paragraph (3) of subdivision  
20 (b) of Section 3 of Article XIII A of the California Constitution,  
21 as the fees are imposed solely for the purpose of recovering the  
22 reasonable regulatory costs to the Department of Resources  
23 Recycling and Recovery incident to investigating, inspecting, and  
24 auditing the fee payer, and the enforcement costs thereof, and with  
25 respect to reviewing the battery stewardship plan, and the annual  
26 reports and enforcing Article 3 (commencing with Section 42450.1)  
27 of Chapter 8 of Part 3 of Division 30 of the Public Resources Code.

28 SEC. 2. Article 3 (commencing with Section 42450.1) is added  
29 to Chapter 8 of Part 3 of Division 30 of the Public Resources Code,  
30 to read:

31

32 Article 3. Product Stewardship for Household Batteries

33

34 42450.1. For purposes of this article, and unless the context  
35 otherwise requires, the definitions in this article govern the  
36 construction of this article.

37 (a) "Brand" means a name, symbol, word, or mark that identifies  
38 a household battery, rather than its components, and attributes the  
39 household battery to the owner or licensee of the brand as the  
40 producer.

1 (b) "Collection rate" means a quantitative measure established  
2 in each household battery stewardship plan that establishes the  
3 amount of household batteries required to be collected by the  
4 household battery stewardship system for that household battery  
5 by an established date. The collection rate is included as a  
6 component of the product goals for a household battery. The  
7 collection rate shall be calculated by weight and shall distinguish  
8 between nonrechargeable household batteries and rechargeable  
9 household batteries, but not by the individual producer of each  
10 battery.

11 (c) "Department" means the Department of Resources Recycling  
12 and Recovery.

13 (d) (1) "Household battery" has the same meaning as defined  
14 in subdivision (c) of Section 42450, but shall not include any of  
15 the following:

16 (A) A battery that is sold in a covered electronic device, as  
17 defined in Section 42463.

18 (B) A battery that is not easily removable or is not intended or  
19 designed to be removed from the product, other than by the  
20 manufacturer.

21 (2) "Household battery" includes both the class of  
22 nonrechargeable household batteries and the class of rechargeable  
23 household batteries.

24 (e) "Household battery stewardship organization" means an  
25 organization appointed by one or more producers to act as an agent  
26 on behalf of the producer to design, submit, and administer a  
27 household battery stewardship plan pursuant to this article.

28 (f) "Household battery stewardship plan" or "plan" means a  
29 plan written by an individual producer, a household battery  
30 stewardship organization, or a hazardous waste transporter  
31 registered pursuant to Section 25163 of the Health and Safety  
32 Code, on behalf of one or more producers, that includes all of the  
33 information required by Section 42450.2.

34 (g) *"Maximum feasible recovery of materials from collected*  
35 *household batteries" means the reclamation of metals or other*  
36 *source materials from a used household battery using a proven*  
37 *technology that has been demonstrated commercially to be*  
38 *economically achievable and sustainable.*

39 (~~g~~)

1 (h) "Nonrechargeable battery" means a household battery that  
2 is not designed to be recharged for repeated use.

3 ~~(h)~~

4 (i) "Producer" shall be determined, with regard to a household  
5 battery that is sold, offered for sale, or distributed in the state, as  
6 meaning one of the following:

7 (1) The person who manufactures the household battery and  
8 who sells, offers for sale, or distributes that household battery in  
9 the state under that person's own name or brand.

10 (2) If there is no person who sells, offers for sale, or distributes  
11 the household battery in the state under the person's own name or  
12 brand, the producer of the household battery is the owner or  
13 licensee of a trademark or brand under which the household battery  
14 is sold or distributed in the state, whether or not the trademark is  
15 registered.

16 (3) If there is no person who is a producer of the household  
17 battery for purposes of paragraphs (1) and (2), the producer of that  
18 household battery is the person who imports the household battery  
19 into the state for sale or distribution.

20 ~~(i)~~

21 (j) "Product stewardship" means requiring the producer of a  
22 household battery, and all other entities involved in the distribution  
23 chain of a household battery, to share in the responsibility of  
24 reducing the life-cycle impact of the household battery and its  
25 packaging, including requiring the producer who makes design  
26 and marketing decisions for the household battery to bear the  
27 primary responsibility for this reduction.

28 ~~(j)~~

29 (k) "Product goal" means those qualitative or quantitative goals  
30 determined by the producer to address and measure source  
31 reduction, material content, packaging, and end-of-life  
32 management.

33 ~~(k)~~

34 (l) "Program" means the system for the collection,  
35 transportation, recycling, and disposal of household batteries  
36 pursuant to a completed household battery stewardship plan that  
37 is financed and managed or provided by an individual producer,  
38 collectively by one or more producers or by a hazardous waste  
39 transporter pursuant to paragraph (2) of subdivision (a) of Section  
40 42450.2.

1 ~~(f)~~

2 (m) (1) "Rechargeable household battery" means a household  
3 battery that consists of one or more voltaic or galvanic cells, which  
4 are electrically connected to produce electric energy, that is  
5 designed to be recharged for repeated use and that weighs less than  
6 10 pounds.

7 (2) "Rechargeable household battery" includes a battery pack  
8 that combines one or more rechargeable household batteries and  
9 weighs, in total, less than 10 pounds.

