

AMENDED IN ASSEMBLY AUGUST 1, 2002

AMENDED IN ASSEMBLY JUNE 19, 2002

AMENDED IN ASSEMBLY JUNE 4, 2002

AMENDED IN SENATE APRIL 18, 2002

AMENDED IN SENATE APRIL 16, 2002

**SENATE BILL**

**No. 1374**

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**Introduced by Senator Kuehl**

February 8, 2002

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An act to amend Sections 41821 and 41850 of, and to add Section 42912 to, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 1374, as amended, Kuehl. Solid waste: construction and demolition—~~waste materials~~ *debris*: diversion requirements: model ordinance.

(1) Existing law, the California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, establishes an integrated waste management program. Existing law requires a city, county, or regional agency to submit an annual report to the board summarizing its progress in diverting solid waste from disposal. The report is required to include, among other things, specified information relevant to compliance with the solid waste diversion requirements.

This bill would additionally require that the report include a summary of progress made in diversion of construction and demolition ~~waste materials~~ *debris*, including information on programs and

ordinances implemented by the local government and quantitative data, where available. By imposing new requirements on local agencies with respect to reporting requirements under the act, the bill would impose a state-mandated local program.

(2) Existing law requires the board to adopt a model ordinance for adoption by any local agency relating to adequate areas for collecting and loading recyclable materials in development projects. The board is required to develop the model ordinance in consultation with the League of California Cities, the County Supervisors Association of California, and certain other interested parties and to distribute the draft model ordinance to all local agencies and other interested parties for review. Local agencies are required to adopt an ordinance, not later than a specified date, relating to adequate areas for collecting and loading recyclable materials in development projects. If a local agency has not adopted that ordinance by the specified date, the model ordinance adopted by the board is required to take effect on that date and be enforced by the local agency and have the same force and effect as if adopted by the local agency as an ordinance.

This bill would require the board, not later than March 1, 2004, after holding a public hearing, to adopt one or more model ordinances suitable for modification by any local agency, that the agency may adopt that will require a range of diversion rates of construction and demolition ~~waste materials~~ *debris* from landfills from 50 to 75%, as determined by the board. The bill would also require the board on or before that date to consult with representatives of the League of California Cities, the California State Association of Counties, private and public waste services, and building construction and management personnel throughout the development of the model ordinances, and to fulfill various other requirements relating to reporting and posting information on the board's Internet Web site.

(3) Existing law requires the board, in determining whether or not to impose any penalties on a city, county, or city and county for violations of specified solid waste reduction and recycling requirements imposed by the act, to consider whether the jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element.

This bill would also require the board, in determining those penalties, to consider whether a local jurisdiction has provided information to the board concerning whether construction and demolition ~~waste material~~ *debris* 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~~ debris from solid waste disposal facilities, has adopted a model ordinance for diversion of construction and demolition ~~waste materials~~ debris from solid waste disposal facilities, or has implemented another program to encourage or require diversion of construction and demolition ~~waste materials~~ debris from solid waste disposal facilities.

(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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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. Section 41821 of the Public Resources Code is  
2 amended to read:

3 41821. (a) (1) Each year following the board’s approval of  
4 a city, county, or regional agency’s source reduction and recycling  
5 element, household hazardous waste element, and nondisposal  
6 facility element, the city, county, or regional agency shall submit  
7 a report to the board summarizing its progress in reducing solid  
8 waste as required by Section 41780.

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

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

17 (1) Calculations of annual disposal reduction.



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

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

12 (4) A summary of progress made in diversion of construction  
13 and demolition ~~of waste materials~~ *debris*, including information  
14 on programs and ordinances implemented by the local government  
15 and quantitative data, where available.

16 (5) If the jurisdiction has been granted a time extension by the  
17 board pursuant to Section 41820, the jurisdiction shall include a  
18 summary of progress made in meeting the source reduction and  
19 recycling element implementation schedule pursuant to paragraph  
20 (2) of subdivision (a) of Section 41780 and complying with the  
21 jurisdiction's plan of correction, prior to the expiration of the time  
22 extension.

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

29 (7) Other information relevant to compliance with Section  
30 41780.

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

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

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



1 (B) The effects of self-hauled waste and construction and  
2 demolition ~~waste~~ *debris*.

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

6 (2) Information regarding the programs the jurisdiction is  
7 undertaking to respond to the factors specified in paragraph (1),  
8 and why it is not feasible to implement programs to respond to  
9 other factors that affect the amount of waste that is disposed.

10 (3) An estimate that the jurisdiction believes reflects that  
11 jurisdiction's annual reduction or increase in the disposal of solid  
12 waste.

