

Complete Text of Selected Solid Waste Bills

- AB 1195 Torrico Recycling: used oil: payment
- AB 1860 Huffman Unsafe products: recall or warning
- AB 2347 Ruskin Mercury-added thermostats: collection program
- AB 2640 Huffman Solid waste: compostable organics management
- AB 2866 De Leon Solid waste: solid waste disposal
- SB 1016 Wiggins Diversion: annual reports
- SB 1020 Padilla Solid waste: diversion
- SB 1321 Correa School recycling programs

AMENDED IN SENATE FEBRUARY 4, 2008

AMENDED IN SENATE AUGUST 1, 2007

AMENDED IN SENATE JULY 17, 2007

AMENDED IN SENATE JUNE 28, 2007

AMENDED IN ASSEMBLY MAY 14, 2007

AMENDED IN ASSEMBLY APRIL 18, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1195

Introduced by Assembly Member Torrico
(Coauthor: Senator Lowenthal)

February 23, 2007

An act to add Section 25250.29 to the Health and Safety Code, and to amend Sections 48623, 48624, 48631, 48651, 48652, 48653, 48655, 48660.5, 48662, and 48670 of, and to add Sections 48619.5 and 48654 to, the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 1195, as amended, Torrico. Recycling: used oil: incentive payments.

(1) Existing law requires the California Integrated Waste Management Board (board) to adopt a used oil recycling program, which requires the board, among other things, to develop and implement an information and education program and to pay a recycling incentive to specified entities for the collection of used oil that is transported to a used oil

recycling facility. Existing law requires the used oil recycling facility that receives the used oil to either be certified by the board or to be an out-of-state recycling facility registered with the federal Environmental Protection Agency and operating in substantial compliance with the state in which the recycling facility is located. The board is required to certify a used oil recycling facility for which the board has received *an inspection* report from the department. Existing law also requires the payment of a recycling incentive to an electric utility for using used lubricating oil meeting specified requirements for electrical generation. Existing law requires the board to set a recycling incentive at not less than \$0.04 per quart and authorizes the board to set an amount higher than \$0.04 if the board determines a higher amount is necessary to promote the recycling of used lubricating oil.

This bill would additionally require the information and education program to promote methods to reduce the amount of used oil generated, and the use of re-refined oil, as defined, in automotive and industrial lubricants.

The bill would require that the used lubricating oil for which a recycling incentive is paid be transported to a used oil recycling facility that is certified by the board and recycles the oil to meet the standards for recycled oil. The board would be required to certify an out-of-state used oil recycling facility that is in substantial compliance with certain federal regulations related to the management of used oil. The bill would require an out-of-state facility seeking certification to submit an annual report to the board, under penalty of perjury, thereby imposing a state-mandated local program by creating a new crime. The bill would also repeal the provision regarding payment of the recycling incentive to an electric utility and would ~~instead prohibit the board from paying~~ *require the board to pay* a recycling incentive for any used oil that is burned or otherwise used for energy recovery ~~that does not meet only if the used oil meets~~ the purity standards for recycled oil. The bill would establish, as of January 1, 2013, a recycling incentive of no less than \$0.045 per quart for used oil recycled into re-refined lubricating oil.

The bill would require the report submitted, as a condition for the payment of a recycling incentive, to specify the receiving certified used oil recycling facility under penalty of perjury, if the used oil was consolidated at a used oil transfer facility, thereby imposing a state-mandated local program by creating a new crime.

The bill would require the board to provide increases to block grants to rural counties for local government sponsored used oil collection

efforts to cover the costs of testing or reduced availability of the recycling incentive caused by increases in regulatory expenses, if the public collection effort demonstrates to the board that it had incurred additional costs that could not have been avoided or lessened through the use of a commercially viable alternative transporter or recycling facility.

The bill would also make conforming changes to certain definitions.

(2) Existing law requires the board, upon the application of a certified used oil collection center or a curbside collection program, to reimburse the center or program for the additional disposal cost for used oil that is contaminated by hazardous materials in excess of that which generally occurs in normal use, which renders the used oil infeasible for recycling, and requires that the used oil be destroyed at a higher cost than the cost to recycle the used oil.

This bill would, additionally, provide reimbursement for an uncertified publicly funded used oil collection center in a small rural county.

(3) Existing law requires an entity that generates used industrial oil or a facility that accepts used oil to transport the used oil to a certified used oil facility or a registered out-of-state recycling facility.

This bill would require, *except as specified*, the used oil to be tested and analyzed by a laboratory accredited by the State Department of Public Health prior to shipment, to ensure the used oil meets specified criteria. The bill would require the registered hazardous waste transporter to accomplish the testing, unless the *transporter can demonstrate that testing and analysis is has been performed by the generator of the used oil, a transfer facility permitted by the Department of Toxic Substances Control, or a recycling facility permitted by that department or provide documentation that the testing will be performed by a transfer facility or a recycling facility issued a permit by the Department of Toxic Substances Control*. The registered hazardous waste transporter would be required to submit to the department annually a report containing specified information regarding the out-of-state shipment of used oil. Because a violation of the requirements on used oil is a crime, this bill would create a state-mandated local program.

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

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

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. Section 25250.29 is added to the Health and
2 Safety Code, to read:
3 ~~25250.29. (a) Before shipping of a load of used oil to a transfer~~
4 ~~facility, recycling facility, or facility located out of the state, the~~
5 ~~used oil shall be tested and analyzed by a laboratory accredited by~~
6 ~~the State Department of Public Health pursuant to Article 3~~
7 ~~(commencing with Section 100825) of Chapter 4 of Part 1 of~~
8 ~~Division 101, to ensure that the used oil meets all of the following~~
9 ~~characteristics:~~
- 10 (1) ~~A flashpoint above 100 degrees Fahrenheit.~~
11 (2) ~~A polychlorinated biphenyls (PCB) concentration of less~~
12 ~~than 5 ppm.~~
13 (3) ~~A concentration of total halogens of 1000 ppm or less, unless~~
14 ~~the presumption in subclause (I) of clause (v) of subparagraph (C)~~
15 ~~of paragraph (1) of subdivision (a) of Section 25250.1 has been~~
16 ~~rebutted pursuant to subclause (II) of clause (v) of subparagraph~~
17 ~~(C) of paragraph (1) of subdivision (a) of Section 25250.1.~~
- 18 (b) ~~The testing and analysis of a load required pursuant to~~
19 ~~subdivision (a) shall be accomplished by a registered hazardous~~
20 ~~waste transporter before shipment of the load to a transfer facility,~~
21 ~~recycling facility, or a facility located out of the state, except the~~
22 ~~transporter is not required to perform the testing and analysis if~~
23 ~~the transporter can demonstrate that testing and analysis has been,~~
24 ~~or will be, performed by one of the following:~~
- 25 (1) (A) ~~The generator of the used oil prior to shipment.~~
26 (B) ~~Subparagraph (A) does not require the generator of the used~~
27 ~~oil to perform the testing and analysis required by this section.~~
- 28 (2) ~~By a transfer facility permitted by the department pursuant~~
29 ~~to this chapter prior to, or after, consolidation in a tank, and prior~~
30 ~~to offsite shipment.~~
- 31 (3) ~~By a recycling facility permitted by the department pursuant~~
32 ~~to this chapter, prior to, or after consolidation in a tank, but prior~~
33 ~~to recycling.~~
- 34 (c) (1) ~~If the generator or transporter has not performed the~~
35 ~~testing required by this section, the transfer facility shall perform~~

1 the testing, unless the transfer facility can demonstrate that the
2 testing is performed by the recycling facility pursuant to paragraph
3 (3) of subdivision (b):

4 (2) A transporter shall not require a used oil collection center
5 to test tanks or containers that contain only used lubricating oil or
6 oil filters accepted from the public as a condition of accepting the
7 oil for shipment.

8 (d) This section does not exempt a recycling facility from
9 performing any other test required by the department, including,
10 but not limited to, a test required pursuant to the facility's waste
11 analysis plan.

12 (e) The department may adopt regulations establishing different
13 or additional testing and analysis standards for used oil transfer
14 facilities or used oil recycling facilities that are issued a permit by
15 the department.

16 (f) The person performing a test required by subdivision (a)
17 shall maintain records of tests performed for used oil for at least
18 three years and is subject to audit and verification by the
19 department.

20 (g) The registered hazardous waste transporter who is listed as
21 the transporter on the Uniform Hazardous Waste Manifest used
22 to ship used oil out of state shall submit a report, on or before
23 March 1 of each year, to the department, containing all of the
24 following information for the preceding year:

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

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

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

29 (4) Volume of used oil shipped out of state listed on each
30 manifest.

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

34 (6) Transporter name and EPA ID number used to transport
35 used oil out of the state.

36 (7) Signed certification that all used oil shipped out of the state
37 was analyzed and conformed to the requirements of subdivision
38 (a), including identification of the accredited laboratory utilized
39 to test and analyze the used oil shipments.

40 (8) Any other information that the department may require.

1 ~~(h) (1) This section does not apply to a load for shipment that~~
2 ~~consists exclusively of used lubricating oil accepted by a used oil~~
3 ~~collection center from the public.~~

4 ~~(2) This section does not require a generator to test used oil for~~
5 ~~dielectric oil derived from highly refined mineral oil used in oil~~
6 ~~filled electrical equipment. Nothing in this section exempts that~~
7 ~~oil from any other testing requirement required by another section~~
8 ~~of law.~~

9 ~~(3) This section does not prohibit the transportation of used oil~~
10 ~~to a facility located outside the state, or to impose liability other~~
11 ~~than compliance with the requirements in this section upon, or in~~
12 ~~any other way affect the liability of a generator whose used oil is~~
13 ~~transported to a facility located outside the state.~~

14 *25250.29. (a) Except as provided in paragraph (2) of*
15 *subdivision (b) and subdivision (g), before a load of used oil is*
16 *shipped to a transfer facility, recycling facility, or facility located*
17 *out of the state, the used oil shall be tested and analyzed by a*
18 *laboratory accredited by the State Department of Public Health*
19 *pursuant to Article 3 (commencing with Section 100825) of Chapter*
20 *4 of Part 1 of Division 101, to ensure that the used oil meets all*
21 *of the following characteristics:*

22 *(1) A flashpoint above 100 degrees Fahrenheit.*

23 *(2) A polychlorinated biphenyls (PCB) concentration of less*
24 *than 5 ppm.*

25 *(3) A concentration of total halogens of 1000 ppm or less, unless*
26 *the presumption in subclause (I) of clause (v) of subparagraph (C)*
27 *of paragraph (1) of subdivision (a) of Section 25250.1 has been*
28 *rebutted pursuant to subclause (II) of clause (v) of subparagraph*
29 *(C) of paragraph (1) of subdivision (a) of Section 25250.1.*

30 *(b) The testing and analysis required pursuant to subdivision*
31 *(a) shall be accomplished by a registered hazardous waste*
32 *transporter prior to acceptance at a transfer facility, recycling*
33 *facility, or shipment out of the state, except the transporter is not*
34 *required to perform the testing and analysis if the transporter can*
35 *do either of the following:*

36 *(1) (A) Demonstrate that testing and analysis has been*
37 *performed by the generator of the used oil prior to shipment.*

38 *(B) Subparagraph (A) does not require the generator of the*
39 *used oil to perform the testing and analysis required by this section.*

- 1 (2) *Provide documentation that the testing will be performed*
2 *by a transfer facility or a recycling facility issued a permit by the*
3 *department pursuant to this chapter.*
- 4 (c) (1) *A transporter shall not require a used oil collection*
5 *center to test tanks or containers that contain only used lubricating*
6 *oil or oil filters accepted from the public as a condition of*
7 *accepting the oil for shipment.*
- 8 (2) *A transporter shall not require a generator to test used oil*
9 *as a condition of accepting that used oil for shipment.*
- 10 (3) *Nothing in this subdivision is intended to alter a generator's*
11 *responsibility to comply with regulations adopted by the*
12 *department that govern the operation of a generator.*
- 13 (d) *This section does not affect or limit any testing requirement*
14 *that the department may impose on a used oil transfer facility or*
15 *used oil recycling facility as a condition of a permit issued by the*
16 *department, including, but not limited to, any test required pursuant*
17 *to a facility's waste analysis plan.*
- 18 (e) *The person performing a test required by subdivision (a)*
19 *shall maintain records of tests performed for used oil for at least*
20 *three years and is subject to audit and verification by the*
21 *department.*
- 22 (f) *The registered hazardous waste transporter who is listed as*
23 *the transporter on the Uniform Hazardous Waste Manifest used*
24 *to ship used oil out of state shall submit a report, on or before*
25 *March 1 of each year, to the department, containing all of the*
26 *following information for the preceding year:*
- 27 (1) *Total volume of used oil shipped out of state.*
- 28 (2) *Date of each shipment of used oil out of state.*
- 29 (3) *Uniform Hazardous Waste Manifest tracking number used*
30 *to ship used oil out of the state.*
- 31 (4) *Volume of used oil shipped out of state listed on each*
32 *manifest.*
- 33 (5) *Information pertaining to the out-of-state facility to which*
34 *the used oil was shipped, including the facility name, facility*
35 *address, and facility EPA ID number.*
- 36 (6) *Signed certification that all used oil shipped out of the state*
37 *was analyzed and conformed to the requirements of subdivision*
38 *(a), including identification of the accredited laboratory utilized*
39 *to test and analyze the used oil shipments.*
- 40 (7) *Any other information that the department may require.*

1 (g) (1) This section does not apply to a load for shipment that
2 consists exclusively of used lubricating oil accepted by a used oil
3 collection center from the public.

4 (2) This section does not require a generator to test used oil for
5 dielectric oil derived from highly refined mineral oil used in oil
6 filled electrical equipment. Nothing in this section exempts that
7 oil from any testing requirement required by any other section of
8 law.

9 (3) This section does not prohibit the transportation of used oil
10 to a facility located outside the state, or impose liability other than
11 compliance with the requirements of this section upon, or in any
12 other way affect the liability of, a generator whose used oil is
13 transported to a facility located outside the state.

14 SEC. 2. Section 48619.5 is added to the Public Resources Code,
15 to read:

16 48619.5. "Re-refined oil" means ~~used oil that, after blending~~
17 ~~with necessary additives and correction stock, passes testing in a~~
18 ~~qualified engine testing facility and meets, at a minimum, the~~
19 ~~requirements established by the American Petroleum Institute and~~
20 ~~the International Lubricant Standard Approval Committee for a~~
21 ~~10W-30 GF-IV passenger car motor oil; a lubricant base stock or~~
22 ~~oil base that has been derived from used oil and meets all the~~
23 ~~following criteria:~~

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

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

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

33 SEC. 3. Section 48623 of the Public Resources Code is
34 amended to read:

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

1 SEC. 4. Section 48624 of the Public Resources Code is
2 amended to read:

3 48624. "Used oil recycling facility" means a facility that
4 produces recycled oil, as defined in Section 25250.1 of the Health
5 and Safety Code, and is eligible for certification pursuant to Section
6 48662.

7 SEC. 5. Section 48631 of the Public Resources Code is
8 amended to read:

9 48631. The used oil recycling program shall include, but is not
10 limited to, the following:

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

13 (b) Grants or loans, as specified in Section 48632.

14 (c) Development and implementation of an information and
15 education program to promote alternatives to the illegal disposal
16 of used oil, methods to reduce the amount of used oil generated,
17 and the use of re-refined oil in automotive and industrial lubricants.

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

21 SEC. 6. Section 48651 of the Public Resources Code is
22 amended to read:

23 48651. (a) The board shall pay a recycling incentive to every
24 industrial generator, curbside collection program, and certified
25 used oil collection center, for used lubricating oil collected from
26 the public, or generated by the certified used oil collection center
27 or the industrial generator, and transported by a used oil hauler to
28 a used oil recycling facility certified in accordance with Section
29 48662 that recycles the oil to meet the standards for recycled oil,
30 as defined in Section 25250.1 of the Health and Safety Code.

31 (b) A person or entity that generates used industrial oil or a used
32 oil storage facility or a used oil transfer facility that accepts used
33 oil shall cause that oil to be transported by a used oil hauler to a
34 certified used oil recycling facility or an out-of-state recycling
35 facility operating in substantial compliance with Part 279 of Title
36 40 of the Code of Federal Regulations and with applicable
37 regulatory standards of the state in which the recycling facility is
38 located.

