

AMENDED IN SENATE MAY 1, 2002

SENATE BILL

No. 1542

Introduced by Senator Escutia
(Coauthor: Senator Romero)
(Coauthors: Assembly Members Aroner and Keeley)

February 20, 2002

An act to amend Sections ~~43021 and 44009~~ 40912 and 41701 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 1542, as amended, Escutia. Solid waste management: environmental justice.

(1) The existing California Integrated Waste Management Act of 1989 requires the California Integrated Waste Management Board to develop a model countywide or regional siting element and a model countywide or regional agency integrated waste management plan that will establish prototypes of the content and format that counties or regional agencies may use in meeting the requirements of the act.

This bill would require the board, on or before April 1, 2003, and using existing resources, to provide local jurisdictions and private businesses with information and models to assist with consideration of environmental justice concerns, as defined, when complying with certain requirements relating to development and revision of countywide siting elements for solid waste disposal facilities.

The bill would require that environmental justice concerns be considered when identifying an area or areas for the location of new solid waste transformation or disposal facilities, or for the expansion of existing facilities, in any countywide siting element or revision thereto submitted to the board on or after July 1, 2003. To the extent that

this requirement would impose additional duties upon local governments, the bill would establish a state-mandated local program.

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

~~(1) Existing law prohibits the operation of a solid waste facility without a solid waste facilities permit issued by the enforcement agency having jurisdiction over the facility, or the California Integrated Waste Management Board, if there is no designated enforcement agency.~~

~~Existing law requires the board to develop regulations that include standards for the design, operation, maintenance, and ultimate reuse of solid waste facilities.~~

~~Existing law requires enforcement agencies to submit applications for permit issuance, modification, or revision to the board for concurrence. The board is required to concur or object, in writing, to the issuance, modification, or revision of any solid waste facilities permit within 60 days from the date of submission for review. The board is required to object to the issuance if it determines that the permit is not consistent with certain state minimum standards, among other things, that the board is required to develop. The enforcement agency is authorized to issue the permit only if it finds that the permit is consistent with statutory provisions and regulations relating to solid waste management.~~

~~This bill would require the regulations adopted by the board to include standards for the location of solid waste facilities. The bill would also require the regulations to include standards that require consideration of environmental justice concerns when locating, designing, operating, maintaining, and reusing solid waste facilities, including the fair treatment of people of all races, cultures, and incomes.~~

~~The bill would require these additional standards to be considered by the board and the enforcement agencies when considering the issuance, modification, or revision of solid waste facilities permits.~~



~~Because the enforcement agencies are agencies of local government, the bill would create a state-mandated local program by imposing additional duties upon those agencies.~~

~~(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, 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 43021 of the Public Resources Code is~~
2 *SECTION 1. Section 40912 of the Public Resources Code is*
3 *amended to read:*

4 40912. (a) The board shall develop a model countywide or
5 regional siting element and a model countywide or regional
6 agency integrated waste management plan that will establish
7 prototypes of the content and format that counties or regional
8 agencies may use in meeting the requirements of this part.

9 (b) On or before July 1, 2001, the board shall develop a model
10 revised source reduction and recycling element that will establish
11 prototypes of the content and format of that element that cities,
12 counties, regional agencies, or a city and county may use in
13 meeting the requirements of this part.

14 (c) The board shall adopt a program to provide assistance to
15 cities, counties, regional agencies, or a city and county in the
16 development and implementation of source reduction programs.
17 The program shall include, but not be limited to, the following:

18 (1) The development of model source reduction programs and
19 strategies that may be used at the local and regional level.

20 (2) Ongoing analysis of public and private sector source
21 reduction programs that may be provided to cities, counties,



1 regional agencies, and a city and county in order to assist them in
2 complying with Article 3 (commencing with Section 41050) of
3 Chapter 2 and Article 3 (commencing with Section 41350) of
4 Chapter 3.

5 (3) Assistance to cities, counties, regional agencies, and a city
6 and county in the development of source reduction programs for
7 commercial and industrial generators of solid waste that include
8 the development of source reduction strategies designed for
9 specific types of commercial and industrial generators.

10 (d) The board shall, to the maximum extent feasible, utilizing
11 existing resources, provide local jurisdictions and private
12 businesses with information, tools, and mathematical models to
13 assist with meeting or exceeding the 50-percent diversion
14 requirement pursuant to Section 41780. The board shall act as a
15 solid waste information clearinghouse.

16 (e) (1) *On or before April 1, 2003, and using existing*
17 *resources, the board shall provide local jurisdictions and private*
18 *businesses with information and models to assist with*
19 *consideration of environmental justice concerns when complying*
20 *with Section 41701.*

21 (2) *For the purposes of this subdivision, “environmental*
22 *justice” has the meaning defined in subdivision (e) of Section*
23 *65040.12 of the Government Code.*

24 *SEC. 2. Section 41701 of the Public Resources Code is*
25 *amended to read:*

26 41701. Each countywide siting element and revision thereto,
27 shall include, but is not limited to, all of the following:

28 (a) A statement of goals and policies for the environmentally
29 safe transformation or disposal of solid waste ~~which~~ *that* cannot be
30 reduced, recycled, or composted.

31 (b) An estimate of the total transformation or disposal capacity
32 in cubic yards that will be needed for a 15-year period to safely
33 handle solid wastes generated with the county ~~which~~ *that* cannot
34 be reduced, recycled, or composted.

35 (c) The remaining combined capacity of existing solid waste
36 transformation or disposal facilities existing at the time of the
37 preparation of the siting element, or revision thereto, in cubic
38 yards and years.

