

**ASSEMBLY BILL**

**No. 2118**

---

**Introduced by Assembly Member Matthews**

February 17, 2006

---

An act to amend Sections 40116, 40151, 40194, 40200, 40201, 41780, 41780.1, 41780.2, 41781, 41821.5, and 43020 of, to add Sections 40116.5 and 44153 to, and to repeal Section 40117 of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2118, as introduced, Matthews. Solid waste: diversion: conversion.

(1) The California Integrated Waste Management Act of 1989 establishes an integrated waste management program administered by the California Integrated Waste Management Board and requires the board and local agencies to promote specified waste management practices, in order of priority. Under existing law, the act requires each city, county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan containing specified components. The first and each subsequent revision of the element is required to divert 50% of the solid waste subject to the element, on and after January 1, 2000, through source reduction, recycling, and composting activities. except as specified.

The act defines the term "transformation" as meaning incineration, pyrolysis, distillation, or biological conversion other than composting. The act provides that "transformation" does not include composting, gasification, or biomass conversion. The act defines the term "solid waste facility" as including a gasification facility.

This bill would repeal the definition of the term "gasification" and would define the terms "composting operation," "composting

facility,” and “conversion technology,” for purposes of the act. The bill would revise the definition of the term “transformation” to exclude pyrolysis, distillation, or biological conversion other than composting from that definition and would specify that transformation means the incineration of solid waste or the processing of solid waste, using specified processes, but does not include conversion technology. The bill would revise the definition of the term “solid waste facility” to delete a gasification facility and would instead include a conversion technology facility as a solid waste facility. The bill would make conforming changes to the definitions of “nondisposal facility” and “transfer or processing station.” The bill would specify that 50 percent of that solid waste in the source reduction and recycling element is to be diverted from disposal and conversion technology and would revise the methods for determining the amount of solid waste required to be diverted to include conversion technology.

(2) Existing law requires disposal facility operators to submit to counties certain information from periodic tracking surveys on the disposal tonnages by jurisdiction or region of origin and also requires each county to submit periodic reports to the cities within the county, to the regional agencies, and to the board, on the amount of solid waste disposed of by jurisdiction or region of origin.

This bill would require a conversion technology facility operator to submit to a county the information from periodic tracking surveys on the tonnages converted at the facility, and would require a county to submit the information on the amounts of solid waste converted, as specified, thereby imposing a state-mandated local program by imposing new duties upon counties.

(3) Existing law requires the board to adopt and revise regulations that set forth minimum standards for solid waste handling, transfer, composting, transformation, and disposal, and to adopt regulations specifying standards for the design, operation, maintenance, and ultimate reuse of solid waste facilities.

This bill would require the board to also adopt regulations for minimum standards for conversion technology.

(4) Existing law requires a person operating a solid waste facility to obtain a solid waste facilities permit from the local enforcement agency. Existing law requires the solid waste facilities permit to contain specified terms and conditions for the operation of the facility that the enforcement agency determines to be appropriate for the operation of the facility.

The bill would prohibit an enforcement agency from issuing or revising a solid waste facilities permit for a project proposing to use conversion technology, unless the project meets specified requirements to regulate the handling of waste before the waste is subject to conversion and the handling of residual materials.

The bill would provide that it is not to be interpreted as authorizing the board or enforcement agencies to establish standards or permit terms and conditions over aspects of conversion technology processes that are within the jurisdiction of specified state and local agencies.

(5) 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. The Legislature finds and declares both of the  
2 following:  
3 (a) It is not the intent of the Legislature in enacting this act to  
4 modify the existing limitations on the extent of the authority or  
5 jurisdiction of the California Integrated Waste Management  
6 Board over matters that are within the authority and jurisdiction  
7 of other state agencies. Therefore, this act shall not be interpreted  
8 to provide the California Integrated Waste Management Board or  
9 enforcement agencies that implement in their local jurisdiction  
10 the California Integrated Waste Management Act of 1989  
11 (Division 30 (commencing with Section 40000) of the Public  
12 Resources Code with any authority or jurisdiction to establish  
13 standards or permit terms and conditions over aspects of  
14 conversion technology processes that are within the jurisdiction  
15 of the State Air Resources Board, air pollution control districts,  
16 and air quality management districts, for the prevention of air  
17 pollution, or of the State Water Resources Control Board or  
18 California regional water quality control boards, for the  
19 prevention of water pollution.

1 (b) It is the intent of the Legislature that conversion  
2 technology facilities shall be subject to applicable environmental  
3 and health laws and regulations of a local government, or the  
4 state or federal government.