39 (c) The board shall ~~not~~ pay a recycling incentive pursuant to
40 subdivision (a) for any used oil that is burned or otherwise used

1 for energy recovery ~~and that does not meet~~ *only if the used oil*
2 *meets* the purity standards for recycled oil specified in subparagraph
3 (B) of paragraph (3) of subdivision (a) of Section 25250.1 of the
4 Health and Safety Code.

5 SEC. 7. Section 48652 of the Public Resources Code is
6 amended to read:

7 48652. The board shall set the recycling incentive amount at
8 not less than four cents (\$0.04) per quart. The amount may be set
9 at an amount higher than four cents (\$0.04) if the board determines
10 that a higher amount is necessary to promote recycling of used
11 lubricating oil and sufficient funds are available in the fund. On
12 and after January 1, 2013, the recycling incentive shall be no less
13 than four and one-half cents (\$0.045) per quart of used oil recycled
14 into re-refined lubricating oil as defined in Section 48619.5. The
15 board shall not change the amount of the recycling incentive until
16 at least one year has passed since the amount was last set. The
17 board shall continue providing recycling incentives to certified
18 used oil collection centers at the previous rate for one month after
19 setting the recycling incentive at a different rate. The board shall
20 not raise the recycling incentive amount unless it finds that the
21 raise will not adversely affect funding required pursuant to Sections
22 48631, 48653, and 48660.5.

23 SEC. 8. Section 48653 of the Public Resources Code is
24 amended to read:

25 48653. The board shall deposit all amounts paid pursuant to
26 Section 48650 by manufacturers, civil penalties, or fines paid
27 pursuant to this chapter, and all other revenues received pursuant
28 to this chapter into the California Used Oil Recycling Fund, which
29 is hereby created in the State Treasury. Notwithstanding Section
30 13340 of the Government Code, the money in the fund is to be
31 appropriated solely as follows:

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

- 34 (1) To pay recycling incentives pursuant to Section 48651.
- 35 (2) To provide a reserve for contingencies, as may be available
36 after making other payments required by this section, in an amount
37 not to exceed one million dollars (\$1,000,000).
- 38 (3) To make block grants for the implementation of local used
39 oil collection programs adopted pursuant to Article 10
40 (commencing with Section 48690) to cities, based on the city's

1 population, and counties, based on the population of the
2 unincorporated area of the county, in a total annual amount equal
3 to ten million dollars (\$10,000,000) or half of the amount which
4 remains in the fund after the expenditures are made pursuant to
5 paragraphs (1) to (3), inclusive, and subdivision (b), whichever
6 amount is greater, multiplied by the fraction equal to the population
7 of cities and counties which are eligible for block grants pursuant
8 to Section 48690, divided by the population of the state. The board
9 shall use the latest population estimates of the state generated by
10 the Population Research Unit of the Department of Finance in
11 making the calculations required by this paragraph.

12 (4) For expenditures pursuant to Section 48656.

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

17 (c) The money in the fund may be transferred to the Farm and
18 Ranch Solid Waste Cleanup and Abatement Account in the General
19 Fund, upon appropriation by the Legislature in the annual Budget
20 Act, to pay the costs associated with implementing and operating
21 the Farm and Ranch Solid Waste Cleanup and Abatement Grant
22 Program established pursuant to Chapter 2.5 (commencing with
23 Section 48100).

24 (d) Appropriations to the board to pay the costs necessary to
25 administer this chapter, including implementation of the reporting,
26 monitoring, and enforcement program pursuant to subdivision (d)
27 of Section 48631, shall not exceed three million dollars
28 (\$3,000,000) annually.

29 (e) The Legislature hereby finds and declares its intent that the
30 sum of three hundred fifty thousand dollars (\$350,000) should be
31 annually appropriated from the California Used Oil Recycling
32 Fund in the annual Budget Act to the board, commencing with
33 fiscal year 1996-97, for the purposes of Section 48655.

34 SEC. 9. Section 48654 is added to the Public Resources Code,
35 to read:

36 48654. (a) It is the intent of the Legislature in enacting this
37 chapter that local government sponsored used motor oil collection
38 programs in rural counties continue to operate and be funded to
39 maintain or expand their existing collection efforts. As such,
40 funding should be increased according to increased costs due to

1 the imposition of new requirements under this chapter enacted in
2 Assembly Bill 1195 of the 2007–08 Regular Session of the
3 Legislature.

4 (b) (1) The board shall provide increases to block grants to
5 rural counties for local government sponsored collection efforts
6 to cover additional costs of testing or reduced availability of the
7 recycling incentive caused by increased regulatory expenses
8 pursuant to changes to Section 25250.29 of the Health and Safety
9 Code, and Sections 48619.19, 48623, 48631, 48632, 48633, 48651,
10 48662, and 48670 enacted in Assembly Bill 1195 of the 2007–08
11 Regular Session of the Legislature.

12 (2) To qualify for the increases, the public collection effort shall
13 demonstrate to the board that it had incurred additional costs and
14 that these costs could not have been avoided or lessened through
15 the use of a commercially viable alternative transporter or recycling
16 facilities that are in compliance with this chapter.

17 (c) The increases to block grants provided by this section shall
18 have the same funding priority as the block grants provided
19 pursuant to paragraph (3) of subdivision (a) of Section 48653.

20 SEC. 10. Section 48655 of the Public Resources Code is
21 amended to read:

22 48655. The board may enter into a contract with the department
23 that will utilize the resources of the department to provide for
24 greater investigation and enforcement efforts for used lubricating
25 oil transporter, handling and storage, and transfer facility
26 operations. The department shall assist the board in developing
27 the used oil program and providing assistance to local governments
28 in removing barriers to the establishment of used oil collection
29 programs.

30 SEC. 11. Section 48660.5 of the Public Resources Code is
31 amended to read:

32 48660.5. (a) If the board finds that a shipment of used oil from
33 a certified used oil collection center or a curbside collection
34 program or an uncertified publicly funded used oil collection center
35 in a small rural county is contaminated by hazardous materials in
36 excess of that which generally occurs in normal use, which renders
37 the used oil infeasible for recycling, and requires that the used oil
38 be destroyed at a substantially higher cost than the cost generally
39 to recycle used oil, the board shall, upon application by the used
40 oil collection center or curbside collection program, reimburse the

1 center or program for the additional disposal cost, subject to the
2 eligibility requirements of subdivision (b), except as provided in
3 subdivision (c).

4 (b) A used oil collection center or curbside collection program
5 is eligible for reimbursement only if it demonstrates to the
6 satisfaction of the board all of the following:

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

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

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

25 SEC. 12. Section 48662 of the Public Resources Code is
26 amended to read:

27 48662. The board shall certify or recertify a used oil recycling
28 facility that meets either of the following requirements:

29 (a) (1) The used oil recycling facility is located in this state and
30 the board has received a report from the department pursuant to
31 Section 48661, unless the board determines that the facility is
32 engaged in a repeating or recurring pattern of noncompliance that
33 poses a significant threat to public health and safety or the
34 environment.

35 (2) If the board denies certification to a facility subject to this
36 subdivision the board may subsequently certify the facility if it
37 determines that the facility meets the standards for certification.

38 (b) (1) The used oil recycling facility is an out-of-state facility
39 and the board receives a report from the department that the
40 out-of-state facility has demonstrated to the satisfaction of the

1 department that the facility substantially meets the requirements
2 set forth in Part 279 of Title 40 of the Code of Federal Regulations.

3 (2) An out-of-state used oil facility that seeks certification shall
4 annually certify, in writing to the board, conformance with the
5 standards specified in paragraph (1), under penalty of perjury.

6 SEC. 13. Section 48670 of the Public Resources Code is
7 amended to read:

8 48670. (a) To be eligible for payment of a recycling incentive,
9 an industrial generator of used lubricating oil, a used oil collection
10 center, or a curbside collection program shall report to the board,
11 for each quarter, the amount of lubricating oil purchased and the
12 amount of used lubricating oil that is transported to a used oil
13 recycling facility that is certified pursuant to Section 48662, to a
14 used oil storage facility, or to a used oil transfer facility.

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

19 (2) The copies of manifests or modified manifest receipts
20 required by paragraph (1) shall be signed by the generator of the
21 used oil and shall specify the receiving used oil recycling facility
22 that is certified by the board pursuant to Section 48662.

23 (3) If the used oil was consolidated at a used oil transfer facility,
24 the report shall also include a written certification, under penalty
25 of perjury, provided by the used oil transfer facility, specifying
26 the certified used oil recycling facility that received the oil.

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

34 SEC. 14. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 the only costs that may be incurred by a local agency or school
37 district will be incurred because this act creates a new crime or
38 infraction, eliminates a crime or infraction, or changes the penalty
39 for a crime or infraction, within the meaning of Section 17556 of
40 the Government Code, or changes the definition of a crime within

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

O

ASSEMBLY BILL

No. 1860

**Introduced by Assembly Member Huffman
(Coauthors: Assembly Members Feuer and Ma)
(Coauthor: Senator Migden)**

January 30, 2008

An act to add Chapter 2 (commencing with Section 108040) to Part 3 of Division 104 of, and to repeal the heading of Chapter 2 of Part 3 of Division 104 of, the Health and Safety Code, relating to product safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 1860, as introduced, Huffman. Unsafe products: recall or warning.

Existing federal law authorizes the United States Consumer Product Safety Commission to establish and enforce product safety standards that it finds necessary to protect against unreasonable risk of injury. Once the commission staff determines a product violates a specific statute or regulation, the staff notifies the responsible manufacturer, importer, distributor, or retailer, and assists the responsible firm with the development and implementation of a remedial repair, replacement, or refund program, also known as a recall.

Existing state law provides for the establishment and enforcement of various product safety standards for consumer products, including, among others, requiring specified warning labels for water heaters, and prohibiting the sale of contaminated toys and lead-tainted tableware.

Existing state law prohibits the manufacture, production, preparation, compounding, packing, selling, offering for sale, or keeping for sale within the State of California, or the introduction into this state, of a misbranded hazardous substance or banned hazardous substance. Any

violation of this provision is punishable as a misdemeanor. Existing law requires the manufacturer, distributor, or retailer of any banned hazardous substance to repurchase the article or substance from the person to whom it was sold, and to refund the purchase price paid.

This bill would prohibit a commercial dealer, manufacturer, importer, distributor, wholesaler, or retailer from knowingly manufacturing, remanufacturing, retrofitting, distributing, selling at wholesale or retail, contracting to sell or resell, leasing, or subletting, or otherwise placing into the stream of commerce, a product that is unsafe, as specified. The bill would provide for an unsafe product to be retrofitted, and would permit the sale of the retrofitted product if accompanied by a specified notice.

The bill would require a commercial dealer, manufacturer, importer, distributor, or wholesaler that has placed into the stream of commerce a product for which a recall or warning has subsequently been issued to initiate specified steps within 24 hours after issuing or receiving the recall notice or warning, including contacting all of its customers, other than end consumers, to whom it sold, leased, sublet, or transferred that particular product, and posting prominently on its Web site a link to recall or warning information that contains the specific recall notice or warning that was issued for the product in question and other specified information.

The bill would require the manufacturer of the product to provide for the safe return of the product to the manufacturer at no cost to the end consumer or retailer, and would require the manufacturer to properly dispose of the product and not export the product, or permit it to be exported, for disposal in a manner that poses a significant risk to the public health or the environment. The bill would require the manufacturer to prepare and, at the request of the Department of Toxic Substances Control, submit within 28 days of the date of the request, technical documentation or other information showing that the manufacturer complied with these requirements. The bill would impose additional requirements upon retailers of products determined to be unsafe, including removing the product from the shelves of its stores or programming its registers to ensure that the item cannot be sold, within 3 days after receiving the recall notice or warning of the unsafe product.

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 heading of Chapter 2 of Part 3 of Division
2 104 of the Health and Safety Code is repealed.

3
4 ~~CHAPTER 2. POWERS AND DUTIES (RESERVED)~~

5
6 SEC. 2. Chapter 2 (commencing with Section 108040) is added
7 to Part 3 of Division 104 of the Health and Safety Code, to read:

8
9 CHAPTER 2. PRODUCT RECALL SAFETY AND PROTECTION ACT

10
11 108040. This chapter shall be known, and may be cited, as the
12 Product Recall Safety and Protection Act.

13 108042. As used in this chapter, the following terms have the
14 following meanings:

15 (a) "Commercial dealer" means any person who deals in
16 products or who otherwise by his or her occupation holds himself
17 or herself out as having knowledge or skill peculiar to products,
18 or any person who is in the business of remanufacturing,
19 retrofitting, selling, leasing, subletting, or otherwise placing into
20 the stream of commerce, a product.

21 (b) "Distributor" and "wholesaler" means any person, other
22 than a manufacturer or retailer, who sells or resells, or otherwise
23 places into the stream of commerce, a product.

24 (c) "End consumer" means a person who purchases a product
25 for any purpose other than resale.

26 (d) "First seller" means any retailer selling a product that has
27 not been used or has not previously been owned. A first seller does
28 not include an entity such as a second-hand retail dealer, thrift
29 shop, resale store, or any other establishment or individual, agent,
30 or employee thereof that sells, distributes, rents, or leases products
31 of any kind.

32 (e) "Importer" means any person who brings into this country,
33 and places into the stream of commerce, a product.

34 (f) "Manufacturer" means any person who makes, and places
35 into the stream of commerce, a product.

36 (g) "Person" means a natural person, firm, corporation, limited
37 liability company, or association, or an employee or agent thereof.

1 (h) "Product" means an item that is designed or intended for
2 use by the general population or segments of the general
3 population. "Product" does not include any medication, drug, or
4 food, or other item intended to be ingested.

5 (i) "Recall" means any repair, replacement, or refund program
6 implemented in accordance with state or federal law upon a
7 determination that a product violates a statute or regulation, and
8 notification to the product manufacturer, importer, distributor, or
9 retailer that corrective action to address the violation is warranted.

10 (j) "Retailer" means any person other than a manufacturer,
11 distributor, or wholesaler who sells, distributes, sublets, or leases
12 consumer goods of any kind.

13 (k) "Sell" or "sale" means a transfer for consideration of title
14 or of the right to use, by lease or sales contract, including, but not
15 limited to, transactions conducted through sales outlets, catalogs,
16 or the Internet or any other, similar electronic means.

17 108044. (a) No commercial dealer, manufacturer, importer,
18 distributor, wholesaler, or retailer shall knowingly manufacture,
19 remanufacture, retrofit, distribute, sell at wholesale or retail,
20 contract to sell or resell, lease, or sublet, or otherwise place into
21 the stream of commerce, a product that is unsafe.

22 (b) A product shall be deemed unsafe for purposes of this
23 chapter only if it meets one or more of the following criteria:

24 (1) The product does not conform to state and federal laws and
25 regulations setting forth standards for the product.

26 (2) The product has been recalled for any reason, or it has been
27 recalled in cooperation with an agency of the federal government
28 or the product's commercial dealer, manufacturer, importer,
29 distributor, or wholesaler, and the recall has not been rescinded.

30 (3) A state or federal agency, or the product's commercial dealer,
31 manufacturer, importer, distributor, or wholesaler, has issued a
32 warning that the intended use of a specific product constitutes a
33 safety hazard, and the warning has not been rescinded.

34 (c) (1) An unsafe product, as determined pursuant to subdivision
35 (b), may be retrofitted if the retrofit has been approved by the
36 agency issuing the recall or warning, or the agency responsible for
37 approving the retrofit if it is different from the agency issuing the
38 recall or warning.

1 (2) A retrofitted product may be sold if it is accompanied at the
2 time of sale by a notice declaring that it is safe to use. The notice
3 shall include all of the following:

4 (A) A description of the original problem that made the recalled
5 product unsafe.

6 (B) A description of the retrofit that explains how the original
7 problem was eliminated and declaring that it is now safe to use.

8 (C) The name and address of the commercial dealer,
9 manufacturer, importer, distributor, or wholesaler who
10 accomplished the retrofit, certifying that the work was done, along
11 with the name and model number of the product retrofitted.