10 (3) "Rechargeable household battery" does not include a battery  
11 of any size used to start an internal combustion engine or as the  
12 principal electrical power source for a vehicle or boat.

13 ~~(m) "Recycling rate" means a quantitative measure that~~  
14 ~~establishes the amount of collected household batteries that is~~  
15 ~~recycled as compared to the total amount of household batteries~~  
16 ~~that is collected, including the amount of the household batteries~~  
17 ~~that is discarded for reuse, energy recovery, or safe disposal.~~

18 (n) "Reporting period" means the period commencing January  
19 1 and ending on December 31 of the same calendar year.

20 (o) "Retailer" means a person that offers new household batteries  
21 in a retail sale, as defined in Section 6007 of the Revenue and  
22 Taxation Code, including a retail sale at retail through any means,  
23 including remote offerings such as sales outlets, catalogs, or an  
24 Internet Web site.

25 ~~(p) "Reuse rate" means a quantitative measure that establishes~~  
26 ~~the amount of collected household batteries that is reused as~~  
27 ~~compared to the total amount of household batteries that is~~  
28 ~~collected, including the amount of household batteries that is~~  
29 ~~discarded by recycling, energy recovery, or safe disposal.~~

30 ~~(q)~~

31 (p) "Sell" or "sales" means any transfer of title of a household  
32 battery for consideration, including a remote sale conducted  
33 through a sale outlet, catalog, or Internet Web site or similar  
34 electronic means, but does not include a lease.

35 ~~(r)~~

36 (q) "Wholesaler" means a person that offers new household  
37 batteries for sale in this state in a sale that is not a retail sale, as  
38 defined in Section 6007 of the Revenue and Taxation Code, and  
39 for which the household battery is intended to be resold.

1 42450.2. (a) (1) On or before ~~September 30, 2012, April 1,~~  
2 2013, each producer or the household battery stewardship  
3 organization for producers of household batteries shall submit a  
4 household battery stewardship plan to the department.

5 (2) A hazardous waste transporter registered pursuant to Section  
6 25163 of the Health and Safety Code may elect to submit a  
7 household battery stewardship plan to the department on behalf  
8 of one or more producers, and, if so, the hazardous waste  
9 transporter shall submit the household battery stewardship plan to  
10 the department on or before September 30, 2012, and shall comply  
11 with the provisions of this article that apply to a household battery  
12 stewardship organization, including, but not limited to, the  
13 requirements of subdivisions (b) and (c) and payment of the fees  
14 specified in Section 42450.10.

15 (b) A producer, group of producers, or household battery  
16 stewardship organization shall consult with stakeholders during  
17 the development of the household battery stewardship plan,  
18 including soliciting stakeholder comments and responding to  
19 stakeholder comments prior to submitting the household battery  
20 stewardship plan.

21 (c) Each household battery stewardship plan shall include, at a  
22 minimum, all of the following elements:

23 (1) Contact information for all participating producers.

24 (2) The collection rate for the household batteries subject to the  
25 plan, which shall be calculated for each class of household batteries  
26 subject to the plan, in the following manner, except as provided  
27 in Section 42450.4:

28 ~~(A) On and after January 1, 2015, the collection rate shall be~~  
29 ~~25 percent of the average number of household batteries that are~~  
30 ~~sold in the state during the previous three calendar years by the~~  
31 ~~producers who are subject to that plan.~~

32 ~~(B) On and after January 1, 2017, the collection rate shall be~~  
33 ~~45 percent of the average number of household batteries that are~~  
34 ~~sold in the state during the previous three calendar years by the~~  
35 ~~producers who are subject to that plan.~~

36 ~~(C) On January 1, 2018, and annually thereafter, the producer~~  
37 ~~shall demonstrate to the department that it has achieved continuous~~  
38 ~~meaningful improvement in the collection rate.~~

39 *(A) A baseline of the number of household batteries collected*  
40 *by all producers subject to the plan, which shall be calculated by*



1 weight based on the percentage of household batteries collected  
2 during the 2012 calendar year, as compared to the average number  
3 of household batteries that were sold in the state during the  
4 previous three calendar years by all producers that are subject to  
5 that plan, for each class of household batteries subject to the plan.

6 (B) On January 1, 2014, and annually thereafter, the program  
7 shall achieve an annual increase in the household battery  
8 collection rate of 5 percent, starting at the baseline rate calculated  
9 pursuant to subparagraph (A) for the 2012 calendar year, for each  
10 class of household batteries, and shall substantially increase that  
11 collection rate until reaching a 70 percent collection rate for each  
12 class of household batteries.

13 (C) If the program achieves an increase in the collection rate  
14 of more than 5 percent for any given year, the program may  
15 attribute that increase to subsequent years for purposes of  
16 determining compliance with subparagraph (B).

17 (3) A description of all of the following elements:

18 (A) Brands of the household batteries covered by the plan and  
19 if the brand is a rechargeable household battery or a  
20 nonrechargeable household battery.

21 ~~(B) The manner in which the product goals will be achieved.~~

22 ~~(C) The annual schedule for achievement of the collection rate~~  
23 ~~for each class of household batteries covered by the plan consistent~~  
24 ~~with the requirements of paragraph (2).~~

25 ~~(D) The number and type of convenient collection opportunities~~  
26 ~~free of charge for consumers in all counties of the state, including~~  
27 ~~those supporting the retailer collection of used rechargeable~~  
28 ~~household batteries required by Section 42453.~~

29 ~~(E) Reuse rate and recycling rate for the household batteries~~  
30 ~~manufactured by the producer.~~

31 (B) The baseline of household batteries collected during  
32 calendar year 2012, as determined pursuant to subparagraph (A)  
33 of paragraph (2).

