

AMENDED IN SENATE MAY 1, 2003
AMENDED IN SENATE APRIL 8, 2003

SENATE BILL

No. 983

Introduced by Senator Alarcon

February 21, 2003

~~An act to amend Sections 44009 and 44306 of, and to add Sections 43022.5, 43501.5, 44008.5, and 44306.5 to, the Public Resources Code, relating to solid waste.~~ *An act to amend Sections 41701 and 71115 of the Public Resources Code, relating to solid waste.*

LEGISLATIVE COUNSEL'S DIGEST

SB 983, as amended, Alarcon. ~~Solid waste facilities permits: urban landfills:~~ *siting elements: 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, including models to assist when considering environmental justice concerns. Existing law requires countywide siting elements submitted or revised on or after January 1, 2003, to include a description of the actions taken by the city or county to solicit public participation by the affected communities, including, but not limited to, minority and low-income populations.

This bill would make a nonsubstantive change in those provisions.

(2) Existing law requires the Secretary for Environmental Protection, to convene a Working Group on Environmental Justice,

composed of various representatives, as specified, to assist the California Environmental Protection Agency (Cal-EPA) in developing an interagency environmental justice strategy. Existing law requires the working group to examine existing data and studies on environmental justice, make recommendations to various entities and hold public meetings, among other things. Existing law requires the secretary, by January 1, 2004, and every 3 years thereafter, to prepare and submit to the Governor and the Legislature a report on the implementation of those provisions.

This bill would change the date when the first report is required to March 1, 2004.

~~(1) 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 prohibits the operation of a solid waste facility without a solid waste facilities permit and requires the operator of a solid waste landfill to submit to the board and the enforcement agency a plan for the closure and postclosure maintenance of the solid waste landfill and evidence of financial ability to provide for those costs. Existing law authorizes an enforcement agency to issue a solid waste facilities permit only if it makes certain findings regarding the consistency of the permit with the act and the regulations adopted by the board. The board is required to concur or object to the issuance of a solid waste facilities permit pursuant to a specified procedure. If the board fails to concur or object in writing within a 60-day review period, the board is deemed to have concurred in the issuance of the permit. Existing law authorizes an enforcement agency to revoke a solid waste facilities permit if the enforcement agency makes one of a specified list of determinations.~~

~~This bill would define the term “urban landfill” and would require any person applying for a solid waste facilities permit for an urban landfill to include, in the closure and postclosure plan a firm closure date, a Greenfield plan, as defined, that contains specified elements, the establishment of a mitigation fund, and an attrition plan for the urban landfill’s employees.~~

~~The bill would authorize an enforcement agency to issue a solid waste facilities permit for an urban landfill only if the enforcement agency determines the permit application specifies how the operator will address the environmental justice concerns of the surrounding community, the urban landfill will have an enforcement officer onsite~~



during operating hours, and the owner of the urban landfill conducts specified public hearings.

~~The bill would require the board, if the board determines that a solid waste facilities permit for an urban landfill is not consistent with the above requirements, to object to provisions of the permit and to submit those objections to the enforcement agency. The bill would authorize the board to object to the issuance, modification, or revision of any solid waste facilities permit for an urban landfill, if the board makes a specified determination regarding environmental concerns, the necessity for the proposed urban landfill or landfill expansion or augmentation, or the operator's significant chronic violation of a local, state or federal law that regulates the environment.~~

~~The bill would additionally authorize the enforcement agency to revoke a solid waste facilities permit if the enforcement agency determines that the operator of an urban landfill is in significant chronic violation of a local, state, or federal law or regulation that regulates the environment. The bill would authorize the board to require an enforcement agency to revoke a solid waste facilities permit for an urban landfill if the board makes that determination regarding a significant chronic violation.~~

~~The bill would impose a state-mandated local program by imposing new duties upon enforcement agencies with regard to the issuance and revocation of solid waste facilities permits.~~