12 (3) The commercial dealer, manufacturer, importer, distributor,
13 or wholesaler is responsible for ensuring that the notice described
14 in paragraph (2) is present with the retrofitted product at the time
15 of sale. This paragraph and paragraph (2) shall not apply if either
16 subparagraph (A) or (B) applies:

17 (A) The retrofit meets all of the following:

18 (i) The product requires assembly by the consumer.

19 (ii) The retrofit kit is provided with the product by the
20 commercial dealer, manufacturer, importer, distributor, or
21 wholesaler.

22 (iii) The retrofit kit is accompanied at the time of sale by
23 instructions explaining how to apply the retrofit.

24 (B) The seller of a previously unsold product accomplishes the
25 approved or recommended repair prior to sale.

26 108046. (a) A commercial dealer, manufacturer, importer,
27 distributor, or wholesaler that has placed into the stream of
28 commerce any product for which a recall or warning has
29 subsequently been issued, shall initiate the following steps within
30 24 hours after issuing or receiving the recall notice or warning:

31 (1) Contact all of its customers, other than end consumers, to
32 whom it sold, leased, sublet, or transferred that particular product.
33 The contact shall be made to a person designated for that product
34 by the customer and shall include a copy of the recall notice or
35 warning.

36 (2) If the commercial dealer, manufacturer, importer, distributor,
37 or wholesaler maintains a Web site, the entity shall place
38 prominently on the home page or first point of entry of its Web
39 site, a link to recall or warning information that contains the
40 specific recall notice or warning that was issued for the product

1 in question. The recall or warning information shall include a
2 description of the product, the reason for the recall or warning, a
3 picture of the product, and instructions on how to participate in
4 the recall or warning. The information shall include only the
5 product recall or warning information and shall not include sales
6 or marketing information on that product or any other product,
7 excluding return and exchange policies. The recall or warning
8 information shall permit participation in the recall or warning
9 through the Web site of the commercial dealer, manufacturer,
10 importer, distributor, or wholesaler.

11 (3) If the commercial dealer, manufacturer, importer, distributor,
12 or wholesaler sold directly to an end consumer, and the consumer
13 provided either a shipping address or e-mail address at the time of
14 sale or that consumer contact information is otherwise on file, then
15 the commercial dealer, manufacturer, importer, distributor, or
16 wholesaler shall send a notice of the recall or warning to the
17 consumer at each of those addresses. The notice shall include a
18 description of the product, the reason for the recall or warning, a
19 picture of the product, and instructions on how to participate in
20 the recall or warning. The notice shall include only the product
21 recall or warning information and shall not include sales or
22 marketing information on that product or any other product,
23 excluding return and exchange policies.

24 (b) (1) The manufacturer of the product shall provide for the
25 safe return of the product to the manufacturer at no cost to the end
26 consumer or retailer.

27 (2) The manufacturer shall properly dispose of the product in
28 a manner that is in compliance with all applicable federal, state,
29 and local laws, regulations, and ordinances, and shall not export
30 the product, or permit it to be exported, for disposal in a manner
31 that poses a significant risk to the public health or the environment.

32 (3) The manufacturer shall prepare and, at the request of the
33 Department of Toxic Substances Control, submit within 28 days
34 of the date of the request, technical documentation or other
35 information showing that the manufacturer complied with
36 paragraphs (1) and (2).

37 (c) If a retailer receives notice of a recall or warning regarding
38 a product from a commercial dealer, manufacturer, importer,
39 distributor, wholesaler, or state or federal agency, and if the retailer

1 at any time offered the product for sale, then the retailer shall do
2 the following:

3 (1) Within three days after receiving the notice or warning by
4 the person designated by the retailer, the retailer shall remove the
5 product from the shelves of its stores or program its registers to
6 ensure that the item cannot be sold.

7 (2) If the product was sold through the retailer's Web site, then
8 within three days after receiving the notice or warning by the
9 person designated by the retailer, the retailer shall remove the
10 product from the Web site or remove the ability to purchase the
11 product through the Web site.

12 (3) If an e-mail or shipping address was provided at the time of
13 purchasing a product on the retailer's Web site for which a recall
14 or warning was subsequently issued, or if the retailer otherwise
15 has the purchaser's contact information on file, the retailer shall
16 contact the purchaser and send the recall notice or warning
17 information to each of those addresses. The recall notice or warning
18 information shall include a description of the product, the reason
19 for the recall or warning, a picture of the product, and instructions
20 on how to participate in the recall or warning. The information
21 shall include only the product recall or warning information and
22 shall not include sales or marketing information on that product
23 or any other product, excluding return and exchange policies. The
24 retailer shall comply with this paragraph within 30 days of
25 receiving the notice of the recall or warning.

26 (4) Within three days after receiving the recall notice or warning
27 by the person designated by the retailer, the retailer shall post in
28 a prominent location in each retail store the recall notice or
29 warning. The notice or warning shall remain posted for at least
30 120 days.

31 (5) If the product for which a recall or warning was issued was
32 sold on the retailer's Web site, the retailer shall within three days
33 after receiving the recall notice or warning by the person designated
34 by the retailer, post on the home page or first point of entry of its
35 Web site a link to recall or warning information that contains the
36 specific recall notice or warning that was issued for the product
37 in question. The recall or warning information shall include a
38 description of the product, the reason for the recall or warning, a
39 picture of the product, if one was provided, and instructions on
40 how to participate in the recall or warning. The information shall

1 include only the product recall or warning information and shall
2 not include sales or marketing information on that product or any
3 other product, excluding return and exchange policies.

4 (6) A retailer who is not a first seller shall comply with this
5 subdivision, except that the retailer has five days to comply with
6 paragraphs (1) and (2).

7 (7) A retailer who is a first seller shall accept any recalled
8 product for the purpose of returning it to the manufacturer or
9 distributor.

10 (d) A commercial dealer, manufacturer, importer, wholesaler,
11 or distributor who is also a retailer shall comply with subdivisions
12 (a), (b), and (c), as applicable.

13 108048. Nothing in this chapter relieves a commercial dealer,
14 manufacturer, importer, distributor, wholesaler, or retailer from
15 compliance with stricter requirements that may be imposed by an
16 agency of the federal government.

ASSEMBLY BILL

No. 2347

Introduced by Assembly Member Ruskin

February 21, 2008

An act to add Article 10.2.2 (commencing with Section 25214.8.10) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2347, as introduced, Ruskin. Mercury-added thermostats: collection program.

(1) Existing law prohibits, on and after January 1, 2006, a person from selling, offering to sell, or distributing for promotional purposes, in this state, a mercury-added thermostat, as defined, unless the mercury-added thermostat meets specified criteria. A violation of the hazardous waste control laws is a crime.

This bill would enact the Mercury Thermostat Collection Act of 2008 and would require a manufacturer, on and after January 1, 2010, that sold mercury-added thermostats in this state before January 1, 2006, and that sells thermostats in this state on and after January 1, 2009, to establish and maintain a collection and recycling program for out-of-service mercury-added thermostats.

The bill would require a collection and recycling program for out-of-service mercury-added thermostats to meet certain requirements, including developing educational and outreach materials, providing adequate incentives and education to contractors, service technicians, and homeowners to encourage return of thermostats to established recycling collection points and, on and after January 31, 2010, and by

January 31 annually thereafter, publishing specified information on an Internet Web site.

The bill would require a seller, on and after January 1, 2010, that has a physical location in the state, to act as a collection site for out-of-service mercury-added thermostats, and would require a seller on and after that date that distributes new thermostats by mail to buyers in the state to include a prepaid mail-in package with the new thermostat. A seller would also be required, on and after January 1, 2010, to distribute to its customers the educational and outreach materials developed by the program.

Because a violation of the act's requirements would be a crime, the bill would impose a state-mandated local program by creating new crimes.

(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 10.2.2 (commencing with Section
2 25214.8.10) is added to Chapter 6.5 of Division 20 of the Health
3 and Safety Code, to read:

4
5 Article 10.2.2. Mercury Thermostat Collection Act of 2008
6

7 25214.8.10. (a) The Legislature finds and declares all of the
8 following:

9 (1) Mercury that is released into the atmosphere can be
10 transported long distances and deposited in aquatic ecosystems,
11 where it is methylated to methylmercury, the organic and most
12 toxic form of mercury.

13 (2) Methylmercury bioaccumulates and biomagnifies in animals,
14 including fish and humans.

15 (3) The March 2007 report of the Office of Environmental
16 Health Hazard Assessment stated that fish consumption advisories
17 exist in about 40 states, including, within California, for the San

1 Francisco Bay and delta, Tomales Bay, and eight other county
2 water bodies, and more locations may be included as more fish
3 and water bodies are tested.

4 (4) Methylmercury is a known neurotoxin to which the human
5 fetus is very sensitive.

6 (5) The federal Centers for Disease Control and Prevention
7 estimate that between 300,000 and 630,000 infants are born in the
8 United States each year with mercury levels that are associated,
9 at later ages, with the loss of IQ.

10 (6) New evidence indicates that methylmercury exposure may
11 increase the risk of cardiovascular disease in humans, especially
12 adult men.

13 (7) According to a 2004 study by the federal Environmental
14 Protection Agency, more than 10 percent of the estimated mercury
15 reservoir still currently in use in the United States resides in
16 mercury-added thermostats.

17 (8) Decreases in local and regional sources of mercury emissions
18 have been shown to lead to decreases in mercury levels in fish and
19 wildlife.

20 (9) As of January 1, 2006, state law banned the sale of new
21 mercury-added thermostats for most uses, but the long lifetime of
22 thermostats means that many of them are still in use.

23 (10) State law bans the disposal of mercury-added thermostats
24 in solid waste landfills, but a performance-based and accountable
25 system for collecting and recycling out-of-service mercury-added
26 thermostats has not been established.

27 (11) In 1998, the largest thermostat makers, General Electric,
28 Honeywell, and White Rodgers, established the Thermostat
29 Recycling Corporation (TRC) to implement a program for
30 collecting used mercury-added thermostats. Under the TRC
31 program, thermostat wholesalers and contractors, as well as
32 household hazardous waste facilities, volunteer to collect
33 thermostats from heating, ventilating, and air-conditioning
34 contractors, and the general public.

35 (12) Currently, less than 5 percent of the mercury-added
36 thermostats removed from buildings in the state are turned in to
37 the TRC collection program.

38 (13) The California Integrated Waste Management Board, on
39 September 18, 2007, adopted an Overall Framework for an
40 Extended Producer Responsibility System for California, that states

1 that producers that historically manufactured and sold
2 mercury-added thermostats in California before 2006 have a
3 responsibility to collect out-of-service mercury thermostats and
4 ensure that they are properly handled and recycled.

5 (b) This article shall be known, and may be cited, as the
6 “Mercury Thermostat Collection Act of 2008.”

7 25214.8.11. For purposes of this article, the following
8 definitions shall apply:

9 (a) “Manufacturer” means a business concern that sold
10 mercury-added thermostats in this state before January 1, 2006,
11 that were made by the business concern, and that sells thermostats
12 in this state that are made by that business concern, on and after
13 January 1, 2009, that are not mercury-added thermostats.

14 (b) “Mercury-added thermostat” has the same meaning as
15 defined in paragraph (2) of subdivision (b) of Section 25214.8.1.

16 (c) “Out-of-service mercury added thermostat” means a
17 mercury-added thermostat that is removed from a building or
18 facility in this state and is intended to be discarded.

19 (d) “Seller” means a person who sells thermostats of any kind
20 directly to a contractor, or a homeowner, or other nonprofessional
21 through a selling or distribution mechanism, including, but not
22 limited to, a sale using catalogs or the Internet.

23 (e) (1) “Thermostat” means a product or device that uses a
24 switch to sense and control room temperature through
25 communication with heating, ventilating, or air-conditioning
26 equipment. “Thermostat” includes a thermostat used to sense and
27 control room temperature in residential, commercial, industrial,
28 and other buildings, but does not include a thermostat used to sense
29 and control temperature as part of a manufacturing process.

30 (2) “New thermostat” means a thermostat sold or offered for
31 sale on and after January 1, 2009.

32 25214.8.12. On and after January 1, 2010, a manufacturer shall
33 establish and maintain a collection and recycling program for
34 out-of-service mercury-added thermostats in compliance with this
35 article. A manufacturer may establish a collection and recycling
36 program individually or collectively with other manufacturers, but
37 the program shall meet all of the requirements of Section
38 25214.8.13.

1 25214.8.13. A collection and recycling program for
2 out-of-service mercury-added thermostats shall meet all of the
3 following requirements:

4 (a) The mercury-added thermostats collected by the program
5 are collected, handled, and recycled in compliance with this chapter
6 and the regulations adopted pursuant to this chapter.

7 (b) The program provides authorized recycling bins for
8 mercury-added thermostat collection to all sellers at no cost.

9 (c) On and after January 1, 2010, the program makes available
10 authorized recycling bins at no cost for mercury-added thermostat
11 collection to a local agency that requests a bin for mercury-added
12 thermostat collection for use at a household hazardous waste
13 collection facility or event.

14 (d) The program either collects the recycling bins provided
15 pursuant to subdivisions (b) and (c) when they are full, or pays for
16 the costs of shipping the recycling bins to an authorized mercury
17 recycler.

18 (e) The program develops educational and other outreach
19 materials aimed at contractors and homeowners, and makes those
20 materials available to sellers and household hazardous waste
21 programs. These materials may include, but are not limited to, one
22 or more of the following:

23 (1) Signage that is prominently displayed and easily visible to
24 the consumer.

25 (2) Written materials provided to the consumer at the time of
26 purchase, delivery, or both purchase and delivery of a thermostat.

27 (3) References to the recycling opportunity in advertising or
28 other promotional materials, or both.

29 (4) Direct communications with the consumer at the time of
30 purchase.

31 (f) The program provides adequate incentives and education to
32 contractors, service technicians, and homeowners to encourage
33 return of thermostats to established recycling collection points.

34 (g) The program encourages the purchase of thermostats that
35 qualify for the Energy Star program of the federal Environmental
36 Protection Agency, as replacements for mercury-added thermostats.

37 (h) The program includes mechanisms to protect against the
38 fraudulent return of thermostats.

1 (i) On and after January 31, 2010, and by January 31 annually
2 thereafter, the program publishes on an Internet Web site
3 information that includes all of the following:

4 (1) The number of mercury-added thermostats collected and
5 recycled by the program pursuant to this article during the previous
6 calendar year.

7 (2) The estimated total amount of mercury contained in the
8 thermostat components collected by the program pursuant to this
9 article.

10 (3) An evaluation of the effectiveness of the program.

11 (4) An accounting of the administrative costs incurred in the
12 course of administering the program.

13 (5) Examples of outreach and educational materials used by the
14 program.

15 25214.8.14. (a) On and after January 1, 2010, a seller that has
16 a physical location in the state shall act as a collection site for
17 out-of-service mercury-added thermostats.

18 (b) On and after January 1, 2010, a seller that distributes new
19 thermostats by mail to buyers in the state shall include with the
20 sale of the new thermostat, a prepaid mail-in package that a
21 consumer may use to send an out-of-service mercury-added
22 thermostat to an authorized recycler.

23 (c) On and after January 1, 2010, a seller shall distribute the
24 educational and outreach materials developed by the program
25 pursuant to Section 25214.8.13 to the customers of that seller.

26 SEC. 2. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.

ASSEMBLY BILL

No. 2640

Introduced by Assembly Member Huffman

February 22, 2008

An act to amend Sections 41781.3 and 48000 of, to add Section 41781.5 to, and to add Article 3 (commencing with Section 48030) to Chapter 2 of Part 7 of Division 30 of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2640, as introduced, Huffman. Solid waste: compostable organics management.

(1) The California Integrated Waste Management Act of 1989 establishes an integrated waste management program administered by the California Integrated Waste Management Board. The act requires a city, county, city and county, or regional agency to develop a source reduction and recycling element of an integrated waste management plan containing specified components.

The act requires the source reduction and recycling element to divert 50% of all solid waste subject to the element from disposal through source reduction, recycling, and composting activities, with specified exceptions. Under the act, the use of solid waste for beneficial reuse in the construction and operation of a solid waste landfill, including the use of alternative daily cover, constitutes diversion through recycling and is not considered disposal for purposes of the act. The act requires the board, prior to December 31, 1997, to adopt rules and regulations establishing conditions for the use of alternative daily cover that are consistent with the act and requires, until the board adopts those

regulations, that the use of alternative daily cover be governed by specified existing regulations.