5 SEC. 2. Section 40116 of the Public Resources Code is  
6 amended to read:

7 40116. (a) “Compost” means the product resulting from the  
8 controlled biological decomposition of organic wastes that are  
9 source separated from the municipal solid waste stream, or which  
10 are separated at a centralized facility. “Compost” includes  
11 vegetable, yard, and wood wastes which are not hazardous waste.

12 (b) *“Composting operation” or “composting facility” means*  
13 *an operation, facility, that produces compost, including an entity*  
14 *that produces compost aerobically and nonaerobically and an*  
15 *operation or facility that utilizes anaerobic digestion.*

16 SEC. 3. Section 40116.5 is added to the Public Resources  
17 Code, to read:

18 40116.5. (a) “Conversion technology” means the processing  
19 of solid waste or waste-derived material, through a  
20 noncombustion thermal, chemical, or biological process, that  
21 produces a physical product, including, but not limited to, an  
22 alternative fuel, chemical, or other physical product that is used  
23 in the marketplace.

24 (b) “Conversion technology” does not include anaerobic  
25 digestion, biomass conversion, aerobic or anaerobic composting,  
26 or the placement of solid waste in a solid waste landfill or  
27 transformation.

28 (c) “Conversion technology operation or facility” means an  
29 operation, facility, or location where conversion technology  
30 occurs.

31 SEC. 4. Section 40117 of the Public Resources Code is  
32 repealed.

33 ~~40117. “Gasification” means a technology that uses a~~  
34 ~~noncombustion thermal process to convert solid waste to a clean~~  
35 ~~burning fuel for the purpose of generating electricity, and that, at~~  
36 ~~minimum, meets all of the following criteria:~~

37 ~~(a) The technology does not use air or oxygen in the~~  
38 ~~conversion process, except ambient air to maintain temperature~~  
39 ~~control.~~

1 ~~(b) The technology produces no discharges of air contaminants~~  
2 ~~or emissions, including greenhouse gases, as defined in~~  
3 ~~subdivision (g) of Section 42801.1 of the Health and Safety~~  
4 ~~Code.~~

5 ~~(c) The technology produces no discharges to surface or~~  
6 ~~groundwaters of the state.~~

7 ~~(d) The technology produces no hazardous waste.~~

8 ~~(e) To the maximum extent feasible, the technology removes~~  
9 ~~all recyclable materials and marketable green waste compostable~~  
10 ~~materials from the solid waste stream prior to the conversion~~  
11 ~~process and the owner or operator of the facility certifies that~~  
12 ~~those materials will be recycled or composted.~~

13 ~~(f) The facility where the technology is used is in compliance~~  
14 ~~with all applicable laws, regulations, and ordinances.~~

15 ~~(g) The facility certifies to the board that any local agency~~  
16 ~~sending solid waste to the facility is in compliance with this~~  
17 ~~division and has reduced, recycled, or composted solid waste to~~  
18 ~~the maximum extent feasible, and the board makes a finding that~~  
19 ~~the local agency has diverted at least 30 percent of all solid waste~~  
20 ~~through source reduction, recycling, and composting.~~

21 SEC. 5. Section 40151 of the Public Resources Code is  
22 amended to read:

23 40151. “Nondisposal facility” means ~~any~~ *a* solid waste  
24 facility required to obtain a permit pursuant to Article 1  
25 (commencing with Section 44001) of Chapter 3 of Part 4, except  
26 a disposal facility ~~or~~, a transformation facility, *or a conversion*  
27 *technology facility*.

28 SEC. 6. Section 40194 of the Public Resources Code is  
29 amended to read:

30 40194. “Solid waste facility” includes a solid waste transfer  
31 or processing station, a composting facility, a ~~gasification~~  
32 *conversion technology* facility, a transformation facility, and a  
33 disposal facility.

34 SEC. 7. Section 40200 of the Public Resources Code is  
35 amended to read:

36 40200. (a) “Transfer or processing station” or “station”  
37 includes those facilities utilized to receive solid wastes,  
38 temporarily store, separate, ~~convert~~, or otherwise process the  
39 materials in the solid wastes, or to transfer the solid wastes

1 directly from smaller to larger vehicles for transport, and those  
2 facilities utilized for transformation.

3 (b) “Transfer or processing station” or “station” does not  
4 include any of the following:

5 (1) A facility, whose principal function is to receive, store,  
6 separate, ~~convert~~, or otherwise process in accordance with state  
7 minimum standards, manure.