~~(2) Existing law requires the board to adopt and revise regulations setting forth minimum standards for solid waste handling, transfer, composting, transformation, and disposal.~~

~~This bill would prohibit the owner or operator of a solid waste landfill that did not accept solid waste on or before January 1, 2003, to December 31, 2003, inclusive, from disposing of solid waste in any portion of that landfill that does not have a clay liner or synthetic liner that meets specified requirements.~~

~~(3) 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.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

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



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

1 ~~SECTION 1. The Legislature finds and declares all of the~~
 2 *SECTION 1. Section 41701 of the Public Resources Code is*
 3 *amended to read:*

4 41701. Each countywide siting element and revision thereto
 5 shall include, but is not limited to, all of the following:

6 (a) A statement of goals and policies for the environmentally
 7 safe transformation or disposal of solid waste that cannot be
 8 reduced, recycled, or composted.

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

13 (c) The remaining combined capacity of existing solid waste
 14 transformation or disposal facilities existing at the time of the
 15 preparation of the siting element, or revision thereto, in cubic
 16 yards and years.

17 (d) The identification of an area or areas for the location of new
 18 solid waste transformation or disposal facilities, or the expansion
 19 of existing facilities, that are consistent with the applicable city or
 20 county general plan, if the county determines that existing capacity
 21 will be exhausted within 15 years or additional capacity is desired.

22 (e) For countywide elements submitted or revised on or after
 23 January 1, 2003, a description of the actions taken by the city or
 24 county to solicit public participation by the affected communities,
 25 including, but not limited to, minority and low-income
 26 populations.

27 *SEC. 2. Section 71115 of the Public Resources Code is*
 28 *amended and renumbered to read:*

29 71115. The Secretary for Environmental Protection shall, not
 30 later than ~~January~~ *March 1, 2004*, and *on or before January 1* every
 31 three years thereafter, prepare and submit to the Governor and the
 32 Legislature a report on the implementation of this part.
 33 ~~following:~~

34 ~~(a) Some of the solid waste disposed of in landfills poses public~~
 35 ~~health, groundwater, and environmental justice threats.~~

36 ~~(b) At the same time, landfills provide employment~~
 37 ~~opportunities that are important to the state.~~



1 ~~(c) In light of the risks and benefits posed by landfills, it is in~~
2 ~~the public's best interest for a community surrounding a landfill to~~
3 ~~provide input with regards to the permitting, new permit or revised~~
4 ~~permit, of that landfill.~~

5 ~~(d) It is also imperative that the landfill permitting process~~
6 ~~ensures the presentation of accurate and clear information~~
7 ~~concerning a proposed permitting application, including a firm~~
8 ~~closure date.~~

9 ~~(e) Further, any owner of an unlined landfill, which is no longer~~
10 ~~being filled, should be prohibited from filling that landfill in the~~
11 ~~future.~~

12 ~~SEC. 2. Section 43022.5 is added to the Public Resources~~
13 ~~Code, to read:~~

14 ~~43022.5. The owner or operator of a solid waste landfill that~~
15 ~~did not accept solid waste for disposal on or before January 1,~~
16 ~~2003, to December 31, 2003, inclusive, may not dispose of solid~~
17 ~~waste in any portion of that solid waste landfill that does not have~~
18 ~~a clay liner or synthetic liner that meets the requirements of~~
19 ~~Section 20330 of Title 27 of the California Code of Regulations,~~
20 ~~as that section read on January 1, 2004.~~

21 ~~SEC. 3. Section 43501.5 is added to the Public Resources~~
22 ~~Code, to read:~~

23 ~~43501.5. (a) For purposes of this section, the following~~
24 ~~definitions shall apply:~~

25 ~~(1) "Greenfield" means an area that provides value to a~~
26 ~~community and counteracts the environmental degradation that~~
27 ~~has occurred to that area as a result of its use as an urban landfill.~~