34 (C) The number and type of convenient collection opportunities  
35 provided free of charge for consumers in all counties of the state,  
36 including those supporting the retailer collection of used  
37 rechargeable household batteries required by Section 42453.

38 (D) How the plan will establish convenient collection points in  
39 every county so as to provide, at a minimum, one collection point  
40 per 10,000 people in each county by January 1, 2014, and one

1 collection point per 5,000 people in each county by January 1,  
2 2018.

3 (E) How the plan will achieve a maximum feasible recovery of  
4 materials from collected household batteries.

5 (F) Roles and responsibilities of key participants in the  
6 household battery distribution chain.

7 ~~(G) Procedures to be used for notifying retailers and wholesalers  
8 of the program.~~

9 (G) The outreach procedures that will be used to provide notice  
10 of the program to employers, local agencies, retailers, wholesalers,  
11 and waste haulers.

12 (H) The manner in which existing collection points and  
13 programs can be identified and maximized to achieve the required  
14 collection rates.

15 (4) (A) The financing method selected to sustainably fund the  
16 implementation of the plan for achieving the identified collection  
17 rates as described in the plan, pursuant to paragraph (2).

18 (B) The financing method shall not include a separate and  
19 distinct fee at the point of purchase.

20 ~~(5) Education and outreach activities to maximize collection  
21 rates.~~

22 (5) The planned educational activities to maximize collection  
23 rates, including, but not limited to, the use of social media,  
24 billboards, print, and radio, and information provided at the point  
25 of sale.

26 (6) A producer or household battery stewardship organization  
27 shall contact cities, counties, districts, and regional agencies, in  
28 whose jurisdictions the program will be implemented, to do either,  
29 or both, of the following:

30 (A) Reimburse the local public agency for the mutually agreed  
31 upon cost of collecting household batteries.

32 (B) Provide the local public agency with the location, hours,  
33 and contact information for the convenient collection points for  
34 household batteries that are located within the county where the  
35 local agency is located and are consistent with the plan.

36 42450.3. A household battery stewardship program shall be  
37 considered in compliance with this article if it achieves the  
38 collection rate for each class of household batteries covered by the  
39 plan as required by paragraph (2) of subdivision (c) of Section  
40 42450.2. If only one class of household batteries achieves its

1 collection rate required by paragraph (2) of subdivision (c) of  
2 Section 42450.2, that portion of the program governing that class  
3 of household batteries shall be considered in compliance with the  
4 plan.

5 42450.4. A producer may petition the department for an  
6 adjustment to the collection rate. The department may grant an  
7 adjustment to the collection rate only if the department determines  
8 there are documented exigent circumstances that are beyond the  
9 control of the producer or household battery stewardship  
10 organization.

11 42450.5. (a) ~~The department shall review a plan within 45~~  
12 ~~days after the date the plan is received and either deem the plan~~  
13 ~~complete or incomplete. If the department does not deem the plan~~  
14 ~~complete, the department shall notify the producer or organization~~  
15 ~~that submitted the plan of the deficiencies and the producer or, to~~  
16 ~~ensure that each plan element has been addressed in the plan,~~  
17 ~~within 30 days after the date the plan is received. The department~~  
18 ~~shall perform only a completeness check and shall deem the plan~~  
19 ~~complete if each plan element has been addressed. If the~~  
20 ~~department does not deem the plan complete, the department shall~~  
21 ~~notify the producer or organization that submitted the plan which~~  
22 ~~elements were not addressed, and the producer or organization~~  
23 ~~shall revise and resubmit the plan within 45 days after receiving~~  
24 ~~the notification. If the department deems the plan complete, the~~  
25 ~~department shall, within 45 days after receipt, notify the producer~~  
26 ~~or organization that the submitted plan is complete.~~

27 (b) The department shall make all household battery stewardship  
28 plans submitted to the department available to the public on the  
29 department's Internet Web site.

30 (c) A producer shall notify the department 30 days before  
31 instituting a significant or material change to a household battery  
32 stewardship plan.

33 (d) ~~On or before July 1, 2013, and on or before July 1 September~~  
34 ~~1, 2013, and on or before September 1~~ annually thereafter, the  
35 department shall post on its Internet Web site a listing of the brands  
36 of household batteries for which the producer is in compliance  
37 with this article.

38 42450.6. On and after January 1, 2014, a producer, wholesaler,  
39 or retailer shall not offer a household battery for sale in this state

1 or offer a household battery for promotional purposes in this state  
2 unless one of the following applies:

3 (a) The plan submitted by the producer or household battery  
4 stewardship organization of that household battery has been  
5 deemed complete by the department pursuant to Section 42450.5.

6 (b) A plan submitted by a hazardous waste transporter on behalf  
7 of the producer of that household battery pursuant to paragraph  
8 (2) of subdivision (a) of Section 42450.2 is deemed complete by  
9 the department.