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

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

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

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

29 SEC. 2. Section 41850 of the Public Resources Code is  
30 amended to read:

31 41850. (a) Except as specifically provided in Section 41813,  
32 if, after holding the public hearing and issuing an order of  
33 compliance pursuant to Section 41825, the board finds that the  
34 city, county, or regional agency has failed to make a good faith  
35 effort to implement its source reduction and recycling element or  
36 its household hazardous waste element, the board may impose  
37 administrative civil penalties upon the city or county or, pursuant  
38 to Section 40974, upon the city or county as a member of a regional  
39 agency, of up to ten thousand dollars (\$10,000) per day until the  
40 city, county, or regional agency implements the element.



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

14 (1) Natural disasters.

15 (2) Budgetary conditions within a city, county, or regional  
16 agency that could not be remedied by the imposition or adjustment  
17 of solid waste fees.

18 (3) Work stoppages that directly prevent a city, county, or  
19 regional agency from implementing its source reduction and  
20 recycling element or household hazardous waste element.

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

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

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

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

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

39 (4) Whether a local jurisdiction has provided information to the  
40 board concerning whether construction and demolition waste



1 ~~material~~ *debris* is at least a moderately significant portion of the  
2 waste stream, and, if so, whether the local jurisdiction has adopted  
3 an ordinance for diversion of construction and demolition ~~waste~~  
4 ~~materials~~ *debris* from solid waste disposal facilities, has adopted  
5 a model ordinance pursuant to subdivision (a) of Section 42912 for  
6 diversion of construction and demolition ~~waste-materials~~ *debris*  
7 from solid waste disposal facilities, or has implemented another  
8 program to encourage or require diversion of construction and  
9 demolition ~~waste-materials~~ *debris* from solid waste disposal  
10 facilities.

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

17 (2) For purposes of this section “good faith effort” may also  
18 include the evaluation by a city, county, or regional agency of  
19 improved technology for the handling and management of solid  
20 waste that would reduce costs, improve efficiency in the  
21 collection, processing, or marketing of recyclable materials or  
22 yard waste, and enhance the ability of the city, county, or regional  
23 agency to meet the diversion requirements of paragraphs (1) and  
24 (2) of subdivision (a) of Section 41780, provided that the city,  
25 county, or regional agency has submitted a compliance schedule  
26 pursuant to Section 41825, and has made all other reasonable and  
27 feasible efforts to implement the programs identified in its source  
28 reduction and recycling element or household hazardous waste  
29 element.

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

34 SEC. 3. Section 42912 is added to the Public Resources Code,  
35 to read:

36 42912. (a) Not later than March 1, 2004, after holding a  
37 public hearing, the board shall do all of the following:

38 (1) Adopt one or more model ordinances, suitable for  
39 modification by a local agency, that the local agency may adopt  
40 that will require a range of diversion rates of construction and



1 demolition ~~waste materials~~ *debris* from 50 to 75 percent, as  
2 determined by the board, *and as measured by weight*.

3 (2) Consult with representatives of the League of California  
4 Cities, the California State Association of Counties, private and  
5 public waste services and building construction materials industry  
6 and construction management personnel throughout the  
7 development of the model ordinances.

8 (3) Compile a report on programs, other than a model  
9 ordinance, that local governments and general contractors can  
10 implement to increase diversion of construction and demolition  
11 ~~waste materials~~ *debris*.

12 (4) Post on the board's Internet Web site, a report for general  
13 contractors on methods by which contractors can increase  
14 diversion of construction and demolition ~~waste materials~~ *debris*.

15 (5) Post on the board's Internet Web site, a report for local  
16 governments with suggestions of programs, in addition to  
17 adoption of the model ordinance, to increase diversion of  
18 construction and demolition ~~waste materials~~ *debris*.

19 (b) Not later than January 1, 2004, the board shall distribute the  
20 draft model ordinance to all local agencies and other interested  
21 parties for review. Any comments shall be submitted to the board  
22 by February 1, 2004, for consideration at the public hearing of the  
23 board to adopt the ordinance.

24 SEC. 4. Notwithstanding Section 17610 of the Government  
25 Code, if the Commission on State Mandates determines that this  
26 act contains costs mandated by the state, reimbursement to local  
27 agencies and school districts for those costs shall be made pursuant  
28 to Part 7 (commencing with Section 17500) of Division 4 of Title  
29 2 of the Government Code. If the statewide cost of the claim for  
30 reimbursement does not exceed one million dollars (\$1,000,000),  
31 reimbursement shall be made from the State Mandates Claims  
32 Fund.

