

AMENDED IN SENATE APRIL 9, 2003

SENATE BILL

No. 537

Introduced by Senator Romero

February 20, 2003

An act to amend ~~and repeal Section 40055 of the Public Resources Sections 4741, 4741.1, 4741.2, 4741.3, 4741.4, 4741.5, 4741.6, 4741.7, 4742, and 4742.1 of, and to add Section 4742.2 to, the Health and Safety Code, relating to solid waste.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 537, as amended, Romero. Solid waste management: *county sanitation districts.*

The County Sanitation District Act authorizes a county sanitation district to acquire, construct, and complete certain works, property, or structures necessary or convenient for sewage collection, treatment, transfer, and disposal.

This bill would also define refuse transfer facilities for these purposes to include, not be limited to, a waste-by-rail transfer facility for the loading of solid waste for transport by rail or for the unloading of solid waste transported by rail.

Existing law prohibits a district from acquiring land for or establishing and operating a refuse transfer facility or disposal facility within a city or the unincorporated area of a county until the city council, if the facility is proposed to be located in the city, or the board of supervisors of the county, if the facility is proposed to be located in the unincorporated area of the county, has, by resolution, consented to the use of the proposed site for that purpose.

This bill would limit the application of that provision to a district in a county with a population of 8,000,000 or more. It would, however,

require both the city council and the county board of supervisors to enact the resolution if the facility is proposed to be located in the unincorporated area of a county and within one mile of the city limits of a city.

Existing law requires specified procedures, such as notice, public hearings, and elections, prior to a district's acquisition of land for, or the construction or maintenance and operation of, a refuse transfer facility or a refuse disposal facility.

This bill would make those procedures applicable to the material expansion of a refuse transfer facility or a refuse disposal facility.

~~The California Integrated Waste Management Act establishes an integrated waste management program administered by the California Integrated Waste Management Board.~~

~~Existing law provides that the act and any regulations adopted under the act are not a limitation on other provisions of law generally or, specifically, with regard to water quality, toxic substances, or air resources. Existing law also provides for the coordination of authority under the act and provisions regulating water quality.~~

~~This bill would repeal those provisions as of January 1, 2005.~~

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

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

1 ~~SECTION 1.—Section 40055 of the Public Resources Code is~~
2 *SECTION 1. Section 4741 of the Health and Safety Code is*
3 *amended to read:*
4 4741. (a) A district may acquire, construct, and complete
5 within or without the district, sewage collection, treatment, and
6 disposal works, including sewage treatment plants, outfalls,
7 intercepting, collecting and lateral sewers, pipes, pumps,
8 machinery, easements, rights-of-way, and other works, property,
9 or structures necessary or convenient for sewage collection,
10 treatment, and disposal. No sewerage system shall be constructed,
11 maintained, or operated in any city not in the district except by
12 consent granted by an affirmative vote by a majority of the full
13 membership of the governing body of the city; provided, however,
14 that the district may construct, operate, and maintain intercepting,
15 trunk, and outfall sewerlines, other than ocean outfall lines and
16 other terminal outfall lines, together with pumps and like



1 machinery necessary for sewage transportation, in a city pursuant
2 to Section 4759.1. For the purposes of this section, the term
3 “terminal outfall lines” means any outfall sewerlines that
4 discharge within the city any effluent from a sewer treatment plant
5 or any sewage.

6 ~~¶~~

7 (b) A district may also acquire lands and acquire and construct
8 refuse transfer facilities, including, but not limited to,
9 waste-by-rail transfer facilities for the loading for the transport of
10 solid waste by rail or for the unloading of solid waste transported
11 by rail, or refuse disposal facilities, or both, within or without the
12 district, and it may maintain and operate within the district
13 boundaries a system for transfer or disposal of refuse, or both;
14 provided, however, that the system ~~shall~~ may not include “refuse
15 collection,” which is defined as the house-to-house pickup of
16 refuse or any part thereof.

17 ~~A~~

18 (c) A district ~~shall~~ in a county with a population of eight million
19 or more may not acquire land for, ~~or~~ establish and operate, or
20 materially expand the throughput capacity of a refuse transfer
21 facility, including, but not limited to, a waste-by-rail transfer
22 facility for the loading of solid waste for transport by rail or for the
23 unloading of solid waste transported by rail, or the disposal
24 capacity of a disposal facility within ~~either~~ a city or within the
25 unincorporated area of a county, until the city council, if the
26 facility is proposed to be located in the city, or the board of
27 supervisors of the county, if ~~it~~ the facility is proposed to be located
28 in the unincorporated area of the county, has, by written
29 resolution, consented to the use of the proposed site for that
30 purpose, or until both the city council and the county board of
31 supervisors, if the facility is proposed to be located in the
32 unincorporated area of a county and within one mile of the city
33 limits of a city, have both, by written resolution, consented to the
34 use of the proposed site for that purpose.