10 42450.7. Upon receiving notification from the department  
11 pursuant to Section 42450.5 that a plan is complete, the producer  
12 or the household battery stewardship organization shall do all of  
13 the following:

14 (a) Implement the plan, including, but not limited to, achieving  
15 the collection rate specified in the plan.

16 (b) Pay the administrative fees imposed pursuant to subdivision  
17 (b) of Section 42450.10.

18 (c) Submit the annual report required by Section 42450.9.

19 (d) (1) *Contact cities, counties, districts, and regional agencies,*  
20 *in whose jurisdictions the program will be implemented, to do*  
21 *either, or both, of the following:*

22 (A) *Reimburse the local public agency for the mutually agreed*  
23 *upon cost of collecting household batteries.*

24 (B) *Provide the local public agency with products to set up a*  
25 *collection point at that agency and provide for pickup of household*  
26 *batteries collected, including, but not limited to, arranging for the*  
27 *disposal of those household batteries.*

28 (2) *A local agency that the elects to participate in either of the*  
29 *activities specified in paragraph (1) shall separate from any other*  
30 *materials the household batteries made available for collection*  
31 *by the producer or household battery stewardship organization.*

32 42450.8. (a) A wholesaler or a retailer that distributes or sells  
33 household batteries shall monitor the department's Internet Web  
34 site to determine if the sale of a producer's household batteries is  
35 in compliance with this article.

36 (b) A retailer shall have 90 days from the date a noncompliant  
37 brand is posted on the department's Internet Web site to sell the  
38 remaining stock of those noncompliant household batteries or to  
39 remove the product from sale. An enforcement action shall not be

1 taken against a retailer pursuant to this article with regard to that  
2 noncompliant brand until after that 90-day period has expired.

3 42450.9. (a) On or before April 1, 2014, and every subsequent  
4 year thereafter, each producer or household battery stewardship  
5 organization implementing a plan shall prepare and submit to the  
6 department an annual report describing the activities carried out  
7 pursuant to the plan during the previous calendar year. The annual  
8 report shall include, but is not limited to, all of the following:

9 ~~(1) The extent to which each element of the plan specified in  
10 subdivision (c) of Section 42450.2 is attained, including, but not  
11 limited to, achieving the collection rate specified in the plan.~~

12 ~~(2) The actions that the producer will take during the next  
13 reporting period to meet the product goals specified in the plan  
14 that have not been met.~~

15 ~~(3) A report of the total sales data for household batteries sold  
16 in the state for the previous three calendar years.~~

17 ~~(4) Independently audited financial statements that detail the  
18 financing method selected to sustainably fund the implementation  
19 of the plan for achieving the identified collection rates as described  
20 in the plan, pursuant to paragraph (2) of subdivision (c) of Section  
21 42450.2.~~

22 ~~(b) The department shall review an annual report submitted  
23 pursuant to this section and shall deem it complete if the  
24 department determines the report contains the information required  
25 by this section: following elements:~~

26 ~~(1) The number of household batteries collected by the program  
27 in the prior year and the collection rate achieved in the prior year.~~

28 ~~(2) A report of the total sales data for household batteries sold  
29 in the state for the previous three calendar years.~~

30 ~~(3) A report on the feedback from a stakeholders' meeting,  
31 hosted by producers, that was made available by Web cast, prior  
32 to submittal of the annual report.~~

33 ~~(4) Independently audited financial statements that detail the  
34 financing method selected to sustainably fund the implementation  
35 of the plan to achieve the identified collection rates described in  
36 the plan, pursuant to paragraph (4) of subdivision (c) of Section  
37 42450.2.~~

38 ~~(5) Locations, hours, and contact information for all collection  
39 points set up by the producers covered by the plan.~~

1 (6) *Examples and description of educational materials used to*  
2 *increase collection.*

3 (b) *The department shall review an annual report by doing all*  
4 *of the following:*

5 (1) *Conducting a random check of collection points to ensure*  
6 *the program is collecting household batteries and that local public*  
7 *agencies are provided the services specified in paragraph (1) of*  
8 *subdivision (d) of Section 42450.7.*

9 (2) *If the report is submitted for the 2018 calendar year, and*  
10 *each year thereafter, certifying that the collection points listed in*  
11 *the annual report are located in every county and are established*  
12 *at a minimum of one site per 10,000 people or one site per 5,000*  
13 *people, as specified in subparagraph (D) of paragraph (3) of*  
14 *subdivision (c) of Section 42450.2.*

15 (3) *Reviewing sales data and collection numbers provided for*  
16 *the state to verify collection rates.*

17 (4) *If a collection rate increase of 5 percent is not achieved,*  
18 *verifying that the next year's financial statements indicate a*  
19 *10-percent increase in the amount the program will spend on*  
20 *collection, education, and outreach.*

21 (5) *Verifying that all annual report elements specified in*  
22 *subdivision (a) have been addressed in the report.*

23 (c) *If the department does not act on a report within 45 days of*  
24 *receipt, the report shall be deemed to be complete.*

25 (d) *The department shall make all reports submitted to the*  
26 *department pursuant to this section available to the public on the*  
27 *department's Internet Web site.*

28 (e) *If the collection rate for the household batteries subject to*  
29 *the plan meets the collection rate specified in subparagraph (B) of*  
30 *paragraph (2) of subdivision (c) of Section 42450.2, the report*  
31 *shall be submitted once every two years.*