This bill would require the board to adopt policies and to develop and implement programs, to ensure that on and after January 1, 2020, the amount of compostable organics subject to landfill disposal or otherwise deposited in landfills is reduced as specified.

This bill would provide that, on and after January 1, 2015, the use of green material, as defined, for beneficial reuse in the construction and operation of a solid waste landfill, including the use of green material as alternative daily cover, would not constitute diversion and would require that green material be considered disposal for purposes of the act. The bill would require the board to notify operators of disposal facilities of this provision on or before July 1, 2009.

This bill would require the board, on or before July 1, 2010, to adopt or revise regulations that establish conditions for the use of alternative daily cover that are consistent with the act. The bill also would delete an obsolete reference to the board's existing regulations.

This bill would impose a state-mandated local program by imposing new duties upon local agencies related to implementing those provisions.

(2) The act requires an operator of a solid waste disposal facility to pay a quarterly fee of up to \$1.40 per ton based on the amount of all solid waste disposed of at each disposal site and requires the State Board of Equalization to collect the fees and deposit the fees in the Integrated Waste Management Account in the Integrated Waste Management Fund (fund) in the State Treasury. The act requires the Integrated Waste Management Board to use the moneys in the account, upon appropriation by the Legislature, for specified purposes.

This bill, with regard to green material used for beneficial reuse, including use as alternative daily cover, at a disposal site, would instead require an operator of a solid waste disposal facility to pay a quarterly fee of \$1.40 per ton, would establish the Organics Management Account in the fund, and would require the State Board of Equalization to collect and deposit the fees imposed on that green material in the account. The bill would require the California Integrated Waste Management Board to expend the moneys in the account, upon appropriation by the Legislature, for competitive grants and loans for compostable organics management projects and commencing on July 1, 2010, for a program adopted by the board for compostable organics management.

(3) 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. The Legislature finds and declares all of the
2 following:

3 (a) With the enactment of the California Integrated Waste
4 Management Act of 1989 (the act), the Legislature declared that
5 the California Integrated Waste Management Board and local
6 agencies shall promote recycling and composting over land disposal
7 and transformation.

8 (b) Since the enactment of the act, local governments and private
9 industries have worked jointly to create an extensive material
10 collection infrastructure and have implemented effective programs
11 to achieve a statewide diversion rate greater than 50 percent.

12 (c) Although California now leads the nation in waste reduction
13 and recycling, the state continues to dispose of more than 10
14 million tons of compostable organics each year in solid waste
15 landfills.

16 (d) The landfilling of compostable organics, including organic
17 materials used as landfill cover, squanders dwindling disposal
18 capacity, adds to landfill volatility, and results in the emission of
19 greenhouse gases, volatile organic compounds, and ammonia.

20 (e) Composting organic materials results in substantial
21 environmental and agricultural benefits, including the reduction
22 of methane gas and naturally occurring volatile organic compounds
23 and ammonia.

24 (f) The Economic and Technology Advancement Advisory
25 Committee, formed pursuant to the California Global Warming
26 Solutions Act of 2006 (A.B. 32, 2005–06 Reg. Sess.), has identified
27 composting as a cost-effective technology for reducing greenhouse
28 gas emissions and has recommended providing financial incentives
29 to assist compost operators to offset the cost of complying with
30 new and existing environmental regulations.

1 (g) The application of compost in agriculture and landscaping
2 has been shown to offer significant water quality benefits, provide
3 erosion control, reduce the need for synthetic fertilizers and
4 pesticides, and conserve water and irrigation-associated energy.

5 (h) The use of compostable organics as alternative daily cover
6 in the construction and operation of solid waste landfills deprives
7 California agriculture and the environment of compostable organic
8 material for compost and other higher and better uses.

9 (i) The California Integrated Waste Management Board has
10 adopted a Strategic Directive to reduce the amount of organics in
11 the waste stream by 50 percent by the year 2020 and has identified
12 the need for as many as 100 additional facilities in the state to
13 process compostable organics.

14 (j) In order to reduce the landfilling of organics, increase
15 composting, and meet the organics disposal reduction target
16 adopted by the California Integrated Waste Management Board,
17 the state should reduce barriers to, and provide incentives for,
18 increasing processing capacity and end-use markets for
19 compostable organics.

20 SEC. 2. Section 41781.3 of the Public Resources Code is
21 amended to read:

22 41781.3. (a) (1) The use of solid waste for beneficial reuse
23 in the construction and operation of a solid waste landfill, including
24 *the* use of alternative daily cover, which reduces or eliminates the
25 amount of solid waste being disposed pursuant to Section 40124,
26 shall constitute diversion through recycling and shall not be
27 considered disposal for the purposes of this division.

28 (2) *On and after January 1, 2015, the use of green material, as*
29 *defined in regulations adopted by the board pursuant to Section*
30 *40502, for beneficial reuse in the construction and operation of a*
31 *solid waste landfill, including the use of green material as*
32 *alternative daily cover, shall not constitute diversion through*
33 *recycling and shall be considered disposal for purposes of this*
34 *division.*

35 (3) *On January 1, 2009, the board shall provide notice to all*
36 *operators of disposal facilities of the requirements of paragraph*
37 *(2).*

38 (b) ~~Prior to December 31, 1997~~ *On or before July 1, 2010,*
39 *pursuant to the board's authority to adopt rules and regulations*
40 *pursuant to Section 40502, the board shall, ~~by regulation,~~ adopt*

1 *or revise regulations that* establish conditions for the use of
2 alternative daily cover that are consistent with this division. In
3 adopting the regulations, the board shall consider, but is not limited
4 to, all of the following criteria:

5 (1) Those conditions established in past policies adopted by the
6 board affecting the use of alternative daily cover.

7 (2) Those conditions necessary to provide for the continued
8 economic development, economic viability, and employment
9 opportunities provided by the composting industry in the state.

10 (3) Those performance standards and limitations on maximum
11 functional thickness necessary to ensure protection of public health
12 and safety consistent with state minimum standards.

13 (c) Until the adoption of additional regulations, the use of
14 alternative daily cover shall be governed by the conditions
15 established by the board in its existing regulations ~~set forth in~~
16 ~~paragraph (3) of subdivision (b) of, and paragraph (3) of~~
17 ~~subdivision (c) of, Section 18813 of Title 14 of the California Code~~
18 ~~of Regulations;~~ as those ~~sections~~ *regulations* read on the effective
19 date of *the amendments* to this section, ~~and by the conditions~~
20 ~~established in the board's policy adopted on January 25, 1995 as~~
21 ~~enacted by the Statutes of 2008.~~

22 (d) In adopting rules and regulations pursuant to this section,
23 Section 40124, and this division, including, but not limited to, Part
24 2 (commencing with Section 40900), the board shall provide
25 guidance to local enforcement agencies on any conditions and
26 restrictions on the utilization of alternative daily cover so as to
27 ensure proper enforcement of those rules and regulations.

28 SEC. 3. Section 41781.5 is added to the Public Resources Code,
29 to read:

30 41781.5. The board shall adopt policies and develop and
31 implement programs to ensure that, on and after January 1, 2020,
32 the amount of compostable organics subject to landfill disposal or
33 otherwise deposited in landfills in the state annually is 50 percent
34 or less of the amount of compostable organics disposed or
35 otherwise deposited in landfills during the 2008 calendar year.

36 SEC. 4. Section 48000 of the Public Resources Code is
37 amended to read:

38 48000. (a) ~~Each~~ *An* operator of a disposal facility shall pay a
39 fee quarterly to the State Board of Equalization ~~which~~ *that* is based
40 on the amount, by weight or volumetric equivalent, as determined

1 by the board, of all solid waste disposed of at each disposal site,
2 *except solid waste for which the payment of a fee is required*
3 *pursuant to Section 48030.*

4 (b) The fee for solid waste disposed of shall be one dollar and
5 thirty-four cents (\$1.34) per ton. Commencing with the 1995–96
6 fiscal year, the amount of the fee shall be established by the board
7 at an amount that is sufficient to generate revenues equivalent to
8 the approved budget for that fiscal year, including a prudent
9 reserve, but shall not exceed one dollar and forty cents (\$1.40) per
10 ton.

11 (c) The board shall notify the State Board of Equalization on
12 the first day of the period in which the rate shall take effect of any
13 rate change adopted pursuant to this section.

14 (d) The board and the State Board of Equalization shall ensure
15 that all the fees for solid waste imposed pursuant to this section
16 that are collected at a transfer station are paid to the State Board
17 of Equalization in accordance with this article.

18 SEC. 5. Article 3 (commencing with Section 48030) is added
19 to Chapter 2 of Part 7 of Division 30 of the Public Resources Code,
20 to read:

21
22 Article 3. Organics Management Account
23

24 48030. (a) On and after January 1, 2009, an operator of a
25 disposal facility shall pay a fee quarterly to the State Board of
26 Equalization that is based on the amount, by weight or volumetric
27 equivalent, as determined by the board, of all green material, as
28 defined in regulations adopted by the California Integrated Waste
29 Management Board pursuant to Section 40502, that is used for
30 beneficial reuse, including use as alternative daily cover, at each
31 disposal site.

32 (b) The fee imposed pursuant to this section shall be one dollar
33 and forty cents (\$1.40) per ton.

34 (c) The board and the State Board of Equalization shall ensure
35 that all fees for green material imposed pursuant to this section
36 that are collected at a transfer station are paid to the State Board
37 of Equalization in accordance with this article.

38 48031. (a) The revenue from the fees paid pursuant to Section
39 48030 shall, after payment of refunds and administrative costs of

1 collection, be deposited in the Organics Management Account,
2 which is hereby created in the Integrated Waste Management Fund.

3 (b) For purposes of this article, "account" means the Organics
4 Management Account, created pursuant to subdivision (a).

5 48032. The state board shall adopt rules and regulations to
6 carry out Section 48030, including, but not limited to, provisions
7 governing collections, reporting, refunds, and appeals.

8 48033. The state board shall not spend more than one-half of
9 1 percent of the total revenues deposited, or anticipated to be
10 deposited, in the account during a fiscal year for the administration
11 of this article during that fiscal year.

12 48034. (a) The board shall expend the moneys in the account,
13 upon appropriation by the Legislature, for the administration and
14 implementation of this article.

15 (b) The board shall adopt rules and regulations governing the
16 expenditure of the moneys in the account, in accordance with the
17 purposes set forth in this article.

18 48035. (a) (1) The board shall develop a program of grants
19 and loans for compostable organics management projects.

20 (2) In expending the moneys in the account pursuant to
21 paragraph (1), the board shall support only projects that meet or
22 exceed new or existing state environmental standards.

23 (b) The board shall adopt a program, to commence on July 1,
24 2010, for compostable organics management. The program shall
25 be administered by the board pursuant to regulations adopted by
26 the board.

27 SEC. 6. 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.

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ASSEMBLY BILL

No. 2866

Introduced by Assembly Member De Leon

February 22, 2008

An act to amend Section 48000 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2866, as introduced, De Leon. Solid waste: solid waste disposal fees.

Existing law, the California Integrated Waste Management Act of 1989, requires an operator of a solid waste disposal facility to pay a quarterly fee to the State Board of Equalization based on the amount of solid waste disposed of at each disposal site. Commencing with the 1995–96 fiscal year, the act requires the California Integrated Waste Management Board to establish the amount of the fee, as specified, and limits the fee to a maximum of \$1.40 per ton.

This bill would, commencing with the 2008–09 fiscal year, require the board to establish the amount of the fee in an amount not exceeding \$2 per ton.

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 48000 of the Public Resources Code is
- 2 amended to read:
- 3 48000. (a) ~~Each~~ *An* operator of a disposal facility shall pay a
- 4 fee quarterly to the State Board of Equalization which is based on

1 the amount, by weight or volumetric equivalent, as determined by
2 the board, of all solid waste disposed of at each disposal site.

3 ~~(b) The fee for solid waste disposed of shall be one dollar and~~
4 ~~thirty-four cents (\$1.34) per ton. Commencing with the 1995-96~~
5 ~~fiscal year, Commencing with the 2008-09 fiscal year, the board~~
6 ~~shall establish~~ the amount of the fee shall be established by the
7 board at an amount that is sufficient to generate revenues equivalent
8 to the approved budget for that fiscal year, including a prudent
9 reserve, but shall not exceed ~~one dollar and forty cents (\$1.40) per~~
10 ~~ton~~ *two dollars (\$2) per ton.*

11 (c) The board shall notify the State Board of Equalization on
12 the first day of the period in which the rate shall take effect of any
13 rate change adopted pursuant to this section.

14 (d) The board and the State Board of Equalization shall ensure
15 that all the fees for solid waste imposed pursuant to this section
16 that are collected at a transfer station are paid to the State Board
17 of Equalization in accordance with this article.

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SB 1016 (WIGGINS): FREQUENTLY ASKED QUESTIONS

CIWMB Handout

Q. What is the deficiency in current law??

A. The Integrated Waste Management Act (IWMA) has contributed greatly to California establishing the most extensive diversion program infrastructure in the country. Each jurisdiction plans, selects and implements a variety of diversion programs to achieve 50 percent diversion. Jurisdictions include cities, unincorporated counties, or regional agencies (groups of cities and/or counties that have formed joint powers authorities to meet the requirements of the IWMA). Every two years the Board reviews each jurisdiction's progress in implementing diversion programs and achieving the diversion requirement. While marked successes have been experienced with the current program many concerns on accuracy and timeliness have also arisen regarding the existing diversion measurement system. As a result of these concerns about accuracy of original base-years and use of adjustment factors, in 2004 the CIWMB embarked on a process to reevaluate and recommend changes in statute and/or regulations to improve the accuracy and timeliness of the existing diversion measurement system.

Q. What is SB 1016 attempting to solve?

A. Change the current diversion measurement system to a disposal-based measurement system. Current emphasis is on a diversion "goal", which is determined through mathematical models to assist jurisdiction with meeting their 50% diversion requirements. This measurement methodology process takes on average 12 months to calculate and when a jurisdiction submits its' calculations to the CIWMB, it is almost two years later and impossible to correct any deficiencies in a timely manner. SB 1016 is attempting to address the deficiencies in the current diversion measurement methodology used to determine compliance by each jurisdiction. SB 1016 attempts to move away from an estimated diversion rate and move to an actual measured disposal number and place the emphasis on source reduction, recycling and reuse programs to divert solid waste from the landfills.

Q. Why does the current system need to be changed?

A. The current waste diversion accounting system was established by AB 939 (Sher) in 1989. The intent of this bill was to reduce dependency on landfill disposal. Current emphasis is on a diversion "goal", which is determined through mathematical models to assist jurisdiction with meeting their 50% diversion requirements. SB 1016 seeks to address the deficiencies in the current diversion measurement methodology used to determine compliance by each jurisdiction. SB 1016 attempts to move away from an estimated diversion rate and move to an actual measured disposal number and place the emphasis on source reduction, recycling and reuse programs to divert solid waste from the landfills.

The current formula used to determine a jurisdiction's diversion rate is:

$$\text{Estimated Waste Generation} - \text{Actual Waste Disposed} = \text{Diversion Rate}$$

Within the current formula to calculate a diversion rate, the only actual known number is the waste disposed number. Thus, to avoid continued "number games" from accounting calculations and inconsistent diversion credits, SB 1016 attempts to move away from these inaccurate and labor intensive mathematical models and focus efforts to promote further development and enhancement of source reduction, recycling and reuse programs.

Furthermore, this calculated diversion rate does not adequately reflect the legislative intent of AB 939, which is to reduce California's reliance on solid waste landfills. In 1990, 42 million tons of municipal solid waste was disposed in California's landfills. In 2005, 44 million tons of municipal solid waste was still being disposed in California landfills. However, waste generation has increased from 51 million tons in 1990 to

88 million tons in 2005. Each California generates 13.4 lbs/pp/day of waste, almost double the national level, which does not seem to reflect California's leadership on protecting the environment and our natural resources.