35 ~~¶~~

36 (d) (1) If 90 percent or more of the total area of the district is
37 unincorporated territory and the land proposed to be acquired for
38 a refuse transfer facility or a refuse disposal facility, or used for a
39 material expansion of a refuse transfer facility or a refuse disposal
40 facility, is located in the unincorporated territory of the county, the



1 board of supervisors, before adopting any resolution consenting to
2 the use of land for that purpose, shall hold a public hearing upon
3 the question of the adoption of the resolution.

4 (2) Notice of the hearing shall be given by publication in the
5 area pursuant to Section 6066 of the Government Code, not more
6 than 30 nor less than 10 days prior to the hearing.

7 (3) If at any time before the hearing, there is filed with the board
8 of supervisors a written objection to the use of the proposed site
9 for a refuse transfer *facility or refuse disposal facility, or to the*
10 *proposed material expansion of a refuse transfer facility or refuse*
11 *disposal facility*, signed by 2 percent or more of the registered
12 voters of the district, the board shall submit the matter of the
13 proposed use to the voters of the district at an election. The
14 proposition shall be submitted to the voters in the manner and
15 under the procedure prescribed in Article 5 (commencing with
16 Section 4780) of Chapter 3 ~~of this part~~ for submission of the
17 proposition of incurring a bonded indebtedness.

18 (4) If a majority of the votes cast in an election are in favor of
19 the proposed use *or material expansion*, the board shall adopt the
20 resolution consenting thereto, but if a majority of the votes cast are
21 against the proposed use *or material expansion*, the board shall
22 dismiss the proceedings, and no resolution consenting to the
23 *proposed use of any of any of such the land or the material*
24 *expansion of the facility* shall be adopted by the board for at least
25 one year from the date of the election.

26 (e) *For purposes of this chapter, the term “materially expand*
27 *the throughput capacity” means any increase of daily throughput*
28 *of solid waste by more than 5 percent over the average daily*
29 *throughput of solid waste for the preceding three calendar years,*
30 *any expansion of annual throughput by more than 5 percent over*
31 *the average annual throughput of solid waste for the preceding*
32 *three years, or any increase of daily throughput of solid waste that*
33 *will cause the daily throughput to exceed 4,000 tons per day,*
34 *whichever is less.*

35 SEC. 2. *Section 4741.1 of the Health and Safety Code is*
36 *amended to read:*

37 4741.1. A district board desiring to construct, maintain and
38 operate, *or materially expand* a refuse transfer *facility or a refuse*
39 disposal system, or both, within or without the district, in addition
40 to its sewage collection, treatment and disposal system, shall adopt



1 a resolution of its intention to do so. The resolution shall contain
2 the following:

3 (a) A statement of the intention to construct, maintain and
4 operate, *or materially expand*, a refuse transfer *facility* or a refuse
5 disposal system, or ~~both~~; *both*.

6 (b) A statement that in the absence of any exclusion as provided
7 in Section 4741.2, the boundaries of the proposed *service area for*
8 *the* refuse transfer *facility* or *the* refuse disposal system, or both,
9 shall coincide with the existing district ~~boundaries~~; *boundaries*.

10 (c) The name of the county sanitation district proposing to
11 construct, maintain and operate ~~said system~~; *the refuse transfer*
12 *facility* or *refuse disposal system*.

13 (d) Instructions to the secretary of the district board to deliver
14 within 10 days after the passage of ~~said the~~ resolution of intention
15 a certified copy thereof to the governing body of each political
16 subdivision having representation on ~~said the~~ district ~~board~~;
17 *board*.

18 (e) A statement that any political subdivision having
19 representation on the district board may be excluded from ~~said the~~
20 *refuse transfer facility* or *refuse disposal* system and relieved of all
21 liability in connection therewith upon complying with the
22 provisions of Section 4741.2.