32 42450.10. (a) (1) *A producer or household battery stewardship*  
33 *organization that submits a battery stewardship plan to the*  
34 *department shall pay a plan review fee to the department pursuant*  
35 *to this subdivision.*

36 (2) *The department shall set the plan review fee at an amount*  
37 *so that the total amount of plan review fees received by the*  
38 *department is no more than necessary to cover the reasonable costs*  
39 *of reviewing and enforcing the plan. The department may establish*  
40 *a variable plan review fee based on relevant factors, including, but*

1 not limited to, the proportion of household batteries produced by  
2 the feepayer as compared to the total amount of batteries produced  
3 by all producers or household battery stewardship organizations  
4 submitting a household battery stewardship plan. The department  
5 shall establish the fee so that the manner in which the fee is  
6 allocated bears a fair and reasonable relationship to the  
7 department's costs in reviewing a plan.

8 (3) The fee shall be due to the department upon submittal of the  
9 plan.

10 (b) (1) A producer or household battery stewardship  
11 organization required to submit an annual report pursuant to this  
12 article shall pay an annual administrative fee to the department  
13 pursuant to this subdivision.

14 (2) The department shall set the annual administrative fee in an  
15 amount that is no more than necessary to cover the reasonable  
16 costs of reviewing annual reports and enforcing this article. The  
17 department may establish a variable annual administrative fee  
18 based on relevant factors, including, but not limited to, the  
19 proportion of household batteries produced by the feepayer, as  
20 compared to the total amount of household batteries produced by  
21 all producers or household battery stewardship organizations  
22 submitting an annual report, and whether the producer is submitting  
23 a plan every two years as specified in subdivision (e) of Section  
24 42450.9. The department shall establish the fee so that the manner  
25 in which the fee is allocated bears a fair and reasonable relationship  
26 to the department's costs in reviewing the annual reports and  
27 enforcing this article.

28 (3) The fee shall be due to the department upon submittal of the  
29 annual report.

30 (c) The total amount of fees collected pursuant to this section  
31 shall not exceed the amount necessary to recover costs incurred  
32 by the department in connection with the administration and  
33 enforcement of the requirements of this article.

34 42450.11. (a) The Household Battery Stewardship Account  
35 and the Household Battery Stewardship Penalty Subaccount are  
36 hereby established in the Integrated Waste Management Fund.

37 (b) All fees collected pursuant to this article shall be deposited  
38 in the Household Battery Stewardship Account and may be  
39 expended by the department, upon appropriation by the Legislature,  
40 to cover the department's costs to implement this article.

1 (c) All penalties collected pursuant to this article shall be  
2 deposited in the Household Battery Stewardship Penalty  
3 Subaccount and may be expended by the department, upon  
4 appropriation by the Legislature, to cover the department's costs  
5 to implement this article.

6 (d) All funds that are collected or received by the department  
7 pursuant to this article, other than the fees specified in subdivision  
8 (b), may be expended as incentives to enhance reuse, recyclability,  
9 and redesign efforts and to reduce environmental and safety impacts  
10 of household batteries.

11 ~~42450.12. (a) If, after holding a public hearing, the department  
12 finds that a producer has failed to make a good faith effort to  
13 comply with this article, including, but not limited to, failing to  
14 submit a plan pursuant to Section 42450.2 or failing to submit an  
15 annual report pursuant to Section 42450.9, the department shall  
16 issue a compliance order with a schedule for achieving compliance.~~

17 ~~(b) If, after issuing an order and schedule for compliance  
18 pursuant to subdivision (a), the department finds that the producer  
19 has failed to make a good faith effort to comply with this article,  
20 the department may impose an administrative civil penalty of five  
21 thousand dollars (\$5,000) per day until the producer achieves  
22 compliance.~~

23 ~~(c) For purposes of this section, "good faith effort" means all  
24 reasonable and feasible efforts by a producer or the program  
25 implementing a plan deemed complete by the department towards  
26 implementing the requirements of this article, including, but not  
27 limited to, meeting the collection rate specified in the plan.~~

28 ~~(d) If a household battery stewardship organization or hazardous  
29 waste transporter submits a plan on behalf of a producer pursuant  
30 to Section 42450.2, which plan is deemed complete by the  
31 department, and the department finds the program established by  
32 the plan has made a good faith effort to implement this article, the  
33 department shall not deem the producer to have failed to make a  
34 good faith effort to implement this article.~~

35 ~~42450.13. (a) The department may impose an administrative  
36 civil penalty not to exceed one thousand dollars (\$1,000) per day  
37 against a wholesaler or retailer that violates Section 42450.6.~~

38 ~~(b) A wholesaler or retailer that removes from sale any  
39 household battery within 90 days of discovery that it is not in~~



1 compliance with this article shall not be deemed to be in violation  
2 of Section 42450.6.

3 (c) Prior to enforcing any penalty pursuant to this section, the  
4 department shall issue a compliance order to the wholesaler or  
5 retailer selling the household battery allowing 30 days from the  
6 date of the compliance order to cease sales of the household battery.

7 42450.16. This article does not limit, supersede, duplicate, or  
8 otherwise conflict with the authority of the Department of Toxic  
9 Substances Control under Section 25257.1 of the Health and Safety  
10 Code to fully implement Article 14 (commencing with Section  
11 25251) of Chapter 6.5 of Division 20 of the Health and Safety  
12 Code, including the authority of the department to include  
13 household batteries in its household battery registry.