8 (2) A facility, whose principal function is to receive, store,  
9 ~~convert~~, or otherwise process wastes ~~which~~ *that* have already  
10 been separated for reuse and are not intended for disposal.

11 (3) The operations premises of a duly licensed solid waste  
12 handling operator who receives, stores, transfers, or otherwise  
13 processes wastes as an activity incidental to the conduct of a  
14 refuse collection and disposal business in accordance with  
15 regulations adopted pursuant to Section 43309.

16 SEC. 8. Section 40201 of the Public Resources Code is  
17 amended to read:

18 40201. “Transformation” means *the incineration, ~~pyrolysis,~~*  
19 *~~distillation, or biological conversion other than composting.~~ of*  
20 *solid waste or the processing of solid waste, through a*  
21 *noncombustion thermal, chemical, or biological process, that*  
22 *does not produce a physical product that is used in the*  
23 *marketplace.* “Transformation” does not include composting,  
24 ~~gasification~~ *conversion technology*, or biomass conversion.

25 SEC. 9. Section 41780 of the Public Resources Code is  
26 amended to read:

27 41780. (a) Each city or county source reduction and  
28 recycling element shall include an implementation schedule that  
29 shows both of the following:

30 (1) For the initial element, the city or county shall divert 25  
31 percent of all solid waste from landfill disposal or transformation  
32 by January 1, 1995, through source reduction, recycling, and  
33 composting activities.

34 (2) Except as provided in Sections 41783; *and* 41784, ~~and~~  
35 ~~41785~~, for the first and each subsequent revision of the element,  
36 the city or county shall divert 50 percent of all solid waste *from*  
37 *disposal and conversion technology* on and after January 1, 2000,  
38 through source reduction, recycling, and composting activities.

1 (b) Nothing in this part prohibits a city or county from  
2 implementing source reduction, recycling, and composting  
3 activities designed to exceed these requirements.

4 SEC. 10. Section 41780.1 of the Public Resources Code is  
5 amended to read:

6 41780.1. (a) Notwithstanding any other requirement of this  
7 part, for the purposes of determining the amount of solid waste  
8 that a regional agency is required to divert from disposal ~~or~~  
9 ~~transformation~~ *and conversion technology* through source  
10 reduction, recycling, and composting to meet the diversion  
11 requirements of Section 41780, the regional agency shall use the  
12 solid waste disposal projections in the source reduction and  
13 recycling elements of the regional agency's member agencies.  
14 The method prescribed in Section 41780.2 shall be used to  
15 determine the maximum amount of disposal *and conversion*  
16 *technology* allowable to meet the diversion requirements of  
17 Section 41780.

18 (b) Notwithstanding any other requirement of this part, for the  
19 purposes of determining the amount of solid waste that a city or  
20 county is required to divert from disposal ~~or transformation~~ *and*  
21 *conversion technology* through source reduction, recycling, and  
22 composting to meet the diversion requirements of Section 41780,  
23 the city or county shall use the solid waste disposal projections in  
24 the source reduction and recycling elements of the city or county.  
25 The method prescribed in Section 41780.2 shall be used to  
26 determine the maximum amount of disposal *and conversion*  
27 *technology* allowable to meet the diversion requirements of  
28 Section 41780.

29 (c) To determine achievement of the diversion requirements of  
30 Section 41780 in 1995 and in the year 2000, projections of  
31 disposal amounts from the source reduction and recycling  
32 elements shall be adjusted to reflect annual increases or decreases  
33 in population and other factors affecting the waste stream, as  
34 determined by the board. By January 1, 1994, the board shall  
35 study the factors ~~which~~ *that* affect the generation and disposal of  
36 solid waste and shall develop a standard methodology and  
37 guidelines to be used by cities, counties, and regional agencies in  
38 adjusting disposal projections as required by this section.

39 (d) The amount of additional diversion required to be achieved  
40 by a regional agency to meet the diversion requirements of

1 Section 41780 shall be equal to the sum of the diversion  
2 requirements of its member agencies. To determine the  
3 maximum amount of disposal *and conversion technology*  
4 allowable for the regional agency to meet the diversion  
5 requirements of Section 41780, the maximum amount of disposal  
6 *and conversion technology* allowable for each member agency  
7 shall be added together to yield the agency disposable *and*  
8 *conversion technology* maximum.