39 (d) The identification of an area or areas for the location of new
40 solid waste transformation or disposal facilities, or the expansion



1 of existing facilities ~~which~~, *that* are consistent with the applicable
2 city or county general plan, if the county determines that existing
3 capacity will be exhausted within 15 years or additional capacity
4 is desired.

5 *(e) (1) Environmental justice concerns shall be considered*
6 *when identifying an area or areas for the location of new solid*
7 *waste transformation or disposal facilities, or for the expansion of*
8 *existing facilities, in any countywide siting element or revision*
9 *thereto submitted to the board on or after July 1, 2003.*

10 *(2) For the purposes of this subdivision, “environmental*
11 *justice” has the meaning defined in subdivision (e) of Section*
12 *65040.12 of the Government Code.*

13 *SEC. 3. Notwithstanding Section 17610 of the Government*
14 *Code, if the Commission on State Mandates determines that this*
15 *act contains costs mandated by the state, reimbursement to local*
16 *agencies and school districts for those costs shall be made*
17 *pursuant to Part 7 (commencing with Section 17500) of Division*
18 *4 of Title 2 of the Government Code. If the statewide cost of the*
19 *claim for reimbursement does not exceed one million dollars*
20 *(\$1,000,000), reimbursement shall be made from the State*
21 *Mandates Claims Fund.*

22 ~~amended to read:~~

23 ~~43021. Regulations shall include standards for the location,~~
24 ~~design, operation, maintenance, and ultimate reuse of solid waste~~
25 ~~facilities, but shall not include aspects of solid waste handling or~~
26 ~~disposal which are solely of local concern or which are within the~~
27 ~~jurisdiction of the State Air Resources Board, air pollution control~~
28 ~~districts and air quality management districts, or the state water~~
29 ~~board or regional water boards. The standards shall require~~
30 ~~consideration of environmental justice concerns when locating,~~
31 ~~designing, operating, maintaining, and reusing solid waste~~
32 ~~facilities, including, but not limited to, the fair treatment of people~~
33 ~~of all races, cultures, and incomes.~~

34 ~~SEC. 2. Section 44009 of the Public Resources Code is~~
35 ~~amended to read:~~

36 ~~44009. (a) (1) The board shall concur or object, in writing,~~
37 ~~to the issuance, modification, or revision of any solid waste~~
38 ~~facilities permit within 60 days from the date of the board’s receipt~~
39 ~~of any proposed solid waste facilities permit submitted under~~
40 ~~Section 44007 after consideration of the issues in this section.~~



1 ~~(2) If the board determines that the permit is not consistent with~~
2 ~~the state minimum standards adopted pursuant to Section 43020~~
3 ~~or 43021, or is not consistent with Sections 43040, 43600, 44007,~~
4 ~~44010, 44017, 44150, and 44152 or Division 31 (commencing~~
5 ~~with Section 50000), the board shall object to provisions of the~~
6 ~~permit and shall submit those objections to the local enforcement~~
7 ~~agency for its consideration.~~

8 ~~(3) If the board fails to concur or object in writing within the~~
9 ~~60-day period specified in paragraph (1), the board shall be~~
10 ~~deemed to have concurred in the issuance of the permit as~~
11 ~~submitted to it.~~

12 ~~(b) Notwithstanding subdivision (a), the board is not required~~
13 ~~to concur in, or object to, and shall not be deemed to have~~
14 ~~concurred in, the issuance of a solid waste facilities permit for a~~
15 ~~disposal facility if the owner or operator is not in compliance with,~~
16 ~~as determined by the regional water board, an enforcement order~~
17 ~~issued pursuant to Chapter 5 (commencing with Section 13300) of~~
18 ~~Division 7 of the Water Code, or if all of the following conditions~~
19 ~~exist:~~

20 ~~(1) Waste discharge requirements for the disposal facility~~
21 ~~issued by the applicable regional water board are pending review~~
22 ~~in a petition before the state water board.~~

23 ~~(2) The petition for review of the waste discharge requirements~~
24 ~~includes a request for a stay of the waste discharge requirements.~~

25 ~~(3) The state water board has not taken action on the stay~~
26 ~~request portion of the pending petition for review of waste~~
27 ~~discharge requirements.~~

28 ~~(c) In objecting to the issuance, modification, or revision of any~~
29 ~~solid waste facilities permit pursuant to this section, the board~~
30 ~~shall, based on substantial evidence in the record as to the matter~~
31 ~~before the board, state its reasons for objecting. The board shall not~~
32 ~~object to the issuance, modification, or revision of any solid waste~~
33 ~~facilities permit unless the board finds that the permit is not~~
34 ~~consistent with the state minimum standards adopted pursuant to~~
35 ~~Section 43020 or 43021, or is not consistent with Section 43040,~~
36 ~~43600, 44007, 44010, 44017, 44150, or 44152 or Division 31~~
37 ~~(commencing with Section 50000).~~

38 ~~(d) Nothing in this section is intended to require that a solid~~
39 ~~waste facility obtain a waste discharge permit from a regional~~
40 ~~water board prior to obtaining a solid waste facilities permit.~~



1 ~~SEC. 3.—Notwithstanding Section 17610 of the Government~~
2 ~~Code, if the Commission on State Mandates determines that this~~
3 ~~act contains costs mandated by the state, reimbursement to local~~
4 ~~agencies and school districts for those costs shall be made pursuant~~
5 ~~to Part 7 (commencing with Section 17500) of Division 4 of Title~~
6 ~~2 of the Government Code. If the statewide cost of the claim for~~
7 ~~reimbursement does not exceed one million dollars (\$1,000,000),~~
8 ~~reimbursement shall be made from the State Mandates Claims~~
9 ~~Fund.~~

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