14 42450.17. (a) Except as provided in subdivision (b), any action  
15 taken to increase the recycling of household batteries pursuant to  
16 this article by a producer, stewardship organization, or hazardous  
17 waste transporter that affects the types or quantities being recycled  
18 or the cost and structure of any return program is not a violation  
19 of either the Cartwright Act (Chapter 2 (commencing with Section  
20 16700) of Part 2 of Division 7 of the Business and Professions  
21 Code), or the Unfair Practices Act (Chapter 4 (commencing with  
22 Section 17000), of Part 2 of Division 7 of the Business and  
23 Professions Code).

24 (b) Subdivision (a) shall not apply to any agreement establishing  
25 or affecting the price of household batteries or the output or  
26 production of household batteries, or any agreement restricting  
27 the geographic area in which, or customers to whom, household  
28 batteries ~~with~~ will be sold.

29 SEC. 3. Article 5 (commencing with Section 44220) is added  
30 to Chapter 3 of Part 4 of Division 30 of the Public Resources Code,  
31 to read:

32

33 Article 5. Universal Waste Management Facilities

34

35 44220. For purposes of this article, the following definitions  
36 shall apply:

37 (a) "DTSC" means the Department of Toxic Substances Control.

38 (b) "Project" means the construction, expansion, or retrofitting  
39 of a solid waste facility to process, collect, or recycle a universal  
40 waste.

1 (c) "Universal waste" has the same meaning as defined in  
2 Section 25123.8 of the Health and Safety Code.

3 44221. Notwithstanding Section 44103, a project is eligible  
4 for the permitting process established by this article if the project  
5 meets all of the following requirements, as determined by DTSC:

6 (a) The project complies with the ~~Global Warming Solutions~~  
7 ~~Act (Division 25.6 California Global Warming Solutions Act of~~  
8 ~~2006 (Division 25.5 (commencing with Section 38500) of the~~  
9 ~~Health and Safety Code).~~

10 (b) The project complies with the California Environmental  
11 Quality Act (Division 13 (commencing with Section 21000)).

12 (c) The project is capable of creating long-term, high  
13 value-added jobs for Californians while enhancing the state's  
14 commitment to source reduction, recycling, proper handling of  
15 universal and hazardous waste, and greenhouse gas reduction.

16 44222. (a) Upon the request of an applicant for a project, the  
17 DTSC shall appoint an administrative liaison within DTSC to serve  
18 as the applicant's single point of contact with the DTSC with  
19 respect to the requirements of any permit or authorization required  
20 by Chapter 6.5 (commencing with Section 25100) of Division 20  
21 of the Health and Safety Code.

22 (b) The administrative liaison shall provide information to the  
23 applicant regarding the status of, and coordinate the review and  
24 decisionmaking process with respect to, the applications and  
25 permits required by DTSC for the project.

26 (c) DTSC shall provide all of the following to a project applicant  
27 for a permit or authorization required by Chapter 6.5 (commencing  
28 with Section 25100) of Division 20 of the Health and Safety Code:

29 (1) A consolidated project information form to collect the  
30 information required to complete all permits for the project.

31 (2) A method for tracking the progress of the permit application  
32 through the permitting process, including the identification of a  
33 staff person responsible for monitoring the permit progress.

34 (3) A process for determining whether the consolidated project  
35 information form is complete upon its submission.

36 (4) Timetables for action on the permit application.

37 (5) An expedited appeal process, to ensure fair treatment to the  
38 applicant, using existing agencies, staffs, commissions, or boards,  
39 where possible.

1 (d) The DTSC shall give the highest priority to a project for  
2 which, as of January 1, 2012, an applicant has submitted an  
3 application for a permit or authorization required by Chapter 6.5  
4 (~~commence~~ *commencing* with Section 25100) of Division 20 of  
5 the Health and Safety Code.

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AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 833

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Introduced by Senator Vargas  
(Coauthor: Assembly Member Hueso)

February 18, 2011

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An act to amend Section 44002 of ~~add Section 44000.6~~ to the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 833, as amended, Vargas. Solid waste: *disposal* facilities permit.: *San Diego County*.

The

(1) ~~The California Integrated Waste Management Act of 1989 regulates the management of solid waste. The act authorizes that the California Integrated Waste Management Board may designate and certify a local enforcement agency within each county to carry out specified powers and duties, and requires the board and certified local enforcement agencies to perform specified functions with regard to the regulation of solid waste management, including the issuance of solid waste facilities permits.~~

Existing law prohibits the operation of a solid waste facility without a solid waste facilities permit and ~~authorizes an enforcement agency to issue a solid waste facilities permit only if it determines that the permit application is consistent with the requirements of the act~~ *prohibits a person from disposing of solid waste, causing solid waste to be disposed of, arranging for the disposal of solid waste, transporting solid waste, or accepting solid waste for disposal, except at a permitted solid waste disposal facility. A violation of the provisions prohibiting the disposal of solid waste is a crime.*