28 ~~(2) "Urban landfill" means a solid waste landfill located~~
29 ~~within 1/4 mile of an area zoned for residential purposes.~~

30 ~~(b) In addition to the requirements of this article, a person~~
31 ~~applying for a solid waste facilities permit for an urban landfill~~
32 ~~shall include, in the closure and postclosure plan all of the~~
33 ~~following requirements:~~

34 ~~(1) A firm closure date, that may be adjusted by the~~
35 ~~enforcement agency only upon application by the operator.~~

36 ~~(2) A Greenfield plan, that contains both of the following~~
37 ~~elements:~~

38 ~~(A) A description how the operator plans to restore the urban~~
39 ~~waste landfill after closure.~~



1 ~~(B) Provisions for the approval of the Greenfield plan by an~~
2 ~~advisory panel representing the community where the urban~~
3 ~~landfill is located.~~

4 ~~(3) The establishment of a mitigation fund to pay for all adverse~~
5 ~~environmental or community impacts caused by the urban landfill.~~

6 ~~(4) An attrition plan for the urban landfill's employees to~~
7 ~~provide job assistance and job training for employees who will~~
8 ~~lose employment as a result of the closure of the urban landfill.~~

9 ~~SEC. 4. Section 44008.5 is added to the Public Resources~~
10 ~~Code, to read:~~

11 ~~44008.5. (a) For purposes of this section, "urban landfill"~~
12 ~~has the same meaning as defined in subdivision (a) of Section~~
13 ~~43501.5 and "environmental justice" has the same meaning as~~
14 ~~defined in Section 65040.12 of the Government Code.~~

15 ~~(b) In addition to the requirements of Section 44008, an~~
16 ~~enforcement agency may issue a solid waste facilities permit for~~
17 ~~an urban landfill only if the enforcement agency makes all of the~~
18 ~~following determinations:~~

19 ~~(1) The permit application specifies how the operator will~~
20 ~~address environmental justice concerns of the surrounding~~
21 ~~community.~~

22 ~~(2) The urban landfill will have an enforcement officer on site~~
23 ~~during operating hours.~~

24 ~~(3) The owner of the urban landfill conducts public hearings~~
25 ~~within the community that lives in the vicinity of the urban landfill~~
26 ~~concerning matters of environmental justice.~~

27 ~~SEC. 5. Section 44009 of the Public Resources Code is~~
28 ~~amended to read:~~

29 ~~44009. (a) (1) The board shall, in writing, concur or object~~
30 ~~to the issuance, modification, or revision of any solid waste~~
31 ~~facilities permit within 60 days from the date of the board's receipt~~
32 ~~of any proposed solid waste facilities permit submitted under~~
33 ~~Section 44007 after consideration of the issues in this section.~~

34 ~~(2) If the board determines that the permit is not consistent with~~
35 ~~the state minimum standards adopted pursuant to Section 43020,~~
36 ~~or is not consistent with Sections 43040, 43600, 44007, 44010,~~
37 ~~44017, 44150, and 44152 or Division 31 (commencing with~~
38 ~~Section 50000), the board shall object to provisions of the permit~~
39 ~~and shall submit those objections to the local enforcement agency~~
40 ~~for its consideration.~~



1 ~~(3) If the board determines that a solid waste facilities permit~~
2 ~~for an urban landfill, as defined in subdivision (a) of Section~~
3 ~~43501.5, does not comply with Section 43501.5 or 44008.5, the~~
4 ~~board shall object to the provisions of the permit and shall submit~~
5 ~~those objections to the enforcement agency for its consideration.~~

6 ~~(4) If the board fails to concur or object in writing within the~~
7 ~~60 day period specified in paragraph (1), the board shall be~~
8 ~~deemed to have concurred in the issuance of the permit as~~
9 ~~submitted to it.~~

