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CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 399

Introduced by Assembly Member Montanez

February 15, 2005

An act to amend Sections 41821, 41850, and 42648 of, and to add Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 399, as amended, Montanez. Recycling.

(1) Existing law, the California Integrated Waste Management Act of 1989, establishes an integrated waste management program administered by the California Integrated Waste Management Board. The act requires a local jurisdiction to develop a source reduction and recycling element of an integrated waste management plan containing specified components. On and after January 1, 2000, the element is required to divert 50% of the solid waste subject to the element, except as specified, through source reduction, recycling, and composting activities. The act requires a local jurisdiction to submit to the board an annual report on its progress in reducing solid waste. The act establishes factors, as enumerated, that the board must consider

when determining whether or not to impose penalties on a local jurisdiction for failing to implement its source reduction and recycling elements.

This bill would require the board, by March 1, 2007, to make available one or more model ordinances and model notification documents that may be adopted by a local agency to facilitate solid waste reduction, reuse, and recycling programs at multifamily dwellings, as defined, and to post specified information on the board's Internet Web site. The bill would require a local agency, when issuing a building permit for a new construction or a substantial rehabilitation to an owner of a multifamily dwelling, after July 1, 2007, to provide specified information to the owner on programs that can be implemented to reduce, reuse, and recycle solid waste materials generated at the multifamily dwelling, thereby imposing a state-mandated local program by imposing a new duty on a local agency. The bill would authorize a local agency to charge and collect a reasonable fee from the owner for providing the specified information.

The bill would require the owner of a multifamily dwelling, on and after July 1, 2007, to ~~notify, in writing, the tenants~~ *provide a written notice to a tenant* of the multifamily dwelling, within 5 days of the execution of the rental or lease agreement ~~solid waste materials, by directing, which directs~~ the tenant to an appropriate Internet Web site, as specified, or ~~providing~~ *provides* the tenant with the written notification developed by the board pursuant to this bill. The bill would also require the owner to notify the tenant whether or not recycling ~~services receptacles~~ are provided ~~on the rental premises at the multifamily dwelling.~~

The bill would require a solid waste enterprise that provides solid waste handling services to a multifamily dwelling, after July 1, 2006, to provide recycling services that are appropriate for the multifamily dwelling, if requested by the owner.

The bill would require the board to provide technical assistance and tools to implement the bill's requirements.

The bill would provide that the bill would not affect existing ordinances related to multifamily recycling that are more stringent than the requirements of the bill.

The bill would require local jurisdictions to report on the progress made in the diversion and recycling of waste material at multifamily dwellings in their annual report to the board, thereby imposing a state

mandated local program by requiring local jurisdictions to provide this information to the board.

The bill would add an additional factor related to diversion and recycling of solid waste from multifamily dwellings that the board would be required to consider in determining the appropriateness of imposing penalties on a local jurisdiction.

(2) Existing law requires a city or county, when issuing a permit to an operator of a large venue or a large event, to provide to the operator information on programs on the reduction, reuse, and recycling of solid waste materials generated at a venue or an event. Existing law authorizes the city or county to charge and collect a reasonable fee from the operator for providing the specified information

This bill would also require a regional agency, as defined, to provide such information to operators of a large venue or a large event when issuing a permit, thereby imposing a state-mandated local program by imposing a new duty on a regional agency. The bill would authorize the regional agency to charge and collect a reasonable fee from the operator for providing the specified information.

(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. 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 a
- 4 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

1 the nondisposal facility element, and on or before August 1 in
2 each subsequent year. The information in this report shall
3 encompass the previous calendar year, January 1 to December
4 31, inclusive.

5 (b) Each jurisdiction's annual report to the board shall, at a
6 minimum, include the following:

7 (1) Calculations of annual disposal reduction.

8 (2) Information on the changes in waste generated or disposed
9 of due to increases or decreases in population, economics, or
10 other factors in complying with subdivision (c) of Section
11 41780.1.

12 (3) A summary of progress made in implementing the source
13 reduction and recycling element and the household hazardous
14 waste element. The city, county, or regional agency may also
15 include information about existing and new programs it is
16 implementing that are not part of the original or modified source
17 reduction and recycling element adopted by the jurisdiction and
18 approved by the board to achieve the diversion requirements of
19 Section 41780.

20 (4) A summary of progress made in diversion of construction
21 and demolition of waste material, including information on
22 programs and ordinances implemented by the local government
23 and quantitative data, where available.

24 (5) A summary of progress made in the diversion and
25 recycling of waste material at multifamily dwellings, including
26 information on programs and ordinances implemented by the
27 local government and quantitative data, where available.