~~This bill would additionally prohibit an enforcement agency from issuing a solid waste facilities permit, on or after January 1, 2012, if that permit would allow the disposal of solid waste within 500 feet of a river that supplies any aquifer that provides drinking water for more than 50,000 persons, or within 1,000 feet of a site considered to be sacred and of spiritual importance to a federally recognized Indian tribe. prohibit a person from constructing or operating a solid waste landfill disposal facility located in the County of San Diego if that disposal facility is located within 1,000 feet of the San Luis Rey River or an aquifer that is hydrologically connected to that river and is within 1,000 feet of a site that is considered sacred or of spiritual or cultural importance to a tribe and is listed in the California Native American Heritage Commission Sacred Lands Inventory.~~

*The bill would require the enforcement agency to enforce a violation of this prohibition by the immediate issuance of a cease and desist order, thereby imposing a state-mandated local program by imposing a new duty upon local agencies.*

*The bill would make a declaration of legislative findings regarding why a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.*

*Because a violation of this bill's requirements would be a crime, the bill would impose a state-mandated local program.*

*(2) 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 specified reasons.*

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

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

- 1 SECTION 1. Section 44000.6 is added to the Public Resources
- 2 Code, to read:
- 3 44000.6. (a) Notwithstanding any other provision of this
- 4 division, a person shall not construct or operate a solid waste
- 5 landfill disposal facility in the County of San Diego if that disposal
- 6 facility meets both of the following conditions:

1 (1) Any portion of the disposal facility is located on or within  
2 1,000 feet of the San Luis Rey River or an aquifer that is  
3 hydrologically connected to that river.

4 (2) The disposed facility is located on or within 1,000 feet of a  
5 site that is considered sacred or of spiritual or cultural importance  
6 to a tribe, as defined in Section 44201, and that is listed in the  
7 California Native American Heritage Commission Sacred Lands  
8 Inventory.

9 (b) This section does not apply to a permitted disposal facility  
10 at which solid waste was disposed of before January 1, 2012, or  
11 to the expansion of that facility.

12 (c) The enforcement agency shall enforce a violation of this  
13 section by the immediate issuance of a cease and desist order  
14 pursuant to Section 45005.

15 SEC. 2. The Legislature finds and declares that, due to the  
16 unique circumstances arising from a proposal to construct and  
17 operate a solid waste landfill that would be located adjacent to  
18 the San Luis Rey River and its drinking water supplies and to sites  
19 considered sacred by numerous Native American tribes, and given  
20 the unique relationship between the state government and tribal  
21 governments in the state, a statute of general applicability cannot  
22 be enacted within the meaning of subdivision (b) of Section 16 of  
23 Article IV of the California Constitution, and therefore this special  
24 statute is necessary.

25 SEC. 3. No reimbursement is required by this act pursuant to  
26 Section 6 of Article XIII B of the California Constitution because  
27 the costs may be incurred by a local agency or school district  
28 because this act creates a new crime or infraction, eliminates a  
29 crime or infraction, or changes the penalty for a crime or  
30 infraction, within the meaning of Section 17556 of the Government  
31 Code, or changes the definition of a crime within the meaning of  
32 Section 6 of Article XIII B of the California Constitution or because  
33 a local agency or school district has the authority to levy service  
34 charges, fees, or assessments sufficient to pay for the program or  
35 level of service mandated by this act, within the meaning of Section  
36 17556 of the Government Code.

37 SECTION 1. ~~Section 44002 of the Public Resources Code is~~  
38 ~~amended to read:~~

1     ~~44002. (a) (1) A person shall not operate a solid waste facility~~  
2 ~~without a solid waste facilities permit if that facility is required to~~  
3 ~~have a permit pursuant to this division.~~  
4     ~~(2) The prohibition specified in paragraph (1) includes, but is~~  
5 ~~not limited to, the operation of a solid waste facility without a~~  
6 ~~required solid waste facilities permit or the operation of a solid~~  
7 ~~waste facility outside the permitted boundaries specified in a solid~~  
8 ~~waste facilities permit.~~  
9     ~~(b) If the enforcement agency determines that a person is~~  
10 ~~operating a solid waste facility in violation of subdivision (a), the~~  
11 ~~enforcement agency shall immediately issue a cease and desist~~  
12 ~~order pursuant to Section 45005 ordering the facility to~~  
13 ~~immediately cease all activities for which a solid waste facilities~~  
14 ~~permit is required and desist from those activities until the person~~  
15 ~~obtains a valid solid waste facilities permit authorizing the activities~~  
16 ~~or has obtained other authorization pursuant to this division.~~  
17     ~~(c) Notwithstanding any other provision of this division, an~~  
18 ~~enforcement agency shall not issue a solid waste facilities permit,~~  
19 ~~on or after January 1, 2012, if that permit would allow the disposal~~  
20 ~~of solid waste within 500 feet of an aquifer that provides a source~~  
21 ~~of drinking water for more than 50,000 persons, or within 1,000~~  
22 ~~feet of a site considered to be sacred and of spiritual importance~~  
23 ~~to a federally recognized Indian tribe.~~



AMENDED IN SENATE MAY 12, 2011

AMENDED IN SENATE MAY 2, 2011

AMENDED IN SENATE MARCH 24, 2011

**SENATE BILL**

**No. 841**

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**Introduced by Senator Wolk**

February 18, 2011

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An act to add Section 40059.2 to the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 841, as amended, Wolk. Solid waste: enterprises: contracts.