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

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

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

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

26 ~~(c) In objecting to the issuance, modification, or revision of any~~
27 ~~solid waste facilities permit pursuant to this section, the board~~
28 ~~shall, based on substantial evidence in the record as to the matter~~
29 ~~before the board, state its reasons for objecting. Except as provided~~
30 ~~in subdivision (e), the board shall not object to the issuance,~~
31 ~~modification, or revision of any solid waste facilities permit unless~~
32 ~~the board finds that the permit is not consistent with the state~~
33 ~~minimum standards adopted pursuant to Section 43020, or is not~~
34 ~~consistent with Section 43040, 43501.5, 43600, 44007, 44008.5,~~
35 ~~44010, 44017, 44150, or 44152 or Division 31 (commencing with~~
36 ~~Section 50000).~~

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



1 ~~(c) Notwithstanding subdivision (c), the board may object to~~
2 ~~the issuance, modification, or revision of a solid waste facilities~~
3 ~~permit for an urban landfill, as defined in subdivision (a) of~~
4 ~~Section 43501.5, if the board makes any of the following~~
5 ~~determinations:~~

6 ~~(1) The operator of the urban landfill has not addressed~~
7 ~~environmental concerns.~~

8 ~~(2) The enforcement agency has not demonstrated, to the~~
9 ~~satisfaction of the board, that the proposed urban landfill or landfill~~
10 ~~expansion or augmentation is necessary.~~

11 ~~(3) The board determines that the owner or operator of the~~
12 ~~urban landfill is, or has been, a significant chronic violator of a~~
13 ~~local, state or federal law that regulates the environment.~~

14 ~~SEC. 6. Section 44306 of the Public Resources Code is~~
15 ~~amended to read:~~

16 ~~44306. The enforcement agency may, after holding a hearing~~
17 ~~in accordance with the procedures set forth in Section 44310;~~
18 ~~revoke a solid waste facilities permit if the enforcement agency~~
19 ~~determines any of the following:~~

20 ~~(a) The permit was obtained by a material misrepresentation or~~
21 ~~failure to disclose relevant factual information.~~

22 ~~(b) The operator has, during the previous three years, been~~
23 ~~convicted of, or been issued a final order for, one or more~~
24 ~~violations of this division, regulations adopted pursuant to this~~
25 ~~division, or the terms and conditions of the permit, and the~~
26 ~~violation meets both of the following criteria:~~

27 ~~(1) The violation demonstrates a chronic recurring pattern of~~
28 ~~noncompliance which has posed, or may pose, a significant risk to~~
29 ~~public health and safety or to the environment.~~

30 ~~(2) The violation has not been corrected or reasonable progress~~
31 ~~toward correction has not been achieved.~~

32 ~~(c) The operator operates an urban landfill, as defined in~~
33 ~~subdivision (a) of Section 44301.5, that is in significant chronic~~
34 ~~violation of a local, state, or federal law or regulation that regulates~~
35 ~~the environment.~~

36 ~~SEC. 7. Section 44306.5 is added to the Public Resources~~
37 ~~Code, to read:~~

38 ~~44306.5. The board may require an enforcement agency to~~
39 ~~revoke a solid waste facilities permit for an urban landfill, as~~
40 ~~defined in subdivision (a) of Section 44301.5, if the board~~



1 ~~determines, in a hearing that is consistent with the procedures~~
2 ~~specified in Section 44310, that the operator of the landfill is in~~
3 ~~significant chronic violation of a local, state, or federal law or~~
4 ~~regulation that regulates the environment.~~

5 ~~SEC. 8. No reimbursement is required by this act pursuant to~~
6 ~~Section 6 of Article XIII B of the California Constitution because~~
7 ~~a local agency or school district has the authority to levy service~~
8 ~~charges, fees, or assessments sufficient to pay for the program or~~
9 ~~level of service mandated by this act, within the meaning of~~
10 ~~Section 17556 of the Government Code.~~