28 (6) If the jurisdiction has been granted a time extension by the
29 board pursuant to Section 41820, the jurisdiction shall include a
30 summary of progress made in meeting the source reduction and
31 recycling element implementation schedule pursuant to
32 paragraph (2) of subdivision (a) of Section 41780 and complying
33 with the jurisdiction's plan of correction, prior to the expiration
34 of the time extension.

35 (7) If the jurisdiction has been granted an alternative source
36 reduction, recycling, and composting requirement pursuant to
37 Section 41785, the jurisdiction shall include a summary of
38 progress made towards meeting the alternative requirement as
39 well as an explanation of current circumstances that support the
40 continuation of the alternative requirement.

1 (8) Other information relevant to compliance with Section
2 41780.

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

5 (1) Any factor that the jurisdiction believes would affect the
6 accuracy of the estimated waste disposal reduction calculation
7 provided in the report pursuant to paragraph (1) of subdivision
8 (b) to accurately reflect the changes in the amount of solid waste
9 that is actually disposed. The jurisdiction may include, but is not
10 limited to including, all of the following factors:

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

12 (B) The effects of self-hauled waste and construction and
13 demolition waste.

14 (C) The original or subsequent base year calculation, the
15 amount of orphan waste, and the waste disposal reduction
16 adjustment methodology.

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

21 (3) An estimate that the jurisdiction believes reflects that
22 jurisdiction's annual reduction or increase in the disposal of solid
23 waste.

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

27 (e) (1) The board shall adopt procedures for requiring
28 additional information in a jurisdiction's annual report. The
29 procedures shall require the board to notify a jurisdiction of any
30 additional required information no later than 120 days after the
31 board receives the report from the jurisdiction.

32 (2) Paragraph (1) does not prohibit the board from making
33 additional requests for information in a timely manner. A
34 jurisdiction receiving a request for information shall respond in a
35 timely manner.

36 (f) The board shall adopt procedures for conferring with a
37 jurisdiction regarding the implementation of a diversion program
38 or changes to a jurisdiction's calculation of its annual disposal
39 reduction.

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

3 41850. (a) Except as specifically provided in Section 41813,
4 if, after holding the public hearing and issuing an order of
5 compliance pursuant to Section 41825, the board finds that the
6 city, county, or regional agency has failed to make a good faith
7 effort to implement its source reduction and recycling element or
8 its household hazardous waste element, the board may impose
9 administrative civil penalties upon the city or county or, pursuant
10 to Section 40974, upon the city or county as a member of a
11 regional agency, of up to ten thousand dollars (\$10,000) per day
12 until the city, county, or regional agency implements the element.

13 (b) In determining whether or not to impose any penalties, or
14 in determining the amount of any penalties imposed under this
15 section, including any penalties imposed due to the exclusion of
16 solid waste pursuant to Section 41781.2 that results in a reduction
17 in the quantity of solid waste diverted by a city, county, or
18 regional agency, the board shall consider whether the jurisdiction
19 has made a good faith effort to implement its source reduction
20 and recycling element or its household hazardous waste element.
21 In addition, the board shall consider only those relevant
22 circumstances that have prevented a city, county, or regional
23 agency from meeting the requirements of this division, including
24 the diversion requirements of paragraphs (1) and (2) of
25 subdivision (a) of Section 41780, including, but not limited to, all
26 of the following:

27 (1) Natural disasters.

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

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

34 (4) The impact of the failure of federal, state, and other local
35 agencies located within the jurisdiction to implement source
36 reduction and recycling programs in the jurisdiction on the host
37 jurisdiction's ability to meet the requirements of paragraph (2) of
38 subdivision (a) of Section 41780.

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

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

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

8 (3) Whether the jurisdiction has requested and been granted an
9 extension to the requirements of Section 41780, pursuant to
10 Section 41820, or an alternative requirement to Section 41780,
11 pursuant to Section 41785.

12 (4) Whether a local jurisdiction has provided information to
13 the board concerning whether construction and demolition waste
14 material is at least a moderately significant portion of the waste
15 stream, and, if so, whether the local jurisdiction has adopted an
16 ordinance for diversion of construction and demolition waste
17 materials from solid waste disposal facilities, has adopted a
18 model ordinance pursuant to subdivision (a) of Section 42912 for
19 diversion of construction and demolition waste materials from
20 solid waste disposal facilities, or has implemented another
21 program to encourage or require diversion of construction and
22 demolition waste materials from solid waste disposal facilities.

