

Assembly Bill No. 2206

Passed the Assembly May 11, 2006

Chief Clerk of the Assembly

Passed the Senate August 23, 2006

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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 2206, Montanez. Recycling: multifamily dwellings.

(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.

This 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 local agency, as defined, 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 local agency

to charge and collect a reasonable fee from the operator for providing the specified information.

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

The bill would require the board, on or before January 1, 2008, to develop and make available one or more model ordinances that are suitable for modification by a local agency and that may be adopted by a local agency to facilitate solid waste reduction, reuse, and recycling programs at multifamily dwellings, as defined, and to develop and make available one or more model notification documents suitable for modification by an owner, as defined, that informs the tenants of a multifamily dwelling on how they may reduce, reuse, and recycle solid waste materials. The bill would also require the board to post specified related information on the board's Internet Web site by that date. The bill would require, on and after May 1, 2008, an owner to provide to a tenant, no later than 5 days after the date of execution of a new rental or lease agreement, a written notice that includes a notification document developed by the board, the Internet Web site address of the board with the information required as described, or an Internet Web site address of a local agency, recycler, solid waste enterprise, or community conservation corps, that informs tenants how they may reduce, reuse, and recycle solid waste materials.

The bill would also require the owner to notify the tenant whether or not recycling receptacles are provided at the multifamily dwelling. The bill would require the board, to the extent feasible, to provide technical assistance and tools to implement the bill's multifamily dwelling requirements under existing financial resources. The bill would provide that the bill would not affect existing ordinances related to multifamily recycling that are more stringent than those 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.

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

SECTION 1. Section 41821 of the Public Resources Code is amended to read:

41821. (a) (1) Each year following the board's approval of a city, county, or regional agency's source reduction and recycling element, household hazardous waste element, and nondisposal facility element, the city, county, or regional agency shall submit a report to the board summarizing its progress in reducing solid waste as required by Section 41780.

(2) The annual report shall be due on or before August 1 of the year following board approval of the source reduction and recycling element, the household hazardous waste element, and the nondisposal facility element, and on or before August 1 in each subsequent year. The information in this report shall encompass the previous calendar year, January 1 to December 31, inclusive.

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

(1) Calculations of annual disposal reduction.

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

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

(4) A summary of progress made in diversion of construction and demolition of waste material, including information on

programs and ordinances implemented by the local government and quantitative data, where available.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) In determining whether or not to impose any penalties, or in determining the amount of any penalties imposed under this section, including any penalties imposed due to the exclusion of solid waste pursuant to Section 41781.2 that results in a reduction in the quantity of solid waste diverted by a city, county, or regional agency, the board shall consider whether the jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element. In addition, the board shall consider only those relevant

circumstances that have prevented a city, county, or regional agency from meeting the requirements of this division, including the diversion requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780, including, but not limited to, all of the following:

(1) Natural disasters.

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

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

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

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

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

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

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

(4) Whether a local jurisdiction has provided information to the board concerning whether construction and demolition waste material is at least a moderately significant portion of the waste stream, and, if so, whether the local jurisdiction has adopted an ordinance for diversion of construction and demolition waste materials from solid waste disposal facilities, has adopted a model ordinance pursuant to subdivision (a) of Section 42912 for diversion of construction and demolition waste materials from solid waste disposal facilities, or has implemented another

program to encourage or require diversion of construction and demolition waste materials from solid waste disposal facilities.

(5) Whether a local jurisdiction has provided information to the board regarding whether solid waste material from multifamily dwellings is at least a moderately significant portion of the waste stream, and, if so, whether the local jurisdiction has adopted an ordinance for the diversion and recycling of solid waste material from multifamily dwellings, or has otherwise implemented a program to require or encourage recycling of solid waste material from multifamily dwellings.

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

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

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

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

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

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

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

(c) “Large venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this chapter, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this chapter, a site under common ownership or control that includes more than one large venue that is contiguous with other large venues in the site, is a single large venue.

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

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

CHAPTER 12.8. MULTIFAMILY DWELLING RECYCLING PROGRAM

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

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

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

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

42649.1. On or before January 1, 2008, the board shall take all of the following actions:

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

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

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

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

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

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

(2) Requirements imposed on an owner pursuant to Section 42649.3.

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

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

(A) Examples of solid waste reduction, reuse, and recycling programs implemented in diverse types of multifamily dwellings, including, but not limited to, newly constructed dwellings, dwellings with limited space capacity for loading and collecting

recyclables, and multifamily dwellings of various sizes and numbers of living units.

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

42649.3. On and after May 1, 2008, an owner shall provide to a tenant, no later than five days after execution of a new rental or lease agreement, a written notice that includes both of the following:

(a) A notification document developed by the board pursuant to subdivision (b) of Section 42649.1, the Internet Web site address of the board with the information required pursuant to paragraph (3) of subdivision (c) of Section 42649.1, or an Internet Web site address of a local agency, recycler, solid waste enterprise, or community conservation corps, that informs tenants how they may reduce, reuse, and recycle solid waste materials.

(b) A statement indicating if recycling receptacles are provided at the multifamily dwelling.

42649.4. To the extent feasible, the board shall provide technical assistance and tools to implement this chapter under existing financial resources. This technical assistance may include, but is not limited to, model documents, training, research on solid waste management best practices, cost reduction, signage for recycling containers, and innovative products to assist local agencies and owners to develop and implement effective solid waste reduction, reuse, and recycling plans and rates.

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

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

Approved _____, 2006

Governor