Q. What is the Disposal Reporting System?

A. Current law requires solid waste disposal facility operators to submit to counties specified information from periodic tracking surveys on the disposal tonnages by jurisdiction or region of origin, which are disposed of at each facility, and requires counties to submit periodic reports to cities within the county and to the regional agency of which it is a member agency, and to the CIWMB, on the amounts of waste disposed by jurisdiction or region of origin. In 2000, SB 2202 was enacted requiring the CIWMB, along with a large stakeholder working group, to revise the disposal reporting system regulations. To ensure increased accuracy, the new regulations included requirements for scales and weighing at solid waste disposal facilities; increased frequency of haulers reporting the origins of their waste, and additional tracking of specific waste types by city or county. The waste disposed number takes six months to report and thus, jurisdictions report this number at the time they submit their annual report.

Q. How is waste generation calculated each year?

A. To calculate current generation, we apply demographic factors to the base-year. The adjustment method uses changes in population, employment and taxable sales (as adjusted for inflation) to account for changes in solid waste generation since the base-year. We know that the adjustment method does not fully account for changes in solid waste generation. While it is a complex calculation to do, it is much simpler than the complexities of the real world of solid waste. Some jurisdiction's growth is not adequately reflected because construction activities cannot be factored in adequately. Other jurisdictions benefit from adjustment factors that over estimate their growth and inflate their diversion rates.

There are many choices of factors: 2 for population, 4 for employment, 2 for taxable sales, and at least 2 for inflation correction. These choices are needed because situations vary and some flexibility is needed to account for regional economies and such. However, it can also result in the process being just a numbers game of shopping for the factor combination that maximizes the generation amount and the diversion rate. Many people struggle to understand the math and the relationships behind the math. Even with the Board's automated on-line calculators, many jurisdictions hire consultants to do their calculations for them. The factors themselves also are problematic. They are produced by a variety of state agencies for their own purposes and released in accordance with their time schedules. As a result, over the years they have delayed diversion rate reporting more and more. Currently, some factors are released more than 12 months after a reporting year is over. As a result, reporting is delayed and jurisdictions do not know what specific target they should have been aiming at until long after they can do anything about it.

Q. Where did the proposed language for SB 1016 come from?

A. Feedback from our Alternative Diversion Measurement System workshops that began in 2004, per AB 2202, led us to our recommendation to change the measurement system.

- Overwhelmingly stakeholders wanted a more timely system and more focus on program implementation than numbers, etc.
- At the time of the workshops many jurisdictions liked the concept of going to countywide number as an indicator only, with program review at the jurisdiction level being the focus.

Q. Why are we using 2006 as the base year?

A. We need to set a base from which to measure disposal, but there are several options we could use.

We selected 2006 for several reasons:

- 2006 is a single starting point and would create a level playing field.
- 2006 is after all the 1066 extensions have expired so jurisdictions would all be starting from similar statuses.
- 2006 is after the disposal reporting improvements (scales, more frequent origin surveys, etc.) so the data should be more accurate.
- 2006 has already passed, so there is no way to manipulate the numbers for future benefit.

Q. Could we use a three year average as the new base year?

A. We could use an average of prior years. We could use the maximum disposal from a range of prior years to reflect the progress jurisdictions have already made. Older data, especially original base-year data which pre-dates the disposal reporting system is very inaccurate. Even disposal reporting data from the 1990s is much less accurate than 2006. It has taken time for haulers, facilities and counties to learn and adequately implement the disposal reporting system. Jurisdictions have anomalous years in which disposal may be much higher than normal due to peak construction, a disaster, or major events. A high year like this will build in automatic disposal reduction credit when disposal returns to normal in subsequent years.

Q. How does transformation and biomass credit translate to a disposal measurement system?

A. As a preface, SB 1016 seeks to establish a level playing field for moving forward. Since AB 939 was enacted, there have been numerous credits, re-definitions, adjustments, and corrections added to the statute. While everyone agrees that the system is too complicated and should be simplified, it will be difficult to change many of these modifications.

Transformation, biomass and emerging technologies all need to be clearly addressed in this proposal. Because they are very different in practical measurement terms it would really help if we can talk about them separately and not lump them together.

Q. What is the overarching benefit of reducing waste and increasing markets for recyclables?

A. CIWMB programs are now conducted in support of the California Global Warming Solutions Act of 2006. With an emphasis on reducing materials going into landfills, the CIWMB can promote programs that reduce greenhouse gas emissions, including diverting organic materials for composting; use landfill gas for energy or fuel production; and foster commercial recycling programs. The CIWMB can assist processing facilities, including composting facilities and material recovery facilities, in implementing facility upgrades in response to regulatory requirements promulgated by Air Quality Management and Air Pollution Control Districts, and Regional Water Quality Control Boards. Further, the CIWMB can assist jurisdictions with prevention and cleanup illegal dumping and increased enforcement at solid waste facilities.

Existing AB 939 Diversion Measurement Requirements Compared to Proposed Disposal Measurement Requirements under SB 1016

EXISTING SYSTEM	SB1016
<p><u>Intent</u> Current language in PRC Section 40001:</p> <ul style="list-style-type: none"> • Responsibility for solid waste management shared between local and state government. • Policy of state to assist local governments from duplicating effort and minimizing costs incurred. • Market development is critical to the successful and cost-effective implementation of a solid waste plan and to achieve 25 and 50 percent diversion. 	<p><u>Intent</u> Added language to PRC Section 40001:</p> <ul style="list-style-type: none"> • Support AB 32 requirements • Emphasize the increase environmental benefits through comprehensive array of diversion programs • Change the diversion rate reporting requirement to a jurisdictional equivalent disposal measurement requirement for accuracy and timeliness • Disposal will be measured using the CIWMB's disposal reporting system • Expand the emphasis on the hierarchy in Section 40051.
<p><u>Hierarchy</u> Current language in PRC Section 40051:</p> <ul style="list-style-type: none"> • Promotes waste management practices in order of priority: source reduction, recycling and composting, environmentally safe transformation and disposal. 	<p><u>Hierarchy</u> No change to PRC Section 40051.</p>
<p><u>Definitions</u> Current language in PRC Sections 40100-40201:</p> <ul style="list-style-type: none"> • Defines terms such as solid waste disposal, diversion, recycling, rural city and county, composting, source reduction, transformation. 	<p><u>Definitions</u> Added to current definition, four new terms:</p> <ul style="list-style-type: none"> • Diversion program, • Jurisdiction, • Rural City, redefines rural city and rural regional agency to mean a city or regional agency that is located within a rural county as defined by Section 40184. • Rural County, redefines rural county as any county or multi-county regional agency from which no more than 200,000 tons of solid waste are disposed annually (Section 40184). • Uniform Electronic Transactions Act
<p><u>Measurement System</u> Current language in PRC Sections 41780-41786:</p> <ul style="list-style-type: none"> • Established a 25 percent diversion requirement by January 1, 1995 and 50 percent diversion on and after January 1, 2000 and set requirements to establish a jurisdiction waste generation (disposal + diversion) base year (Sections 41780, 41780.1, 41780.2 and 41781). 	<p><u>Measurement System</u> Amends and adds language to PRC Sections 41780-41786:</p> <ul style="list-style-type: none"> • Requires jurisdictions to continue implementing source reduction, recycling and composting activities according to the hierarchy of 40051. • Maintains the 50 percent diversion requirement, while transitions from a diversion measurement

EXISTING SYSTEM	SB1016
<ul style="list-style-type: none"> • Allows base year sludge diversion credit if requirements are met (Section 41781.1). • Restricts base year diversion credit for restricted waste such as: inert, scrap metal, agricultural wastes and white goods (Section 41781.2) • Allows disposal adjustment for treated medical waste and regional diversion facility residues (Section 41782) • Jurisdictions required use adjustment factors to estimate future year generation (Section 41781). • Ensures a city or county who are below 50% diversion, are not required to establish a transformation facility to achieve that 50% requirement and no penalties can be assessed. (Section 41784) 	<p>system to a disposal measurement system equivalent.</p> <ul style="list-style-type: none"> • After 1/1/07, the Board will evaluate jurisdiction compliance with the diversion requirements by using per capita disposal rate as an indicator of program implementation. • Defines per capita disposal (Section 41780). • Allows Board to use any increase as an indicator that program implementation efforts must be more closely examined when increases in per capita disposal indicates that a jurisdiction has allowed disposal amounts to increase faster than the jurisdiction has grown.
<p><u>Transformation and Biomass</u></p> <ul style="list-style-type: none"> • Current language in PRC Sections 41783-41783.1: • Jurisdictions may claim either transformation or biomass conversion as diversion starting in 2000. The jurisdiction may only claim biomass conversion credit, or transformation credit of up to 10% of waste generation. 	<p><u>Transformation and Biomass</u></p> <p>Amends PRC Sections 41783-41783.1:</p> <ul style="list-style-type: none"> • Jurisdictions may subtract transformation conversion tonnage up to 20 percent of disposal tons. (equivalent to a 10 % diversion credit) • No change to the Biomass conversion credit as it is implemented outside of the disposal reporting system..
<p><u>Jurisdiction Reporting and Board Review</u></p> <p>Current language:</p> <ul style="list-style-type: none"> • Requires jurisdictions to submit plans in the mid 1990's and allows early submittal and implementation (Sections 41791, 41791.5, 41792 and 41794). • Provides schedule and procedures for CIWMB review of restricted waste diversion claims in 1990 base years (Sections 41801.5 and 41811.5) • Jurisdiction submits annual progress report. Annual progress reports are delayed by over 18 months for the reporting year because of the delay in receiving local and BOE adjustment factors to estimate the diversion rates. (Section 41821) 	<p><u>Jurisdiction Reporting and Board Review</u></p> <p>Amends language to:</p> <ul style="list-style-type: none"> • Provides new reporting schedule and jurisdiction reporting requirements (Sections 41821, 41825). • Jurisdictions that were found in compliance during the 2005-06 biennial review would have to submit a report on their program implementation every four years starting September 1, 2014. (Section 41821) • Jurisdictions that were on compliance as of 2007 or placed on compliance during the 2005-06 biennial review would have to submit a report on their program implementation every two years starting September 1, 2012. Note that the gap in time between biennial reviews from 2008 to the next review in 2012 would allow time for jurisdictions to begin shifting to a disposal based measurement system, to evaluate

<p>EXISTING SYSTEM</p>	<p>SB1016</p> <p>their program implementation in relationship to their per capita disposal.</p> <ul style="list-style-type: none"> • Uses per capita disposal as an indicator of program implementation efforts. The Board would evaluate how a jurisdiction is addressing significant increases in per capita disposal through their program implementation efforts. • Incorporates demonstration of good faith effort into the biennial review determination.
<p><u>State Agencies and large facilities</u></p> <ul style="list-style-type: none"> • Requires state agencies and large facilities to divert 25 percent of all solid waste by January 1, 2002 and 50 percent through source reduction, recycling and composting activities. • Allows for adjustment factors and time extensions. 	<p><u>State Agencies and large facilities</u></p> <ul style="list-style-type: none"> • Creates a parallel disposal measurement process for state agencies and large facilities (Section 42921 and 42926). • Adds language for community colleges to impose fees as necessary to assist in the costs associated with implementing a state agency integrated waste management plan.

**DIVISION 30. WASTE
MANAGEMENT**

PART 1. INTEGRATED WASTE MANAGEMENT

Chapter 1. General Provisions

ARTICLE 1. FINDINGS AND DECLARATIONS

40001. (a) The Legislature declares that the responsibility for solid waste management is a shared responsibility between the state and local governments. The state shall exercise its legal authority in a manner that ensures an effective and coordinated approach to the safe management of all solid waste generated within the state and shall oversee the design and implementation of local integrated waste management plans.

(b) The Legislature further declares that it is the policy of the state to assist local governments in minimizing duplication of effort, and in minimizing the costs incurred, in implementing this division through the development of regional cooperative efforts and other mechanisms which comply with this division.

(c) The Legislature further declares that market development is the key to successful and cost-effective implementation of the 25-percent and 50-percent diversion and solid waste disposal reduction requirements of Section 41780, and that the state must take a leadership role, pursuant to Chapter 1 (commencing with Section 42000) of Part 3, in encouraging the expansion of markets for recycled products by working cooperatively with the public, private, and nonprofit sectors.

(d) The Legislature further declares that all solid waste should be properly managed in order to minimize the generation of waste, maximize the diversion of solid waste away from disposal facilities, and manage all solid waste to its highest and best use, in accordance with the waste management hierarchy in section 40051 and in support of the California Global Warming Solutions Act of 2006.

(e) The Legislature further declares that increasing the environmental benefits of diversion and decreasing the environmental impacts of solid waste disposal can be achieved through the implementation of a comprehensive array of diversion programs.

(f) The Legislature further declares that the way in which diversion progress is measured needs to change to ensure increased accuracy, timeliness, and emphasis on implementing diversion programs.

(g) The Legislature further declares that jurisdiction disposal shall be measured using the board's disposal reporting system pursuant to section 41821.5.

(h) The Legislature further declares its intent that jurisdictions continue to meet the existing requirements while allowing the board to evaluate compliance with those requirements using per capita disposal as an indicator. This will allow for simplified measurement of jurisdiction disposal while making allowance for growth.

Chapter 2. Definitions

40127. "Diversion program" means a program in the jurisdiction's source reduction and recycling element, that has the purpose of diverting solid waste from landfill disposal or transformation, through source reduction, recycling, and composting activities.

40144. "Jurisdiction" means a city, county, city and county, or board approved regional agency.

40183. (a) "Rural city" or "rural regional agency" means a city or regional agency that is located within a rural county as defined by section 40184, either of the following:

—(1) A city that has a geographic area of less than three square miles, has a current waste disposal rate of less than 100 cubic yards per day, or 60 tons per day, and is located in a rural area.

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~~---(2) A city that has a population density of less than 1,500 people per square mile, has a current waste disposal rate of less than 100 cubic yards per day, or 60 tons per day, and is located in a rural area.~~

(b) Nothing in this section shall affect any reduction granted to a rural city or rural county by the board pursuant to Section 41787 prior to December 31, 2007 ~~September 1, 1994~~.

40184. (a) "Rural county" means any county or multi-county regional agency from which no more than 200,000 tons of solid waste are disposed annually. ~~that has a population of 200,000 or less and is located in a rural area.~~

~~---(b) For the purposes of this section, Section 40183, and subdivision (d) of Section 40973, "rural area" means those counties and cities located in agricultural or mountainous areas of the state and located outside the Department of Finance's Primary Metropolitan Statistical Areas.~~

~~---(c) (b) Nothing in this section shall affect any reduction granted to a rural city or rural county by the board pursuant to Section 41787 prior to December 31, 2007 ~~September 1, 1994~~.~~

40205. "Uniform Electronic Transactions Act" means Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code.

Chapter 6. Planning Requirements

ARTICLE 1. WASTE DIVERSION

41780. (a) Each city or county source reduction and recycling element shall include an implementation schedule that shows both of the following:

(1) For the initial element, the city or county shall divert 25 percent of all solid waste from landfill disposal or transformation by January 1, 1995, through source reduction, recycling, and composting activities.

(2) Except as provided in Sections 41783, 41784, and 41785, for the first and each subsequent revision of the element, the city or county shall divert 50 percent of all solid waste through source reduction, recycling, and composting activities.

(3) On and after January 1, 2007, each jurisdiction shall continue to meet the requirements of subdivision (a)(2) of this section through source reduction, recycling, and composting, and the board shall determine compliance with this requirement by comparing each jurisdiction's per capita disposal rate in subsequent years with the per capita disposal rate that would have been necessary for the jurisdiction to meet the requirement on that date. Increases in per capita disposal would indicate that a jurisdiction has allowed disposal amounts to increase faster than the jurisdiction has grown and the Board shall use any increase as an indicator that program implementation efforts must be more closely examined. The examination may indicate that a jurisdiction needs to expand existing programs or implement new programs.

A) Per capita disposal shall be defined as total annual disposal from a jurisdiction divided by total population in a jurisdiction.

B) For those jurisdictions that are predominated by commercial or industrial activities and by solid waste generation from those sources, per capita disposal may be alternatively defined by the board to reflect those differing conditions.