23 (5) Whether a local jurisdiction has provided information to
24 the board concerning whether solid waste material from
25 multifamily dwellings is at least a moderately significant portion
26 of the waste stream, and, if so, whether the local jurisdiction has
27 adopted an ordinance for the diversion and recycling of solid
28 waste material from multifamily dwellings, has adopted a model
29 ordinance made available by the board pursuant to subdivision
30 (a) of Section 42649.1 for diversion and recycling of solid waste
31 material from multifamily dwellings, or has otherwise
32 implemented a program to require or encourage recycling of
33 solid waste material from multifamily dwellings.

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

1 (2) For purposes of this section “good faith effort” may also
2 include the evaluation by a city, county, or regional agency of
3 improved technology for the handling and management of solid
4 waste that would reduce costs, improve efficiency in the
5 collection, processing, or marketing of recyclable materials or
6 yard waste, and enhance the ability of the city, county, or
7 regional agency to meet the diversion requirements of paragraphs
8 (1) and (2) of subdivision (a) of Section 41780, provided that the
9 city, county, or regional agency has submitted a compliance
10 schedule pursuant to Section 41825, and has made all other
11 reasonable and feasible efforts to implement the programs
12 identified in its source reduction and recycling element or
13 household hazardous waste element.

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

18 SEC. 3. Section 42648 of the Public Resources Code is
19 amended to read:

20 42648. For purposes of this chapter, the following definitions
21 apply:

22 (a) “Individual” means a person who works at, or attends, a
23 large venue or large event, or a customer who is seated or served
24 at the large venue or large event.

25 (b) “Large event” means an event that charges an admission
26 price, or is operated by a local agency, and serves an average of
27 more than 2,000 individuals per day of operation of the event,
28 including, but not limited to, a public, nonprofit, or privately
29 owned park, parking lot, golf course, street system, or other open
30 space when being used for an event, including, but not limited to,
31 a sporting event or a flea market.

32 (c) “Large venue” means a permanent venue facility that
33 annually seats or serves an average of more than 2,000
34 individuals within the grounds of the facility per day of operation
35 of the venue facility. For purposes of this chapter, a venue
36 facility includes, but is not limited to, a public, nonprofit, or
37 privately owned or operated stadium, amphitheater, arena, hall,
38 amusement park, conference or civic center, zoo, aquarium,
39 airport, racetrack, horse track, performing arts center, fairground,
40 museum, theater, or other public attraction facility. For purposes

1 of this chapter, a site under common ownership or control that
2 includes more than one large venue that is contiguous with other
3 large venues in the site, is a single large venue.

4 (d) “Local agency” means a city, county, city and county, or
5 regional agency as defined in Section 40181.

6 SEC. 4. Chapter 12.8 (commencing with Section 42649) is
7 added to Part 3 of Division 30 of the Public Resources Code, to
8 read:

9

10 CHAPTER 12.8. MULTIFAMILY DWELLING RECYCLING
11 PROGRAM

12

13 42649. For purposes of this chapter, the following definitions
14 shall apply:

15 (a) “Local agency” means a city, county, city and county, or
16 regional agency as defined in Section 40181.

17 (b) “Local agency recycling plan” means the source reduction
18 and recycling element of the integrated waste management plan
19 adopted by a city or county pursuant to Section 41000 or 41300,
20 as applicable, or any other plan or program adopted or
21 implemented by a local agency relating to recycling at a
22 multifamily dwelling.

23 (c) “Multifamily dwelling” means a residential facility that
24 consists of five or more living units where solid waste is
25 collected and loaded.

26 (d) “Owner” means an owner of a multifamily dwelling or his
27 or her agent.

28 42649.1. On or before March 1, 2007, the board shall take all
29 of the following actions:

30 (a) (1) Make available one or more model ordinances that are
31 suitable for modification by a local agency and that may be
32 adopted by a local agency to facilitate solid waste reduction,
33 reuse, and recycling programs at multifamily dwellings in
34 accordance with the requirements of this chapter.

35 (2) In developing the model ordinance, consult with
36 representatives of the League of California Cities, the California
37 State Association of Counties, the apartment industry, the real
38 estate industry, recyclers, private and public solid waste services
39 and appropriate personnel involved with the operation and
40 management of multifamily dwellings.

1 (b) (1) Make available one or more model notification
2 documents suitable for modification by an owner that informs the
3 tenants of a multifamily dwelling on how they may reduce, reuse,
4 and recycle solid waste materials in accordance with the
5 requirements of this chapter.

