

ASSEMBLY BILL

No. 2159

Introduced by Assembly Member Reyes

February 18, 2004

An act to amend Section 45017 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2159, as introduced, Reyes. Solid waste facilities: orders.

The existing California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, establishes an integrated solid waste management program. Existing law requires all orders and determinations issued under that act take effect immediately after any time period for appeal has expired. However, under existing law, a request for a hearing stays the effect of the order pending completion of all appeals, but a request for a hearing does not stay a provision of the order, or the order as a whole, when there is an imminent and substantial threat to public health and safety or the environment, as specified.

This bill would instead provide that a request for a hearing does not stay the effect of any order, pending completion of all appeals, and would make conforming changes.

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

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

- 1 SECTION 1. Section 45017 of the Public Resources Code is
- 2 amended to read:

1 45017. ~~(a) (1) Except as provided in paragraphs (2) and (3)~~
 2 ~~all~~ All orders and determinations issued pursuant to this part or
 3 Part 4 (commencing with Section 43000) shall take effect
 4 immediately after any time period provided for appeal has expired;
 5 ~~and. Notwithstanding any other provision of law,~~ a request for a
 6 hearing shall *not* stay the effect of ~~that~~ any provision of the order
 7 pending completion of all appeals.

8 ~~(2) Notwithstanding any other provision of law, any provision~~
 9 ~~of an order issued under this part shall take effect upon service on~~
 10 ~~the affected person if the enforcement agency finds that the actions~~
 11 ~~or inactions associated with that provision may pose an imminent~~
 12 ~~and substantial threat to the public health and safety or to the~~
 13 ~~environment, and a request for a hearing shall not stay the effect~~
 14 ~~of that provision of the order pending completion of all appeals.~~

15 ~~(3) Notwithstanding any other provision of law, if the~~
 16 ~~enforcement agency determines that any or all provisions of the~~
 17 ~~order are so related that the public health and safety or the~~
 18 ~~environment can be protected only by immediate compliance with~~
 19 ~~the order as a whole, then the order as a whole shall take effect~~
 20 ~~upon issuance by the enforcement agency and a request for a~~
 21 ~~hearing shall not stay the effect of the order as a whole pending~~
 22 ~~completion of all appeals.~~

23 ~~(b) Any person aggrieved by an order by an enforcement~~
 24 ~~agency which takes effect upon service, based on the finding of an~~
 25 ~~imminent and substantial threat to public health and safety or to the~~
 26 ~~environment, may immediately appeal the order to a hearing panel~~
 27 ~~established pursuant to Section 44307. The hearing panel shall, at~~
 28 ~~the request of the person subject to the order, hear the appeal~~
 29 ~~consistent with the provisions of Sections 11125.5 and 54956.5 of~~
 30 ~~the Government Code, as applicable.~~