(4) Each jurisdiction shall implement the diversion programs set forth in its source reduction and recycling element and household hazardous waste element, including any amendments,

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AMENDMENTS TO SENATE BILL NO. 1020
AS AMENDED IN ASSEMBLY JUNE 26, 2007

Amendment 1

In line 1 of the title, after "add" insert:

Sections 40103, 40113, 41783.4, 41783.5, 41783.6, and 42649 to, and to add

Amendment 2

On page 2, before line 1, insert:

SECTION 1. Section 40103 is added to the Public Resources Code, to read:
40103. "Anaerobic digestion" means the production of methane fuel or chemical feedstock from the bacterial breakdown of biodegradable organic and biomass derived material from urban waste, agricultural residues, and forestry sources. The process involves the natural biodegradation of organic materials in the absence of oxygen to produce methane and carbon dioxide in an engineered and controlled environment. Anaerobic Digestion is not a form of transformation as that term is defined pursuant to Section 40201.

SEC. 2. Section 40113 is added to the Public Resources Code, to read:

40113. "Lignocellulosic ethanol processing" means the production of ethanol fuel or chemical feedstock from lignocellulose, a structural material comprised primarily from cellulose, hemicellulose and lignin, contained in organic and biomass-residue-streams found in urban waste, agricultural residues, organic materials, and forestry sources. The process involves in-vessel enzymatic or chemical hydrolysis of cellulose to produce free sugars, which in turn are biologically fermented to produce ethanol in an engineered and controlled environment. Lignocellulosic ethanol processing is not a form of transformation as that term is defined pursuant to Section 40201.

SEC. 3. Article 4 (commencing with Section 40520) is added to Chapter 3 of Part 1 of Division 30 of the Public Resources Code, to read:

Article 4. Statewide Recycling

40520. The Legislature finds and declares all of the following:

(a) Since the enactment of this division, local governments and private industry have worked jointly to create an extensive material collection and recycling infrastructure and have implemented effective programs to achieve a statewide diversion rate above 50 percent.

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

(c) Solid waste diversion and disposal reduction requires the availability of adequate waste processing and composting capacity. Existing capacity represents a



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Substantive

valuable asset that must be sustained and expanded to provide the additional processing infrastructure necessary to meet the needs of a growing population.

(d) To meet the objectives of the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code), there is an urgent need to reduce greenhouse gas emissions from all aspects of solid waste handling through increased source reduction, reuse, recycling, composting, and those new emerging technologies that the California Integrated Waste Management Board and the Legislature determine to be appropriate in meeting California's environmental and greenhouse gas reduction goals.

(e) The siting of solid waste processing and composting facilities would benefit from life-cycle and multimedia analyses that identify both environmental impacts and the benefits of proposed projects. It is a primary purpose of this legislation to encourage the development of the additional waste processing and composting capacity that is needed to meet state objectives for decreasing disposal by identifying incentives for local governments to locate and approve facilities that meet and exceed their capacity needs.

(f) It is the intent of the Legislature that the board:

(1) Work with stakeholders to refine a disposal reduction measurement system in order to reduce administrative burdens on the board and local governments and to provide an improved measurement system for accurately determining the state's progress in reducing disposal.

(2) Work with stakeholders to develop a mechanism for recognizing local agencies that make significant contributions to the state's overall waste reduction and recycling objectives through the siting of facilities for the processing, recycling, and composting of materials diverted from the solid waste stream.

(3) Continue to encourage all commercial generators to work with their service providers to increase recycling and discourage illegal scavenging.

(4) Develop state disposal-reduction requirements that cap disposal at 2006 levels until 2012, and then reduce disposal from 2006 levels so that by 2013 the state's disposal is 25 percent lower (equivalent to 60 plus percent) and by 2020 the state's disposal is 50 percent lower (equivalent to 75 percent) than 2006 disposal levels.

(g) The provision in existing law that confers broad discretion on local agencies to determine aspects of solid waste handling that are of local concern has significantly contributed to the statewide diversion rate exceeding 50 percent, and further progress toward decreasing disposal requires that this essential element of local control be preserved. By setting new statewide disposal reduction requirements in Section 40522, the Legislature does not intend to limit the rights afforded to local governments pursuant to Section 40059, nor does it intend to modify or abrogate in any manner the rights of either party to any solid waste handling franchise or contract previously granted.

(h) The state is dedicated to the wise use of public funds and the conservation of natural resources. In order to lead the way for local governments, private industry, and California's citizens, state agencies shall achieve the waste reduction, recycling, and composting requirements at least three years in advance of the dates set forth in Section 40522.

40522. (a) At least 60 percent of all solid waste generated in this state shall be source reduced, recycled, or composted by December 31, 2012.

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(b) It is the objective of the state to ensure that adequate capacity is available so that at least 75 percent of all solid waste generated in this state shall be source reduced, recycled, or composted by January 1, 2020, and thereafter.

SEC. 4. Section 41783.4 is added to the Public Resources Code, to read:

41783.4. For any city, county, or regional agency source reduction and recycling element updated and submitted to the board after January 1, 2008, the 50 percent diversion requirement specified in paragraph (2) of subdivision (a) of Section 41780 may include anaerobic digestion, as defined in Section 40103. Anaerobic digestion shall not be considered disposal under a future disposal based compliance system.

SEC. 5. Section 41783.5 is added to the Public Resources Code, to read:

41783.5. (a) For any city, county, or regional agency source reduction and recycling element updated and submitted to the board after January 1, 2008, the 50 percent diversion requirement specified in paragraph (2) of subdivision (a) of Section 41780 may include lignocellulosic ethanol processing, as defined in Section 40113, if the board finds both of the following:

(1) The lignocellulosic ethanol processing facility will advance the demonstration of commercially viable bioenergy processing technologies to produce renewable transportation fuels or other renewable value-added products consistent with California's greenhouse gas reduction targets and the July 2006 Bioenergy Action Plan for California.

(2) The organic feedstock for any lignocellulosic ethanol processing facility is derived from one or more of the following waste materials:

(A) Material that was previously used as noncomposted mulch.

(B) Material that was previously disposed or used for beneficial reuse at a solid waste landfill, including the use as alternative daily cover, which constituted diversion through recycling pursuant to Section 41781.3.

(C) Material that is approved for this use by the board.

(b) Lignocellulosic ethanol processing that complies with this section shall not be considered disposal under a future disposal based compliance system.

SEC. 6. Section 41783.6 is added to the Public Resources Code, to read:

41783.6. For purposes of meeting the statewide requirements set forth in Section 40522, the board shall include anaerobic digestion, as defined in Section 40103, and lignocellulosic ethanol processing, as defined in Section 40113, if the lignocellulosic ethanol processing projects meet the requirements of Section 41783.5.

SEC. 7. Section 42649 is added to the Public Resources Code, to read:

42649. (a) On or before January 1, 2010, the owner or operator of a business that contracts for solid waste services or generates more than four cubic yards of total solid waste and recyclables per week, and is located in a county with a population of 200,000 or more shall implement a recycling program in accordance with a recycling ordinance lawfully adopted by a city, county, city and county, regional agency, or solid waste authority, or other joint powers authority.

(b) Commercial recycling ordinances adopted pursuant to this section shall include, at a minimum, all of the following:

(1) Enforceable requirements to source separate specified recyclable materials from solid waste.

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Substantive

(2) Enforceable requirements requiring commercial generators to subscribe to a basic level of recycling service that includes, at a minimum, the collection of recycling materials or specific provisions for authorized self-hauling.

(3) Education, implementation, and enforcement provisions.

(c) On or before July 1, 2008, the board shall make one or more model commercial recycling ordinances available to local agencies to facilitate compliance with this section.

(d) On or before July 1, 2009, each city, county, city and county, solid waste authority, or other joint powers agency located within counties with a population of 200,000 or more shall have an adopted commercial recycling ordinance that is consistent with this section.

(e) For the purposes of this section, "business" means a commercial entity operated by a firm, partnership, proprietorship, joint stock company, corporation, or association that is organized for profit or nonprofit. "Business" does not include multifamily dwelling units.

(f) This section does not apply to owners or operators of businesses that meet one or more of the following criteria:

(1) Meet specific exemption criteria or criteria contained in a local commercial recycling ordinance for an alternative type of recycling service due to space constraints for recycling containers.

(2) Are subject to a locally adopted commercial recycling ordinance that is equivalent to or more stringent than the requirements prescribed by this section.

(g) Nothing in this section is intended to limit the authority of local agencies to adopt, implement, or enforce local commercial recycling ordinances that are more stringent or comprehensive than the requirements of this section or limit the authority of local agencies in counties with a population of less than 200,000 to require commercial recycling.

(h) Nothing in this section modifies or abrogates in any manner either of the following:

(1) Any franchise previously granted or extended by any county or other local government agency.

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

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

Amendment 3

On page 2, strike out lines 1 to 19, inclusive, and strike out pages 3 to 6, inclusive

revisions, or updates to the element, and any programs set forth in any time extensions, alternative requirements, or compliance orders approved pursuant to this part.

(b) Nothing in this part prohibits a city or county from implementing source reduction, recycling, and composting activities designed to exceed these requirements.

41783. For any city, county, or regional agency source reduction and recycling element submitted to the board after January 1, 1995, the 50 percent diversion requirement specified in paragraph (2) of subdivision (a) of Section 41780 may include not more than 10 percent through transformation, as defined in Section 40201, through December 31, 2006, and beginning January 1, 2007, the per capita disposal rate specified in subdivision (a)(3) of Section 41780 may not be reduced by more than 20 percent through transformation, if all of the following conditions are met:

(a) The transformation project is in compliance with Sections 21151.1 and 44150 of this code and Section 42315 of the Health and Safety Code.

(b) The transformation project uses front-end methods or programs to remove all recyclable materials from the waste stream prior to transformation to the maximum extent feasible.

(c) The ash or other residue generated from the transformation project is routinely tested at least once quarterly, or on a more frequent basis as determined by the agency responsible for regulating the testing and disposal of the ash or residue, and, notwithstanding Section 25143.5 of the Health and Safety Code, if hazardous wastes are present, the ash or residue is sent to a class 1 hazardous waste disposal facility.

(d) The board holds a public hearing in the city, county, or regional agency jurisdiction within which the transformation project is proposed, and, after the public hearing, the board makes both of the following findings, based upon substantial evidence on the record:

(1) The city, county, or regional agency is, and will continue to be, effectively implementing all feasible source reduction, recycling, and composting measures.

(2) The transformation project will not adversely affect public health and safety or the environment.

(e) The transformation facility is permitted and operational on or before January 1, 1995.

(f) The city, county, or regional agency does not include biomass conversion, as authorized pursuant to Section 41783, in its source reduction and recycling element.

Chapter 7. Approval of Local Planning

ARTICLE 3. OTHER PROVISIONS

41820.6. (a) In addition to its authority under Section 41820, the board may, after a public hearing, grant a time extension from the ~~diversion~~ requirements of Section 41780 to a city if both of the following conditions exist:

(1) The city was incorporated pursuant to Division 3 (commencing with Section 56000) of Title 5 of the Government Code on or after January 1, 2001.

(2) The county within which the city is located did not include provisions in its franchises that ensured that the now incorporated area would comply with the ~~diversion~~ requirements of Section 41780.

(b) The board may authorize a city that meets the requirements of subdivision (a) to submit a source reduction and recycling element that includes an implementation schedule that shows that the city shall ~~divert 50 percent of its estimated generation amount of solid waste from landfill or transformation facilities~~ meet the requirements of Section 41780, within three years from the

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date on which the source reduction and recycling element is due pursuant to subdivision (b) of Section 41791.5, through source reduction, recycling, and composting activities.

41821. (a) (1) ~~Each year~~ Following the board's approval of a city, county, or regional agency's source reduction and recycling element, household hazardous waste element, and nondisposal facility element, the city, county, or regional agency shall submit a report to the board summarizing its progress in reducing solid waste as required by Section 41780, in accordance with the schedule set forth in this section.

(2) If the board found a jurisdiction in compliance with Section 41780 for calendar year 2006, then on or before September 1, 2012, and on or before September 1 every four years thereafter, a jurisdiction shall submit a report that encompasses the previous four calendar years from January 1 to December 31, inclusive to the board.

~~(b) (3) If the board did not find a jurisdiction in compliance with Section 41780 for calendar year 2006, then on or before September 1, 2010, and on or before September 1 every two years thereafter, a jurisdiction shall submit a report that encompasses the previous two calendar years from January 1 to December 31, inclusive, to the board~~

~~The annual report shall be due on or before August 1 of the year following board approval of the source reduction and recycling element, the household hazardous waste element, and the nondisposal facility element, and on or before August 1 in each subsequent year. The information in this report shall encompass the previous calendar year, January 1 to December 31, inclusive.~~

(b) Each jurisdiction's annual report to the board shall, at a minimum, include the following:

~~(1) Calculations of annual disposal reduction.~~

~~(2) Information on the changes in waste generated or disposed of due to increases or decreases in population, economics, or other factors in complying with subdivision (c) of Section 41780.1.~~

~~(3) (1) A summary of progress made in implementing the source reduction and recycling element and the household hazardous waste element. The city, county, or regional agency may also include information about existing and new programs it is implementing that are not part of the original or modified source reduction and recycling element adopted by the jurisdiction and approved by the board to achieve the diversion requirements of Section 41780.~~

(2) An update of the jurisdiction's source reduction and recycling element and household hazardous waste element to include any new or expanded programs the jurisdiction has implemented or plans to implement.

(3) An update of the jurisdiction's nondisposal facility element to reflect all new or expanded nondisposal facilities the jurisdiction is using or planning to use.

(4) A summary of progress made in diversion of construction and demolition of waste material, including information on programs and ordinances implemented by the local government and quantitative data, where available.

~~(5) If the jurisdiction has been granted a time extension by the board pursuant to Section 41820, the jurisdiction shall include a summary of progress made in meeting the source reduction and recycling element implementation schedule pursuant to paragraph (2) of subdivision (a) of Section 41780 and complying with the~~

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jurisdiction's plan of correction, prior to the expiration of the time extension.

—(6) If the jurisdiction has been granted an alternative source reduction, recycling, and composting requirement pursuant to Section 41785, the jurisdiction shall include a summary of progress made towards meeting the alternative requirement as well as an explanation of current circumstances that support the continuation of the alternative requirement.

—(7) Other information relevant to compliance with Section 41780.

(c) A jurisdiction may also include, in the report required by this section, all of the following:

—(1) Any factor that the jurisdiction believes would affect the accuracy of the estimated waste disposal reduction calculation provided in the report pursuant to paragraph (1) of subdivision (b) to accurately reflect the changes in the amount of solid waste that is actually disposed. The jurisdiction may include, but is not limited to including, all of the following factors:

(1) any information on disposal reported pursuant to section 41821.5 that the jurisdiction believes may be relevant to the board's determination of the jurisdiction's per capita disposal rate.

(2) any disposal characterization studies or other studies done that show the effectiveness of the programs being implemented.

(3) any factors that the jurisdiction believes would affect the accuracy of, or mitigate the amount of, solid waste disposed by the jurisdiction including, but is not limited to:

(A) Whether the jurisdiction hosts a solid waste facility or diversion facility.

(B) The effects of self-hauled waste and construction and demolition waste.

—(C) ~~The original or subsequent base year calculation, the amount of orphan waste, and the waste disposal reduction adjustment methodology.~~

(2)(4) Information regarding the programs the jurisdiction is undertaking to address specific disposal challenges respond to the factors specified in paragraph (1), and why it is not feasible to implement programs to respond to other factors that affect the amount of waste that is disposed.

—(3) ~~An estimate that the jurisdiction believes reflects that jurisdiction's annual reduction or increase in the disposal of solid waste~~

(5) Other information describing the good faith efforts of the jurisdiction.

(d) The board shall use, but is not limited to the use of, the ~~annual~~ report in the determination of whether the jurisdiction's source reduction and recycling element needs to be revised or updated.

(e) (1) The board shall adopt procedures for requiring additional information in a jurisdiction's annual report. The procedures shall require the board to notify a jurisdiction of any additional required information no later than 120 days after the board receives the report from the jurisdiction.

(2) Paragraph (1) does not prohibit the board from making additional requests for information in a timely manner. A jurisdiction receiving a request for information shall respond in a

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timely manner.

(f) The board shall adopt procedures for conferring with a jurisdiction regarding the implementation of a diversion program. ~~or changes to a jurisdiction's calculation of its annual disposal reduction.~~

~~(h)~~ (g) Notwithstanding the Uniform Electronic Transactions Act, the progress report shall be submitted electronically using the board's electronic reporting format system.