6 (2) In developing the model notification documents, consult
7 with representatives of the League of California Cities, the
8 California State Association of Counties, the apartment industry,
9 the real estate industry, recyclers, private and public solid waste
10 services, and appropriate personnel involved with the operation
11 and management of multifamily dwellings.

12 (c) Post information on the board's Internet Web site on all of
13 the following:

14 (1) Solid waste reduction, reuse, and recycling programs that
15 can be implemented by the owner to decrease solid waste and
16 increase diversion of recyclable materials.

17 (2) Requirements imposed on the owner pursuant to Section
18 42649.3.

19 (3) How tenants of multifamily dwellings can reduce, reuse,
20 and recycle solid waste materials generated at multifamily
21 dwellings.

22 (4) Examples of solid waste reduction, reuse, and recycling
23 programs implemented by local agencies that require recycling at
24 multifamily dwellings. This information may include both of the
25 following:

26 (A) Examples of solid waste reduction, reuse, and recycling
27 programs implemented in diverse types of multifamily dwellings,
28 including, but not limited to, newly constructed dwellings,
29 dwellings with limited space capacity for loading and collecting
30 recyclables, and multifamily dwellings of various sizes and
31 numbers of living units.

32 (B) Methods to reduce the contamination of recyclable
33 materials.

34 42649.2. On and after July 1, 2007, when issuing a building
35 permit for a new construction or a substantial rehabilitation of the
36 dwelling to an owner, a local agency shall provide information to
37 the owner on programs that can be implemented to reduce, reuse,
38 and recycle solid waste materials generated at the multifamily
39 dwelling, and provide contact information about where solid
40 waste materials may be donated, recycled, or composted. This

1 information may include, but is not limited to, providing
2 information directing the owner to the board’s Internet Web site
3 or other appropriate Web site included by the local agency, or
4 other relevant brochure. This information shall also inform the
5 owner of the requirements imposed on an owner pursuant to
6 Section 42649.3.

7 42649.3. On and after July 1, 2007, an owner shall provide to
8 a tenant, no later than five days after execution of the rental or
9 lease agreement, a written notice that includes ~~all~~ *both* of the
10 following:

11 (a) A notification document developed by the board pursuant
12 to subdivision (b) of Section 42649.1, the Internet Web site
13 address of the board with ~~methods that the tenant may use to~~
14 ~~reduce, reuse, and recycle solid waste materials pursuant to the~~
15 *information required pursuant to* paragraph (3) of subdivision (c)
16 of Section 42649.1, or an Internet Web site address of a local
17 agency, recycler, solid waste enterprise, or community
18 conservation corps, that ~~contains methods the tenant may use to~~
19 *informs tenants how they may* reduce, reuse, and recycle solid
20 waste materials.

21 (b) A statement indicating if recycling ~~services and~~ receptacles
22 are provided at the multifamily dwelling.

23 42649.4. On and after July 1, 2006, a solid waste enterprise
24 that provides solid waste handling services to a multifamily
25 dwelling, whether by an exclusive franchise with the local
26 agency, or by a permit, contract, or nonexclusive franchise shall
27 provide recycling services that are appropriate for the
28 multifamily dwelling, in accordance with the local agency’s
29 recycling plan, the requirements of Section 42911, and other
30 local agency requirements governing solid waste agreements and
31 services, if requested by the owner.

32 42649.5. (a) The board shall provide technical assistance and
33 tools to implement this chapter, to the extent feasible, under
34 existing financial resources. This technical assistance may
35 include, but is not limited to, model documents, training, research
36 on solid waste management best practices, cost reduction,
37 signage for recycling containers, and innovative products to
38 assist local agencies and owners to develop and implement
39 effective solid waste reduction, reuse, and recycling plans and
40 rates.

1 (b) A local agency may charge and collect a reasonable fee
2 from the owner that seeks a permit as described in Section
3 42649.2 to recover the local agency’s costs incurred in
4 complying with Section 42649.2.

5 42649.6. This chapter does not limit or modify the authority
6 of a local agency to enact an ordinance relating to recycling at
7 multifamily dwellings and does not affect an existing ordinance
8 that is more stringent than the requirements of this chapter.

9 SEC. 5. The Legislature finds and declares that a purpose of
10 subdivision (a) of Section 42649.1 of the Public Resources Code
11 is to encourage local governments to adopt an ordinance to
12 facilitate solid waste reduction, reuse, and recycling programs at
13 multifamily dwellings.

14 SEC. 6. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 a local agency or school district has the authority to levy service
17 charges, fees, or assessments sufficient to pay for the program or
18 level of service mandated by this act, within the meaning of
19 Section 17556 of the Government Code.