

ASSEMBLY BILL

No. 2436

Introduced by Assembly Member Frommer

February 21, 2002

An act to amend Section 25220 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2436, as introduced, Frommer. Hazardous waste: land use restrictions.

Existing law requires the Department of Toxic Substances Control to notify the planning and building department of each city, county, or regional council of governments of certain land use restrictions imposed upon property designated as hazardous waste property or border zone property, sites listed for remedial or removal action, and remedial action land use controls. Existing law requires the planning department of those local agencies to file those restrictions and take specified actions and law authorizes the city, county, or region council to assess a fee to cover the costs of taking those actions. Existing law requires the department to maintain this list of land use restrictions in a specified manner and to make the list available electronically, as specified.

This bill would additionally require the department to include, in the list, certain environmental land use restrictions reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the land of hazardous materials.

The bill would authorize the department to enter into a contract with a third party, in accordance with the State Contract Act, for purposes of maintaining the list, if the department makes a specified finding. The

bill would authorize the department to assess a property owner a fee for the reasonable costs of maintaining the list.

The bill would authorize the department to expend the fees assessed pursuant to the bill, upon appropriation by the Legislature, to carry out the maintenance of the list, including entering into a contract with a third party.

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

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

1 SECTION 1. Section 25220 of the Health and Safety Code is
2 amended to read:

3 25220. (a) For purposes of this article, unless the context
4 clearly requires a different meaning:

5 (1) "Determination" means a decision by the department as to
6 whether land should be designated as hazardous waste property or
7 border zone property and ~~which~~ *that* is reached after an analysis
8 and an evaluation of the information obtained by the department.

9 (2) "Designation" means imposition of the requirements
10 specified in Section 25230 after a determination, a public hearing,
11 and a decision by the director has occurred pursuant to Section
12 25229.

13 (b) Whenever there is reasonable cause for the department to
14 believe that any land may be a hazardous waste property or border
15 zone property, the department may, by certified mail, request any
16 person who owns, leases, or occupies the land, or any other person
17 who has information relating to the land, to provide any or all of
18 the following information:

19 (1) A description of the present use of the land.

20 (2) The types and volumes of hazardous waste or extremely
21 hazardous waste contained therein or thereon.

22 (3) The date or dates the hazardous waste or extremely
23 hazardous waste was deposited into or onto the land.

24 (4) A map or maps of the property ~~which~~ *that* they own and
25 ~~which~~ *that* contains or overlies hazardous waste or extremely
26 hazardous waste, drawn to a scale of not more than 200 feet to the
27 inch, ~~which~~ *that* shows the area or areas where the hazardous waste
28 or extremely hazardous waste is contained or was deposited. The
29 provision of a map pursuant to this ~~subdivision~~ *paragraph* shall



1 not be required if the respondent to the request asserts in writing
2 that the respondent has no knowledge or insufficient knowledge of
3 the existence or location of the wastes to comply with this
4 subdivision.

5 (5) Any other information ~~which~~ *that* relates to the disposal of
6 hazardous waste on or within 2,000 feet of the property or the
7 potential for the migration of those wastes.

8 (c) Any person who is requested to provide information
9 pursuant to subdivision (b) shall submit the information to the
10 department within 90 calendar days of receipt of the request.

11 (d) The department shall notify the planning and building
12 department of each city, county, or regional council of
13 governments of any recorded land use restriction imposed
14 pursuant to Section 25202.5, 25222.1, 25229, 25230, 25355.5, or
15 25398.7 within the jurisdiction of the local agency. Upon receiving
16 this notification, the planning and building department shall do
17 both of the following:

18 (1) File all recorded land use restrictions in the property files
19 of the city, county, or regional council of government.

20 (2) Require that any person requesting a land use which differs
21 from those filed land use restrictions on the property apply to the
22 department for a variance or a removal of the land use restrictions
23 pursuant to Section 25233 or 25234.

24 (e) (1) A planning and building department of a city, county,
25 or regional council of governments may assess a property owner
26 a reasonable fee to cover the costs of taking the actions required
27 by subdivision (d).

28 (2) *The department may assess a property owner a fee for the*
29 *reasonable costs of taking the actions required by subdivision (f),*
30 *regardless of the time when the land use deed restriction is*
31 *recorded. The department may expend the fees, upon*
32 *appropriation by the Legislature, to carry out the requirements of*
33 *subdivision (f), including entering into a contract pursuant to*
34 *subdivision (g).*

35 (3) For purposes of this subdivision, “property owner” does
36 not include a person who holds evidence of ownership solely to
37 protect a security interest in the property, unless the person
38 participates, or has a legal right to participate, in the management
39 of the property.



1 (f) The department shall maintain a list of all recorded land use
2 restrictions, including deed restrictions, recorded pursuant to
3 *Section 1471 of the Civil Code and pursuant to Sections 25200,*
4 *25200.10, 25202.5, 25222.1, 25229, 25230, 25355.5, and*
5 *25398.7.* The list shall, at a minimum, provide the street address,
6 or, if a street address is not available, an equivalent description of
7 location for a rural location or the latitude and longitude, of each
8 property. The department shall update the list as new deed
9 restrictions are recorded. The department shall make the list
10 available to the public, upon request, and shall make the list
11 available on the department’s Internet-~~website~~ *Web site.* The list
12 shall also be incorporated into the list of sites compiled pursuant
13 to Section 65962.5 of the Government Code.

14 (g) *The department may enter into a contract with a third party,*
15 *in accordance with the State Contract Act (Part 2 (commencing*
16 *with Section 10100) of Division 2 of the Public Contract Code) for*
17 *purposes of maintaining the list required by subdivision (f), if the*
18 *department makes a finding that entering into this contract is more*
19 *cost-effective than the maintenance of the list by the department or*
20 *that the contract will be part of a comprehensive effort to assure*
21 *the dissemination of knowledge and compliance with deed use*
22 *restrictions or other institutional controls imposed pursuant to*
23 *other provisions of law.*