ARTICLE 4. REVIEW AND ENFORCEMENT

41825. ~~(a) At least once every two years, the board shall review each city, county, or regional agency source reduction and recycling element and household hazardous waste element.~~

(a) If the board found a jurisdiction in compliance with Section 41780 for calendar year 2006, then at least every four years commencing in 2012, the board shall review whether the jurisdiction has made a good faith effort to implement its source reduction and recycling element and household hazardous waste element.

(b) If the board did not find a jurisdiction in compliance with Section 41780 for calendar year 2006, then at least once every two years commencing in 2010, the board shall review whether the jurisdiction has made a good faith effort to implement its source reduction and recycling element and household hazardous waste element.

~~(b)~~ (c) If after a public hearing, which, to the extent possible, is held in the local or regional agency's jurisdiction, the board finds that the city, county, or regional agency has failed to make a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, the board shall issue an order of compliance with a specific schedule for achieving compliance. The compliance order shall include those conditions that the board determines to be necessary for the local agency or regional agency to complete in order to implement its source reduction and recycling element or household hazardous waste element.

~~(g)~~ (d) (1) Prior to issuing a compliance order, ~~the board shall confer with a jurisdiction regarding conditions relating to a the proposed order of compliance, with a first meeting occurring not less than 60 days before issuing a notice of intent to issue an order of compliance.~~

(2) The board shall issue a notice of intent to issue an order of compliance not less than 30 days before the board holds a hearing to issue the notice of compliance. The notice of intent shall specify all of the following:

(A) The proposed basis for issuing an order of compliance.

(B) Proposed actions that board staff recommends are necessary for the jurisdiction to complete in order to implement its source reduction and recycling element or household hazardous waste element.

(C) Proposed staff recommendations to the board.

(3) The board shall consider any information provided pursuant to subdivision (c) of Section 41821 if the proposed issuance of an order of compliance involves changes to a jurisdiction's calculation of annual disposal ~~reduction~~.

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(e) The board may issue a compliance order only if the board determines that the jurisdiction has failed to make a good faith effort to implement its source reduction and recycling element, including updates, or its household hazardous waste element, including updates or has determined that additional program implementation is necessary to adequately address all significant sources of disposal.

(f) For the purposes of this section, "good faith effort" means all reasonable and feasible efforts by a jurisdiction to implement those programs or activities identified in its source reduction and recycling element or household hazardous waste element, or alternative programs or activities that achieve the same or similar results.

(g) The board shall consider the following when considering whether a jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element:

(1) Natural disasters.

(2) Budgetary conditions within a jurisdiction that could not be remedied by the imposition or adjustment of solid waste fees.

(3) Work stoppages that directly prevent a jurisdiction from implementing its source reduction and recycling element or household hazardous waste element.

(4) The impact of the failure of federal, state, and other local agencies located within the jurisdiction to implement source reduction and recycling programs in the jurisdiction.

(5) The extent to which a jurisdiction has implemented additional source reduction, recycling, and composting activities.

(6) The extent to which the jurisdiction is implementing programs to maintain its per capita disposal rate.

(7) Whether a local jurisdiction has provided information to the board concerning whether construction and demolition waste material is at least a moderately significant portion of the waste stream, and, if so, whether the local jurisdiction has adopted an ordinance for diversion of construction and demolition waste materials from solid waste disposal facilities, has adopted a model ordinance pursuant to subdivision (a) of Section 42912 for diversion of construction and demolition waste materials from solid waste disposal facilities, or has implemented another program to encourage or require diversion of construction and demolition waste materials from solid waste disposal facilities.

(8) For purposes of this section "good faith effort" may also include the evaluation by a jurisdiction of improved technology for the handling and management of solid waste that would reduce costs, improve efficiency in the collection, processing, or marketing of recyclable materials or yard waste, and enhance the ability of the jurisdiction to adequately address all sources of significant disposal and the jurisdiction has submitted a compliance schedule (pursuant to Section 41825), and has made all other reasonable and feasible efforts to implement the programs identified in its source reduction and recycling element or household hazardous waste element.

(9) In determining whether a jurisdiction has made a good faith effort, the board shall consider the enforcement criteria included in its enforcement policy, as adopted on April 25, 1995, or as subsequently amended.

(h) In making a determination, the board may consider a jurisdiction's per capita disposal only as an indication of whether the jurisdiction adequately implemented its diversion programs but shall not consider this fact to be determinative as to whether the jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element.

(h) In addition to considering the good faith efforts to implement a diversion program, the board shall consider all of the following factors in determining whether or not to issue a compliance order:

(1) The rural nature of the jurisdiction.

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- (2) Whether exceptional growth rate that may have affected compliance.
(3) Other information that the jurisdiction may provide that indicates the effectiveness of the jurisdiction's programs, such as disposal characterization studies, or other jurisdiction-specific information.

ARTICLE 5. ENFORCEMENT

41850. (a) Except as specifically provided in Section 41813, if, after holding the public hearing and issuing an order of compliance pursuant to Section 41825, the board finds that the city, county, and regional agency jurisdiction has failed to make a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, the board may impose administrative civil penalties upon the city or county or, pursuant to Section 40974, upon the city or county as a member of a regional agency, of up to ten thousand dollars (\$10,000) per day until the city, county, and regional agency jurisdiction implements the element.

(b) In determining whether or not to impose any penalties, or in determining the amount of any penalties imposed under this section, including any penalties imposed due to the exclusion of solid waste pursuant to Section 41781.2 that results in a reduction in the quantity of solid waste diverted by a city, county, and regional agency jurisdiction, the board shall consider whether the jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element. In addition, the board shall consider only those relevant circumstances that have prevented a city, county, and regional agency jurisdiction from meeting the requirements of this division, including the diversion requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780, including, but not limited to, all of the following:

- (1) Natural disasters.
- (2) Budgetary conditions within a city, county, and regional agency jurisdiction that could not be remedied by the imposition or adjustment of solid waste fees.
- (3) Work stoppages that directly prevent a city, county, and regional agency jurisdiction from implementing its source reduction and recycling element or household hazardous waste element.

(4) The impact of the failure of federal, state, and other local agencies located within the jurisdiction to implement source reduction and recycling programs in the jurisdiction on the host jurisdiction's ability to meet the requirements of paragraph (2) of subdivision (a) of Section 41780.

(c) In addition to the factors specified in subdivision (b), the board shall consider all of the following:

(1) The extent to which a city, county, and regional agency jurisdiction has implemented additional source reduction, recycling, and composting activities to comply with the diversion requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780.

(2) The extent to which a city, county, and regional agency jurisdiction is meeting the diversion requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780.

(3) Whether the jurisdiction has requested and been granted an extension to the requirements of Section 41780, pursuant to Section 41820, or an alternative requirement to Section 41780, pursuant to Section 41785.

(4) Whether a local jurisdiction has provided information to the board concerning whether construction and demolition waste material is at least a moderately significant portion of the waste stream, and, if so, whether the local jurisdiction has adopted an ordinance for diversion of construction and demolition waste materials from solid waste disposal facilities, has adopted a model ordinance pursuant to subdivision (a) of Section 42912 for diversion of construction and demolition waste materials from solid waste disposal facilities, or has implemented another program to encourage or require diversion of construction and demolition waste materials from solid waste disposal facilities.

(d) (1) For the purposes of this section, "good faith effort" means all reasonable and feasible efforts by a city, county, and regional agency jurisdiction to implement those programs or activities identified in its source reduction and recycling element or household hazardous waste element, or alternative programs or activities that achieve the same or similar results.

(2) For purposes of this section "good faith effort" may also include the evaluation by a city, county, and regional agency jurisdiction of improved technology for the handling and

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management of solid waste that would reduce costs, improve efficiency in the collection, processing, or marketing of recyclable materials or yard waste, and enhance the ability of the city, county, and regional agency jurisdiction to meet the diversion requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780, provided that the city, county, and regional agency jurisdiction has submitted a compliance schedule pursuant to Section 41825, and has made all other reasonable and feasible efforts to implement the programs identified in its source reduction and recycling element or household hazardous waste element.

(3) In determining whether a jurisdiction has made a good faith effort, the board shall consider the enforcement criteria included in its enforcement policy, as adopted on April 25, 1995, or as subsequently amended.

PART 3. STATE PROGRAMS

Chapter 18.5. State Agency Integrated Waste Management Plan

42921. (a) Each state agency and each large state facility shall divert at least 25 percent of all solid waste generated by the state agency from landfill disposal or transformation facilities by January 1, 2002, through source reduction, recycling, and composting activities.

(b) On and after January 1, 2004, each state agency and each large state facility shall divert at least 50 percent of all solid waste from landfill disposal or transformation facilities through source reduction, recycling, and composting activities.

(1) On and after January 1, 2009, each state agency and large state facility shall continue to meet the requirements of this section through source reduction, recycling, and composting and the board shall determine compliance with this requirement by comparing each agency's and facility's per capita disposal rate in subsequent years with the per capita disposal rate that would have been necessary for the agency or facility to meet the requirement on that date. Increases in per capita disposal would indicate that a state agency or large state facility has allowed disposal amounts to increase faster than it has grown and the Board shall use any increase as an indicator that program implementation efforts must be more closely examined. The examination may indicate that an agency or facility needs to expand existing programs or implement new programs.
A) Per capita disposal shall be defined as total annual disposal from an agency or large state facility divided by total number of employees in an agency or large state facility.
B) For those agencies or large state facilities that have significant amounts of disposal from non-employees or for other reasons that would make calculation of per capita disposal by number of employees inaccurate, per capita disposal may be alternatively defined by the Board in another manner.

42922. (a) On and after January 1, 2002, upon the request of a state agency or a large state facility, the board may establish a source reduction, recycling, and composting requirement that would be an alternative to the 50 percent requirement imposed pursuant to subdivision (b) of Section 42921, if the board holds a public hearing and makes all of the following findings based upon substantial evidence on the record:

(1) The state agency or a large state facility has made a good faith effort to effectively implement the source reduction, recycling, and composting measures described in its integrated waste management plan, and has demonstrated progress toward meeting the alternative requirement as described in its annual reports to the board.

(2) The state agency or the large state facility has been unable to meet the 50 percent diversion requirement despite implementing the measures described in paragraph (1).

(3) The alternative source reduction, recycling, and composting requirement represents the greatest diversion amount that the state agency or the large state facility may reasonably and feasibly achieve.

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(b) In making the decision whether to grant an alternative requirement pursuant to subdivision (a), and in determining the amount of the alternative requirement, the board shall consider circumstances that support the request for an alternative requirement, such as waste disposal patterns and the types of waste disposed by the state agency or the large state facility. The state agency or the large state facility may provide the board with any additional information that the state agency or the large state facility determines to be necessary to demonstrate to the board the need for the alternative requirement.

(c) If a state agency or a large state facility that requests an alternative source reduction, recycling, and composting requirement has not previously requested an extension pursuant to Section 42923, the state agency or the large state facility shall provide information to the board that explains why it has not requested an extension.

(d) A state agency or a large state facility that has previously been granted an alternative source reduction, recycling, and composting requirement may request another alternative source reduction, recycling, and composting requirement. A state agency or a large state facility that requests another alternative requirement shall provide information to the board that demonstrates that the circumstances that supported the previous alternative source reduction, recycling, and composting requirement continue to exist, or shall provide information to the board that describes changes in those previous circumstances that support another alternative source reduction, recycling, and composting requirement. The board shall review the original circumstances that supported the state agency's or the large state facility's request, as well as any new information provided by the state agency or the large state facility that describes the current circumstances, to determine whether to grant another alternative requirement. The board may approve another alternative requirement if the board holds a public hearing and makes both of the following findings based upon substantial evidence in the record:

(1) The state agency or the large state facility has made a good faith effort to effectively implement the source reduction, recycling, and composting measures described in its integrated waste management plan, and has demonstrated progress toward meeting the alternative requirement as described in its annual reports to the board.

(2) The alternative source reduction, recycling, and composting requirement represents the greatest diversion amount the state agency or the large state facility may reasonably and feasibly achieve.

(e) If the board establishes a new alternative requirement or rescinds the existing alternative requirement, the board shall do so at a public hearing. If the board establishes a new alternative requirement, it shall make all of the following findings based upon substantial evidence in the record:

(1) The state agency or the large state facility has made a good faith effort to effectively implement the source reduction, recycling, and composting measures described in its integrated waste management plan, and has demonstrated progress toward meeting the alternative requirement as described in its annual reports to the board.

(2) The former alternative diversion requirement is no longer appropriate.

(3) The new alternative requirement represents the greatest amount of diversion that the state agency or the large state facility may reasonably and feasibly achieve.

(f) (1) No single alternative requirement may be granted for a period that exceeds three years and, if after the granting of the original alternative requirement, another alternative requirement is granted, the combined period that the original and the new alternative requirement is in force and effect shall not exceed a total of five years.

(2) No alternative requirement shall be granted for any period after January 1, 2006, and no alternative requirement shall be effective after January 1, 2006.

(3) No state agency or large state facility shall be granted an alternative requirement if the state agency or the large state facility has failed to meet, on or before January 1, 2002, the requirements of subdivision (a) of Section 42921.

(g) (1) When considering a request for an alternative source reduction, recycling, and composting requirement, the board may make specific recommendations for the implementation of the alternative plan.

(2) Nothing in this section precludes the board from disapproving any request for an alternative requirement.

(3) If the board disapproves a request for an alternative requirement, the board shall specify, in writing, the reasons for its disapproval.

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(h) If the board grants an alternative source reduction, recycling, and composting requirement, the state agency may request technical assistance from the board to assist it in meeting the alternative source reduction, recycling, and composting requirement. If requested by the state agency or the large state facility, the board shall assist with identifying model policies and plans implemented by other agencies.

(i) A state agency or a large state facility that is granted an alternative requirement pursuant to this section shall continue to implement source reduction, recycling, and composting programs, and shall report the status of those programs in the report required pursuant to Section 42926.

(j) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

42923. (a) The board may grant one or more single or multiyear time extensions from the requirements of subdivision (a) of Section 42921 to any state agency or large state facility if all of the following conditions are met:

(1) Any multiyear extension that is granted does not exceed three years, and a state agency or a large state facility is not granted extensions that exceed a total of five years.

(2) An extension is not granted for any period after January 1, 2006, and an extension is not effective after January 1, 2006.

(3) The board considers the extent to which a state agency or a large state facility complied with its plan of correction before considering another extension.

(4) The board adopts written findings, based upon substantial evidence in the record, as follows:

(A) The state agency or the large state facility is making a good faith effort to implement the source reduction, recycling, and composting programs identified in its integrated waste management plan.

(B) The state agency or the large state facility submits a plan of correction that demonstrates that the state agency or the large state facility will meet the requirements of Section 42921 before the time extension expires, including the source reduction, recycling, or composting steps the state agency or the large state facility will implement, a date prior to the expiration of the time extension when the requirements of Section 42921 will be met, existing programs that it will modify, any new programs that will be implemented to meet those requirements, and the means by which these programs will be funded.

(b) (1) When considering a request for an extension, the board may make specific recommendations for the implementation of the alternative plans.

(2) Nothing in this section shall preclude the board from disapproving any request for an extension.

(3) If the board disapproves a request for an extension, the board shall specify its reasons for the disapproval.

(c) (1) In determining whether to grant the request by a state agency or a large state facility for the time extension authorized by subdivision (a), the board shall consider information provided by the state agency or the large state facility that describes relevant circumstances that contributed to the request for extension, such as a lack of markets for recycled materials, local efforts to implement source reduction, recycling, and composting programs, facilities built or planned, waste disposal patterns, and the type of waste disposed by the agency or facility.

(2) The state agency or the large state facility may provide the board with any additional information that the state agency or the large state facility determines to be necessary to demonstrate to the board the need for the extension.

(d) If the board grants a time extension pursuant to subdivision (a), the state agency may request technical assistance from the board to assist it in meeting the diversion requirements of subdivision (a) of Section 42921 during the extension period. If requested by the state agency or the large state facility, the board shall assist the state agency or the large state facility with identifying model policies and plans implemented by other agencies.

(e) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

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42926. (a) In addition to the information provided to the board pursuant to Section 12167.1 of the Public Contract Code, beginning on or before September 1, 2009, and on or before September 1 every two years thereafter, each state agency shall submit a report to the board summarizing its progress in reducing solid waste as required by Section 42921. ~~The annual report shall be due on or before April 1, 2002, and on or before April 1 in each subsequent year.~~ The information in this report shall encompass the two previous calendar year.