9 SEC. 11. Section 41780.2 of the Public Resources Code is  
10 amended to read:

11 41780.2. (a) Each city, county, or member agency of a  
12 regional agency shall determine the amount of reduction in solid  
13 waste disposal *and conversion technology* and the amount of  
14 additional diversion required from the base-year amounts by  
15 using the methods set forth in this section.

16 (b) The city, county, or member agency of a regional agency  
17 shall multiply the total amount of base-year solid waste  
18 generation, as adjusted using the methods described in  
19 subdivision (c) of Section 41780.1, by 0.75 to determine the  
20 maximum amount of total disposal allowable in 1995 to meet the  
21 diversion requirements of Section 41780.

22 (c) The city, county, or member agency of a regional agency  
23 shall multiply the total amount of base-year solid waste  
24 generation, as adjusted using the methods described in  
25 subdivision (c) of Section 41780.1, by 0.50 to determine the  
26 maximum amount of total disposal *and conversion technology*  
27 allowable in the year 2000 to meet the diversion requirements of  
28 Section 41780.

29 (d) The city, county, or member agency of a regional agency  
30 shall multiply the total amount of base-year solid waste  
31 generation, as adjusted using the methods described in  
32 subdivision (c) of Section 41780.1, by 0.25 to determine the  
33 minimum amount of total diversion needed in the year 1995 to  
34 meet the diversion requirements of Section 41780.

35 (e) The city, county, or member agency of a regional agency  
36 shall multiply the total amount of base-year solid waste  
37 generation, as adjusted using the methods described in  
38 subdivision (c) of Section 41780.1, by 0.50 to determine the  
39 minimum amount of total diversion needed in the year 2000 to  
40 meet the diversion requirements of Section 41780.

1 (f) The city, county, or member agency of a regional agency  
2 shall subtract the total amount of base-year existing diversion  
3 from the minimum total diversion required as determined in  
4 subdivision (d) or (e) to determine the amount of additional  
5 diversion needed to meet the diversion requirements of Section  
6 41780. This amount of additional diversion shall be equal to the  
7 minimum amount of additional reduction in disposal *and*  
8 *conversion technology* amounts ~~which~~ *that* is needed to comply  
9 with Section 41780.

10 SEC. 12. Section 41781 of the Public Resources Code is  
11 amended to read:

12 41781. (a) Except as provided in Sections 41781.1; and  
13 41781.2, for the purpose of determining the base rate of solid  
14 waste from which diversion requirements shall be calculated,  
15 “solid waste” includes only the following:

16 (1) The amount of solid waste generated within a local  
17 agency’s jurisdiction, the types and quantities of ~~which~~ *that* were  
18 disposed of at a permitted disposal *or conversion technology*  
19 facility as of January 1, 1990. Nothing in this section requires  
20 local agencies to perform waste characterization in addition to  
21 the waste characterization requirements established under  
22 Sections 41030, 41031, 41330, 41331, and 41332.

23 (2) The amount of solid waste diverted from a disposal ~~facility~~  
24 ~~or transformation~~ *or conversion technology* facility through  
25 source reduction, recycling, or composting.

26 (b) For the purposes of this section, “solid waste” does not  
27 include any solid waste which would not normally be disposed of  
28 at a disposal *or sent to a conversion technology* facility.

29 (c) For the purposes of this chapter, the amount of solid waste  
30 from which the required reductions are measured shall be the  
31 amount of solid waste existing on January 1, 1990, with future  
32 adjustments for increases or decreases in the quantity of waste  
33 caused only by changes in population or changes in the number  
34 or size of governmental, industrial, or commercial operations in  
35 the jurisdiction.

36 SEC. 13. Section 41821.5 of the Public Resources Code is  
37 amended to read:

38 41821.5. (a) Disposal *and conversion technology* facility  
39 operators shall submit to counties information from periodic  
40 tracking surveys on the ~~disposal~~ tonnages by jurisdiction or

1 region of origin that are disposed of *or converted* at each disposal  
2 facility. To enable disposal facility operators to provide that  
3 information, solid waste handlers and transfer station operators  
4 shall provide information to disposal *and conversion technology*  
5 facility operators on the origin of the solid waste that they deliver  
6 to the disposal *and conversion technology* facility.

7 (b) Recycling and composting facilities shall submit periodic  
8 information to counties on the types and quantities of materials  
9 that are disposed of, sold to end users, or that are sold to  
10 exporters or transporters for sale outside of the state, by county  
11 of origin. When materials are sold or transferred by one recycling  
12 or composting facility to another, for other than an end use of the  
13 material or for export, the seller or ~~transferor~~ *transferor* of the  
14 material shall inform the buyer or transferee of the county of  
15 origin of the materials. The reporting requirements of this  
16 subdivision do not apply to entities that sell the byproducts of a  
17 manufacturing process.