23 *SEC. 3. Section 4741.2 of the Health and Safety Code is*
24 *amended to read:*

25 4741.2. That portion of a political subdivision lying within a
26 district and having representation on the district board of directors,
27 shall be excluded from the proposed refuse transfer *facility* or
28 *refuse* disposal system, or both, and shall not be liable for any cost
29 incurred by ~~said the~~ district in acquiring, constructing, operating
30 and maintaining ~~such the~~ *refuse transfer facility* or *refuse disposal*
31 *system*; provided; that the governing body of ~~said the~~ political
32 subdivision, within 90 days after passage of the resolution of
33 intention by the district to form ~~such the~~ *refuse transfer facility* or
34 *refuse disposal* system, delivers to ~~said the~~ district a certified copy
35 of its resolution requesting exclusion from the proposed refuse
36 transfer *facility* or *refuse* disposal system, or both.

37 *SEC. 4. Section 4741.3 of the Health and Safety Code is*
38 *amended to read:*

39 4741.3. (a) At the expiration of not less than 90 days after
40 adoption of the resolution of intention to construct, maintain and



1 operate, *or materially expand* a refuse transfer facility or a refuse
 2 disposal system, or both, the district board may, in its discretion,
 3 adopt a resolution declaring the *refuse transfer facility or refuse*
 4 *disposal* system formed or may rescind its resolution of intention
 5 to form ~~said~~ *the refuse transfer facility or refuse disposal* system
 6 and declare all prior proceedings in connection therewith void.

7 ~~Any~~

8 (b) Any existing refuse collection and disposal system of a
 9 district shall be dissolved without further action by the board upon
 10 the adoption by the same district board of a resolution declaring a
 11 refuse transfer facility or refuse disposal system, or both, formed.

12 SEC. 5. Section 4741.4 of the Health and Safety Code is
 13 amended to read:

14 4741.4. The board of directors of a county sanitation district
 15 shall be the same for all district purposes, activities, and objectives,
 16 whether for collection, treatment and disposal of sewage, or for the
 17 acquisition and operation *or material expansion* of a refuse
 18 transfer facility or a refuse disposal system, or both, and no director
 19 shall be excluded from the board of directors because the political
 20 subdivision ~~which~~ *that* he represents on the board has excluded
 21 itself from the ~~said~~ refuse transfer facility or *the refuse* disposal
 22 system, or both.

23 SEC. 6. Section 4741.5 of the Health and Safety Code is
 24 amended to read:

25 4741.5. When a refuse transfer facility, including, but not
 26 limited to, a waste-by-rail transfer facility for the loading of solid
 27 waste for transport by rail or for the unloading of solid waste
 28 transported by rail, or a refuse disposal system, or both, is
 29 established by a district pursuant to ~~the provisions of~~ this article,
 30 the district shall comply with the provisions of Sections 54900 to
 31 54903, inclusive, of the Government Code, by furnishing a
 32 statement and map or plat to each assessor whose roll is used for
 33 the levy as provided in Section 4815 ~~of this code~~ and to the State
 34 Board of Equalization, showing the boundaries of ~~said~~ *the service*
 35 *area of the refuse transfer facility or the refuse disposal* system, or
 36 both.

37 SEC. 7. Section 4741.6 of the Health and Safety Code is
 38 amended to read:

39 4741.6. (a) The provisions of Sections 4741.1 through
 40 4741.5 shall not apply to any district whose resolution of intention



1 pursuant to Section 4710 discloses that the district was formed for
2 the purposes of constructing, *or* maintaining and operating both
3 sewage collection and *refuse* disposal systems and refuse
4 collection and disposal systems. ~~Also nothing~~

5 (b) *Nothing* contained in this chapter shall be construed to
6 preclude any district from using its sewerage system to dispose of
7 ground garbage or other acceptable material ~~which~~ *that* is ground
8 into the form of slurry.

9 *SEC. 8. Section 4741.7 of the Health and Safety Code is*
10 *amended to read:*

11 4741.7. (a) Notwithstanding any of the provisions of this
12 chapter, or of Article 4 (commencing with Section 5470) of
13 *Chapter 6* to the contrary, a district may fix and collect a fee or
14 charge in connection with its refuse transfer *facility* or *its refuse*
15 disposal system only pursuant to ~~the provisions of~~ Section 5471,
16 and for these purposes “sanitation or sewerage system” includes
17 a refuse transfer *facility* or *a refuse* disposal system.

18 (b) Any entity ~~which~~ *that* collects such a fee or charge for a
19 district pursuant to the provisions of Section 5471 may deduct the
20 administrative costs of these collections from the revenue
21 produced from ~~such~~ *the* fee or charge. The revenues of these
22 charges ~~shall~~ *may* not be used for acquisition, construction,
23 maintenance, or operation of any refuse transfer *facility* or *refuse*
24 disposal system, whether by the district, jointly, by contract, or
25 otherwise, unless the *refuse transfer facility or refuse disposal*
26 system is either a facility for the conversion of solid waste into
27 energy, synthetic fuels, or reusable materials or is open for use by
28 all persons in the district.