42927.5. A community college district may impose fees in amounts sufficient to pay the costs of preparing, adopting, and implementing a state agency integrated waste management plan prepared pursuant to this division. The fees shall be based on the types or amounts of the solid waste, and shall be used to pay the actual costs incurred by the community college district in preparing, adopting, and implementing the plan, as well as in setting and collecting the fees. In determining the amounts of the fees, a community college district shall include only those costs directly related to the preparation, adoption, and implementation of the plan and the setting and collection of the fees. The fees may also include an amount to cover actual costs incurred since the effective date of this Chapter.

~~42928. (a) The board may adopt regulations that establish specified criteria for granting, reviewing, and considering reductions or extensions pursuant to Sections 42922 and 42923.~~

~~(b) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.~~

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RN 07 28063 PAGE 1
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AMENDMENTS TO SENATE BILL NO. 1020
AS AMENDED IN ASSEMBLY JUNE 26, 2007

Amendment 1

In line 1 of the title, after "add" insert:

Sections 40103, 40113, 41783.4, 41783.5, 41783.6, and 42649 to, and to add

Amendment 2

On page 2, before line 1, insert:

SECTION 1. Section 40103 is added to the Public Resources Code, to read:
40103. "Anaerobic digestion" means the production of methane fuel or chemical feedstock from the bacterial breakdown of biodegradable organic and biomass derived material from urban waste, agricultural residues, and forestry sources. The process involves the natural biodegradation of organic materials in the absence of oxygen to produce methane and carbon dioxide in an engineered and controlled environment. Anaerobic Digestion is not a form of transformation as that term is defined pursuant to Section 40201.

SEC. 2. Section 40113 is added to the Public Resources Code, to read:

40113. "Lignocellulosic ethanol processing" means the production of ethanol fuel or chemical feedstock from lignocellulose, a structural material comprised primarily from cellulose, hemicellulose and lignin, contained in organic and biomass-residue-streams found in urban waste, agricultural residues, organic materials, and forestry sources. The process involves in-vessel enzymatic or chemical hydrolysis of cellulose to produce free sugars, which in turn are biologically fermented to produce ethanol in an engineered and controlled environment. Lignocellulosic ethanol processing is not a form of transformation as that term is defined pursuant to Section 40201.

SEC. 3. Article 4 (commencing with Section 40520) is added to Chapter 3 of Part 1 of Division 30 of the Public Resources Code, to read:

Article 4. Statewide Recycling

40520. The Legislature finds and declares all of the following:

(a) Since the enactment of this division, local governments and private industry have worked jointly to create an extensive material collection and recycling infrastructure and have implemented effective programs to achieve a statewide diversion rate above 50 percent.

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

(c) Solid waste diversion and disposal reduction requires the availability of adequate waste processing and composting capacity. Existing capacity represents a



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09/06/07 04:53 PM
RN 07 28063 PAGE 2
Substantive

valuable asset that must be sustained and expanded to provide the additional processing infrastructure necessary to meet the needs of a growing population.

(d) To meet the objectives of the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code), there is an urgent need to reduce greenhouse gas emissions from all aspects of solid waste handling through increased source reduction, reuse, recycling, composting, and those new emerging technologies that the California Integrated Waste Management Board and the Legislature determine to be appropriate in meeting California's environmental and greenhouse gas reduction goals.

(e) The siting of solid waste processing and composting facilities would benefit from life-cycle and multimedia analyses that identify both environmental impacts and the benefits of proposed projects. It is a primary purpose of this legislation to encourage the development of the additional waste processing and composting capacity that is needed to meet state objectives for decreasing disposal by identifying incentives for local governments to locate and approve facilities that meet and exceed their capacity needs.

(f) It is the intent of the Legislature that the board:

(1) Work with stakeholders to refine a disposal reduction measurement system in order to reduce administrative burdens on the board and local governments and to provide an improved measurement system for accurately determining the state's progress in reducing disposal.

(2) Work with stakeholders to develop a mechanism for recognizing local agencies that make significant contributions to the state's overall waste reduction and recycling objectives through the siting of facilities for the processing, recycling, and composting of materials diverted from the solid waste stream.

(3) Continue to encourage all commercial generators to work with their service providers to increase recycling and discourage illegal scavenging.

(4) Develop state disposal-reduction requirements that cap disposal at 2006 levels until 2012, and then reduce disposal from 2006 levels so that by 2013 the state's disposal is 25 percent lower (equivalent to 60 plus percent) and by 2020 the state's disposal is 50 percent lower (equivalent to 75 percent) than 2006 disposal levels.

(g) The provision in existing law that confers broad discretion on local agencies to determine aspects of solid waste handling that are of local concern has significantly contributed to the statewide diversion rate exceeding 50 percent, and further progress toward decreasing disposal requires that this essential element of local control be preserved. By setting new statewide disposal reduction requirements in Section 40522, the Legislature does not intend to limit the rights afforded to local governments pursuant to Section 40059, nor does it intend to modify or abrogate in any manner the rights of either party to any solid waste handling franchise or contract previously granted.

(h) The state is dedicated to the wise use of public funds and the conservation of natural resources. In order to lead the way for local governments, private industry, and California's citizens, state agencies shall achieve the waste reduction, recycling, and composting requirements at least three years in advance of the dates set forth in Section 40522.

40522. (a) At least 60 percent of all solid waste generated in this state shall be source reduced, recycled, or composted by December 31, 2012.

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09/06/07 04:53 PM
RN 07 28063 PAGE 3
Substantive

(b) It is the objective of the state to ensure that adequate capacity is available so that at least 75 percent of all solid waste generated in this state shall be source reduced, recycled, or composted by January 1, 2020, and thereafter.

SEC. 4. Section 41783.4 is added to the Public Resources Code, to read:

41783.4. For any city, county, or regional agency source reduction and recycling element updated and submitted to the board after January 1, 2008, the 50 percent diversion requirement specified in paragraph (2) of subdivision (a) of Section 41780 may include anaerobic digestion, as defined in Section 40103. Anaerobic digestion shall not be considered disposal under a future disposal based compliance system.

SEC. 5. Section 41783.5 is added to the Public Resources Code, to read:

41783.5. (a) For any city, county, or regional agency source reduction and recycling element updated and submitted to the board after January 1, 2008, the 50 percent diversion requirement specified in paragraph (2) of subdivision (a) of Section 41780 may include lignocellulosic ethanol processing, as defined in Section 40113, if the board finds both of the following:

(1) The lignocellulosic ethanol processing facility will advance the demonstration of commercially viable bioenergy processing technologies to produce renewable transportation fuels or other renewable value-added products consistent with California's greenhouse gas reduction targets and the July 2006 Bioenergy Action Plan for California.

(2) The organic feedstock for any lignocellulosic ethanol processing facility is derived from one or more of the following waste materials:

(A) Material that was previously used as noncomposted mulch.

(B) Material that was previously disposed or used for beneficial reuse at a solid waste landfill, including the use as alternative daily cover, which constituted diversion through recycling pursuant to Section 41781.3.

(C) Material that is approved for this use by the board.

(b) Lignocellulosic ethanol processing that complies with this section shall not be considered disposal under a future disposal based compliance system.

SEC. 6. Section 41783.6 is added to the Public Resources Code, to read:

41783.6. For purposes of meeting the statewide requirements set forth in Section 40522, the board shall include anaerobic digestion, as defined in Section 40103, and lignocellulosic ethanol processing, as defined in Section 40113, if the lignocellulosic ethanol processing projects meet the requirements of Section 41783.5.

SEC. 7. Section 42649 is added to the Public Resources Code, to read:

42649. (a) On or before January 1, 2010, the owner or operator of a business that contracts for solid waste services or generates more than four cubic yards of total solid waste and recyclables per week, and is located in a county with a population of 200,000 or more shall implement a recycling program in accordance with a recycling ordinance lawfully adopted by a city, county, city and county, regional agency, or solid waste authority, or other joint powers authority.

(b) Commercial recycling ordinances adopted pursuant to this section shall include, at a minimum, all of the following:

(1) Enforceable requirements to source separate specified recyclable materials from solid waste.

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09/06/07 04:53 PM
 RN 07 28063 PAGE 4
 Substantive

(2) Enforceable requirements requiring commercial generators to subscribe to a basic level of recycling service that includes, at a minimum, the collection of recycling materials or specific provisions for authorized self-hauling.

(3) Education, implementation, and enforcement provisions.

(c) On or before July 1, 2008, the board shall make one or more model commercial recycling ordinances available to local agencies to facilitate compliance with this section.

(d) On or before July 1, 2009, each city, county, city and county, solid waste authority, or other joint powers agency located within counties with a population of 200,000 or more shall have an adopted commercial recycling ordinance that is consistent with this section.

(e) For the purposes of this section, "business" means a commercial entity operated by a firm, partnership, proprietorship, joint stock company, corporation, or association that is organized for profit or nonprofit. "Business" does not include multifamily dwelling units.

(f) This section does not apply to owners or operators of businesses that meet one or more of the following criteria:

(1) Meet specific exemption criteria or criteria contained in a local commercial recycling ordinance for an alternative type of recycling service due to space constraints for recycling containers.

(2) Are subject to a locally adopted commercial recycling ordinance that is equivalent to or more stringent than the requirements prescribed by this section.

(g) Nothing in this section is intended to limit the authority of local agencies to adopt, implement, or enforce local commercial recycling ordinances that are more stringent or comprehensive than the requirements of this section or limit the authority of local agencies in counties with a population of less than 200,000 to require commercial recycling.

(h) Nothing in this section modifies or abrogates in any manner either of the following:

(1) Any franchise previously granted or extended by any county or other local government agency.

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

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

Amendment 3

On page 2, strike out lines 1 to 19, inclusive, and strike out pages 3 to 6, inclusive

Introduced by Senator CorreaFebruary 20, 2008

An act to add Article 3 (commencing with Section 38150) to Chapter 4 of Part 23 of Division 3 of Title 2 of the Education Code, relating to school recycling programs.

LEGISLATIVE COUNSEL'S DIGEST

SB 1321, as introduced, Correa. School recycling programs.

(1) Existing law establishes the public school system in this state and, among other things, provides for the establishment of school districts throughout the state and for their provision of instruction at the public elementary and secondary schools they operate and maintain. Existing law authorizes school districts to establish and maintain a paper recycling program in all classrooms, administrative offices, and other areas owned or leased by the school district where a significant quantity of wastepaper is generated or may be collected. Existing law requires the California Integrated Waste Management Board to develop and implement a source reduction and recycling program for schools in which schools are encouraged, but not required, to participate.

This bill would express findings and declarations of the Legislature with respect to the potential benefits of school recycling programs. The bill would require each school district that maintains a secondary school to maintain beverage container recycling bins on each secondary school campus and public office of that school district. Under the bill, a school district would be authorized to choose whether to operate its own beverage container recycling program, to contact the California Conservation Corps or another recycler to collect the school district's recyclables and negotiate a rebate program or an incentive program as a fundraising activity for the school district, or to continue a recycling

program in existence on January 1, 2009. Because the bill would impose new duties on school districts, it would constitute a state-mandated local program.

The bill would require the Department of Conservation to provide specified recycling supplies to a school district to which the bill is applicable upon request of that district.

(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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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 all of the
2 following:

3 (1) Recycling saves energy, resources, and landfill space,
4 prevents emissions of many greenhouse gases and water pollutants,
5 creates jobs and helps the economy, reduces the need for
6 incinerators, and stimulates the development of greener
7 technologies.

8 (2) Only about one-fourth of the paper, aluminum, iron, and
9 steel used in the world is recovered for recycling.

10 (3) Although the waste generated from school districts is only
11 about 2 percent of the statewide waste stream, within an individual
12 jurisdiction school district waste can represent as much as 10 to
13 15 percent of the total waste disposed in a jurisdiction.

14 (4) Every year, commercial and industrial enterprises in
15 California spend more than \$2.8 billion on the collection and
16 disposal of solid waste.

17 (5) California currently generates approximately 68 million tons
18 of solid waste per year, about two tons annually per each man,
19 woman, and child in the state.

20 (6) Recycling and other waste diversion efforts keep an
21 estimated 28.5 million tons of solid waste out of the state's
22 landfills. Since 1990, cities and counties have diverted over 200

1 million tons of solid waste—enough to fill a line of garbage trucks
2 end-to-end that would circle the Earth's equator more than six
3 times.

4 (7) According to the Department of Conservation, only 13.2
5 billion of the 22 billion beverage containers bought last year in
6 California were recycled.

7 (8) The annual impact of recycling these billions of beverage
8 containers saves approximately 5.3 million barrels of oil and
9 reduces greenhouse gas emissions by approximately 617,000 metric
10 tons.

11 (9) Ongoing costs of collection and sorting efforts are typically
12 minimal compared to the savings from diversion and income
13 realized from the recycled materials.

14 (10) California school districts dispose of large amounts of
15 waste (approximately 763,817 tons per year).

16 (11) Incorporating waste reduction as part of the school district's
17 overall way of doing business can provide a number of important
18 benefits:

19 (A) Reduced disposal costs.

20 (B) Improved worker safety.

21 (C) Reduced long-term liability.

22 (D) Increased efficiency of school operations.

23 (E) Decreased associated purchasing costs.

24 (12) The California Integrated Waste Management Act of 1989
25 requires that all California cities and counties divert 50 percent of
26 solid waste generation. School districts can play a critical role in
27 a city or county's ability to realize this goal.

28 (13) School facilities that have implemented recycling programs
29 have been able to achieve diversion rates as high as 80 percent.

30 (14) For example, the Desert Sands Unified School District was
31 able to save enough in avoided disposal costs to more than pay for
32 the program's full-time staff member. The district saved an
33 additional \$57,000, which it transferred to the schools'
34 discretionary budgets based upon participation. Each school
35 received amounts ranging from \$1,000 to \$3,000, with a high of
36 \$7,000.

37 (15) When pupils, faculty, administrators, and district office
38 staff use recycling bins for bottles and cans, they will accomplish
39 all of the following:

1 (A) Reduce the district's waste collection and disposal
2 expenditures.

3 (B) Help to raise money for our schools.

4 (C) In some cases, they will help to increase the ability of their
5 local California Conservation Corps group to expand and help
6 more at-risk youth.

7 (D) Send an important message to California's young people,
8 encouraging them to be aware of the environmental implications
9 of their actions, including the positive impact recycling has on
10 reducing global warming.

11 (b) Therefore, it is the intent of the Legislature to enact
12 legislation to require each public secondary school and school
13 district office in the state to have a sufficient number of beverage
14 container recycling bins and to participate in a local recycling
15 program or administer its own recycling program.

16 SEC. 2. Article 3 (commencing with Section 38150) is added
17 to Chapter 4 of Part 23 of Division 3 of Title 2 of the Education
18 Code, to read:

19

20 Article 3. School Beverage Container Recycling Program

21

22 38150. (a) A school district that maintains a secondary school
23 shall maintain beverage container recycling bins on each secondary
24 school campus and public office of that school district.

25 (b) A school district to which this article is applicable shall have
26 the choice of any of the following:

27 (1) Operating its own beverage container recycling program by
28 redeeming the bottles and cans that are collected on its campuses.

29 (2) Contacting the California Conservation Corps or another
30 recycler to collect the school district's recyclables and negotiate
31 a rebate program or an incentive program as a fundraising activity
32 for the school district.

33 (3) Continuing a recycling program in existence on January 1,
34 2009.

35 38151. Upon the request of a school district to which this article
36 is applicable, the Department of Conservation shall provide that
37 school district with supplies including, but not necessarily limited
38 to, all of the following:

39 (a) A sufficient number of recycle bins to meet the estimated
40 need of the campus or office to be served.

1 (b) Literature on how to start and run a school-based recycling
2 program in order to make money for school programs.

3 (c) Contact information for the California Integrated Waste
4 Management Board and the Department of Conservation.

5 (d) Contact information for the nearest location of the California
6 Conservation Corps and for local independent recyclers.

7 SEC. 3. If the Commission on State Mandates determines that
8 this act contains costs mandated by the state, reimbursement to
9 local agencies and school districts for those costs shall be made
10 pursuant to Part 7 (commencing with Section 17500) of Division
11 4 of Title 2 of the Government Code.

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