18 (c) Each county shall submit periodic reports to the cities  
19 within the county, to any regional agency of which it is a member  
20 agency, and to the board, on the amounts of solid waste disposed  
21 *or converted* by jurisdiction or region of origin, as specified in  
22 subdivision (a), and on the categories and amounts of solid waste  
23 diverted to recycling and composting facilities within the county  
24 or region, as specified in subdivision (b).

25 (d) The board may adopt regulations pursuant to this section  
26 requiring practices and procedures that are reasonable and  
27 necessary to perform the periodic tracking surveys required by  
28 this section, and that provide a representative accounting of solid  
29 wastes that are handled, processed, or disposed. Those  
30 regulations or periodic tracking surveys approved by the board  
31 shall not impose an unreasonable burden on waste handling,  
32 processing, *conversion technology*, or disposal operations or  
33 otherwise interfere with the safe handling, processing, and  
34 disposal of solid waste. *Until the effective date of the regulations*  
35 *adopted by the board to implement the changes made by the act*  
36 *amending this section at the 2005–06 Regular Legislative*  
37 *Session, a conversion technology facility shall comply with the*  
38 *regulations adopted to implement this section that apply to a*  
39 *disposal facility.*

1 (e) On or before January 1, 2002, the board shall submit a  
2 report to the Legislature that evaluates the implementation of this  
3 section. The report shall include, but not be limited to, all of the  
4 following:

5 (1) An evaluation of the accuracy of the disposal reporting  
6 system under differing circumstances.

7 (2) The status of implementation of the disposal reporting  
8 system at the local level by waste haulers, landfills, transfer  
9 station and material recovery operators, and local agencies.

10 (3) The need for modification of the disposal reporting system  
11 to improve accuracy.

12 (4) Recommendations for regulatory and statutory changes  
13 needed to address deficiencies in the disposal reporting system.

14 (5) Recommendations to improve implementation and to  
15 streamline the reporting system, including ways to assist agencies  
16 to meet the reporting and tracking requirements.

17 (f) The board shall convene a working group composed of  
18 representatives of stakeholder groups, including, but not limited  
19 to, cities, counties, regional agencies, the solid waste industry,  
20 recyclers, and environmental organizations, to assist the board in  
21 preparing the report required pursuant to subdivision (e).

22 SEC. 14. Section 43020 of the Public Resources Code is  
23 amended to read:

24 43020. The board shall adopt and revise regulations ~~which~~  
25 *that* set forth minimum standards for solid waste handling,  
26 transfer, composting, transformation, *conversion technology*, and  
27 disposal, in accordance with this division, and Section 117590 of,  
28 and Chapter 6.5 (commencing with Section 25100) of Division  
29 20 of, the Health and Safety Code. The board shall not include  
30 any requirements that are already under the authority of the State  
31 Air Resources Board for the prevention of air pollution or of the  
32 state water board for the prevention of water pollution.

33 SEC. 15. Section 44153 is added to the Public Resources  
34 Code, to read:

35 44153. The enforcement agency shall not issue or revise a  
36 solid waste facilities permit for a proposed project that proposes  
37 to use conversion technology, as defined in Section 40116.5,  
38 unless the project complies with all of the following conditions:

39 (a) The proposed project is consistent with state solid waste  
40 management policy as set forth in Section 40051.

1 (b) The proposed conversion technology facility, and any  
2 contracts or commitments the proposed conversion technology  
3 facility has entered into for the provision of waste, uses front-end  
4 recycling methods or programs to remove all recyclable materials  
5 from the waste stream prior to conversion technology to the  
6 maximum extent feasible.

7 (c) The jurisdiction continues to implement the recycling and  
8 diversion programs in the jurisdiction’s source reduction and  
9 recycling element or its modified annual report.

10 (d) The facility complements the existing recycling and  
11 diversion infrastructure and is converting solid waste that was  
12 previously disposed.

13 (e) The facility maintains or enhances environmental benefits.

14 (f) The facility maintains or enhances the economic  
15 sustainability of the integrated waste management system.

16 (g) The ash or other residue generated from the conversion  
17 technology facility is routinely tested at least once a month and,  
18 if hazardous wastes are present, the ash or residue is sent to a  
19 Class 1 hazardous waste disposal facility.

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