The existing California Integrated Waste Management Act of 1989 allows each county, city, or district to determine aspects of solid waste handling that are of local concern and the means by which the services are to be provided. Existing law imposes specified restrictions on the enforceability of certain indemnity obligations related to source reduction and diversion contained in a provision, term, condition, or requirement in an ordinance, contract, franchise, license, permit, or other entitlement or right adopted, entered into, issued, or granted by a local agency. Existing law prohibits a solid waste enterprise, as defined, from being liable for the indemnity obligation under certain circumstances.

This bill would additionally prohibit the enforcement of an indemnity obligation that requires a solid waste enterprise to defend and hold harmless the local agency in connection with the local agency's imposition of fees, charges, levies, exactions, or assessments that are found by final judgment of a court to have been imposed in violation of Article XIII C or *Article XIII D* of the California Constitution or that

require a solid waste enterprise to refund certain fees *that are found by such a final judgment to have been imposed in violation of those provisions.*

The bill would *become operative on July 1, 2012, and would only apply to a provision, term, condition, or requirement contained in an ordinance, contract, franchise, license, permit, or other entitlement or right adopted, entered into, issued, or granted on or after ~~January~~ July 1, 2012.*

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

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

- 1 SECTION 1. Section 40059.2 is added to the Public Resources  
2 Code, to read:  
3 40059.2. (a) The Legislature hereby finds and declares all of  
4 the following:  
5 (1) In 1996, the voters of California adopted Proposition 218,  
6 which among other things, limits the ability of local agencies to  
7 impose certain property-related fees and assessments without prior  
8 property owner consent. In 2010, California voters passed  
9 Proposition 26, a further initiative that limits the ability of local  
10 agencies to impose fees, levies, charges, assessments, or other  
11 exactions without prior voter approval. These initiatives, among  
12 other things, amended Article XIII C and Article XIII D of the  
13 California Constitution.  
14 (2) The public policy objective of the Legislature in enacting  
15 this section is to ensure that those local agencies that require an  
16 indemnity obligation from solid waste enterprises, as a condition  
17 of providing solid waste handling services within the local agency's  
18 jurisdiction, retain their responsibility for complying with Article  
19 XIII C and Article XIII D of the California Constitution.  
20 (3) This section is not intended to address or to determine  
21 whether fees for solid waste handling services are fees imposed  
22 as an incident of property ownership or fees imposed for a  
23 property-related service, within the meaning of Section 2 of Article  
24 XIII D of the California Constitution.  
25 (b) For the purposes of this section, the following terms have  
26 the following meanings:

1 (1) "Indemnity obligation" means an indemnity obligation  
2 directly or indirectly related to the failure of a local agency to  
3 obtain voter or property owner approval of a fee, levy, charge,  
4 assessment, or other exaction, that may be required by Article  
5 XIII C or Article XIII D of the California Constitution, if that  
6 indemnity obligation is expressly assumed by, or imposed upon,  
7 the solid waste enterprise, including pursuant to ordinance,  
8 contract, franchise, license, permit, or other entitlement or right,  
9 for the benefit of the local agency.

10 (2) "Local agency" means a county, city, city and county,  
11 district, regional agency as defined in Section 40181, or other local  
12 government agency.

13 (c) An indemnity obligation that meets either of the following  
14 conditions is subject to subdivision (d):

15 (1) The indemnity obligation is authorized or required by a  
16 provision, term, condition, or requirement contained in an  
17 ordinance, contract, franchise, license, permit, or other entitlement  
18 or right adopted, entered into, issued, or granted, as the case may  
19 be, by a local agency for solid waste handling services, including  
20 the recycling, processing, or composting of solid waste.

21 (2) The indemnity obligation is authorized or required in a  
22 request for bids or proposals in connection with a contract or  
23 franchise specified in paragraph (1).

24 (d) Notwithstanding any provision, term, condition, or  
25 requirement, an indemnity obligation is null and void and is not  
26 enforceable if it does either of the following:

27 (1) Requires a solid waste enterprise to defend and hold harmless  
28 the local agency in connection with the local agency's imposition  
29 of fees, charges, levies, exactions, or assessments that are found  
30 by final judgment of a court to have been imposed in violation of  
31 Article XIII C or Article XIII D of the California Constitution.

32 (2) Requires a solid waste enterprise to refund fees to its  
33 customers, if the fees are collected on behalf of the local agency  
34 by the solid waste enterprise and have been remitted by the solid  
35 waste enterprise to the local agency *and if the fees are found by a*  
36 *final judgment of a court to have been imposed in violation of*  
37 *Article XIII C or Article XIII D of the California Constitution.*

38 (e) The provisions of this section are not subject to waiver, and  
39 any attempted waiver shall be null and void as against public  
40 policy.

- 1 (f) This section is not intended to do any of the following:
- 2 (1) Add to or expand the authority of local agencies to determine
- 3 aspects of solid waste collection and handling specified in Section
- 4 40059.
- 5 (2) Alter the authority of business entities to collect or process
- 6 materials that are not solid waste.
- 7 (3) Determine whether or not a fee, levy, assessment, or exaction
- 8 requires voter or property owner approval by Article XIII C or
- 9 Article XIII D of the California Constitution.
- 10 (g) This section shall only apply to a provision, term, condition,
- 11 or requirement contained in an ordinance, contract, franchise,
- 12 license, permit, or other entitlement or right adopted, entered into,
- 13 issued, or granted on or after ~~January~~ July 1, 2012.
- 14 (h) *This section shall become operative on July 1, 2012.*