29 (c) For the purposes of this section, “person” includes an
30 individual, company, public or private corporation, or public
31 entity.

32 *SEC. 9. Section 4742 of the Health and Safety Code is*
33 *amended to read:*

34 4742. ~~It~~ *A* district may join with any other district, city or
35 other governmental agency in the purchase, ownership, use,
36 construction, maintenance, or operation of a sewerage system or
37 sewage disposal or treatment plant, or *of a refuse transfer facility,*
38 *including, but not limited to, a waste-by-rail transfer facility for*
39 *the loading of solid waste for transport by rail or for the unloading*
40 *of solid waste transported by rail, or a refuse disposal system, or*



1 both, either within or without the district, or so join for any
 2 combination of these purposes, but no *refuse transfer facility or*
 3 *sewage disposal or treatment plan plant* shall be constructed or
 4 maintained in any city not in the district, except by consent granted
 5 by the unanimous vote of the governing body of the city.

6 *SEC. 10. Section 4742.1 of the Health and Safety Code is*
 7 *amended to read:*

8 4742.1. ~~It~~A district may contract with any district, city,
 9 governmental agency, or person, for the handling, treatment, or
 10 disposal by the district of refuse, sewage, or industrial wastes
 11 originating within the district or county or within areas outside of
 12 the district or county when, in the judgment of the district board,
 13 it is for the best interest of the district to do so, upon ~~such~~ *the* terms
 14 and conditions as may be agreed upon; ~~provided;~~ that the contract
 15 shall be for ~~such~~ *the* term as agreed upon, but in no event for a term
 16 in excess of 50 years, or for ~~such~~ *the period of* time as in the
 17 judgment of the district board the district shall have the capacity
 18 for handling, treatment, *transfer*, or disposal of ~~such~~ refuse,
 19 sewage, or industrial wastes.

20 *SEC. 11. Section 4742.2 is added to the Health and Safety*
 21 *Code, to read:*

22 4742.2. *For purposes of this chapter, a refuse transfer facility*
 23 *includes, but is not limited to, a waste-by-rail transfer facility for*
 24 *the loading of solid waste for transport by rail or for the unloading*
 25 *of solid waste transported by rail.*

26 ~~amended to read:~~

27 40055. —(a) ~~This division, or any rules or regulations adopted~~
 28 ~~pursuant thereto, is not a limitation on the power of any state~~
 29 ~~agency in the enforcement or administration of any provision of~~
 30 ~~law that it is specifically authorized or required to enforce or~~
 31 ~~administer, including, but not limited to, the exercise by the state~~
 32 ~~water board or the regional water boards of any of their powers and~~
 33 ~~duties pursuant to Division 7 (commencing with Section 13000)~~
 34 ~~of the Water Code, the exercise by the Department of Toxic~~
 35 ~~Substances Control of any of its powers and duties pursuant to~~
 36 ~~Chapter 6.5 (commencing with Section 25100) of Division 20 of~~
 37 ~~the Health and Safety Code, and the exercise by the State Air~~
 38 ~~Resources Board or any air pollution control district or air quality~~
 39 ~~management district of any of its powers and duties pursuant to~~



1 ~~Division 26 (commencing with Section 39000) of the Health and~~
2 ~~Safety Code.~~

3 ~~(b) The exercise of authority under this division, including, but~~
4 ~~not limited to, the adoption of regulations, plans, permits, or~~
5 ~~standards or the taking of any enforcement actions may not~~
6 ~~duplicate or be in conflict with any determination relating to water~~
7 ~~quality control made by the state water board or regional water~~
8 ~~boards, including requirements in regulations adopted by or under~~
9 ~~the authority of the state water board.~~

10 ~~(c) Any plans, permits, standards, or corrective action taken~~
11 ~~under this division shall be consistent with applicable water~~
12 ~~quality control plans adopted pursuant to Section 13170, and~~
13 ~~Article 3 (commencing with Section 13240) of Chapter 4 of~~
14 ~~Division 7, of the Water Code and the state policies for water~~
15 ~~quality control adopted pursuant to Article 3 (commencing with~~
16 ~~Section 13140) of Chapter 3 of Division 7 of the Water Code~~
17 ~~existing at the time of the action or proposed action.~~

18 ~~(d) This section shall remain in effect only until January 1,~~
19 ~~2005, and as of that date is repealed, unless a later enacted statute~~
20 ~~that is enacted before January 1, 2005, deletes or extends that date.~~

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