

ASSEMBLY BILL

No. 2211

Introduced by Assembly Member Karnette

February 22, 2006

An act to amend Sections 48020, 48021, and 48023 of the Public Resources Code, relating to solid waste, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2211, as introduced, Karnette. Solid waste disposal site cleanup

The existing California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, establishes an integrated waste management program. The act requires the board to initiate a program for the cleanup of solid waste disposal sites and for cleanup of solid waste at codisposal sites where no responsible party is available to pay for timely remediation, and where cleanup is needed to protect public health and safety or the environment. Existing law provides that all expenses incurred by the board in carrying out the program are to be paid from the Solid Waste Disposal Site Cleanup Trust Fund, which is continuously appropriated to the board for the direct cleanup of solid waste disposal sites and the cleanup of solid waste at codisposal sites and for emergency actions at solid waste disposal sites and solid waste at codisposal sites. Existing law authorizes the board, in administering the program, to expend funds for specified purposes, including loans to private parties and providing matching grants to public entities. The board is also authorized to provide grants to public entities for the abatement of illegal disposal sites. The board is required, to the extent possible to seek reimbursement from responsible parties or the amounts expended under the cleanup program.

This bill would additionally include, as eligible for emergency action funding, solid waste facilities and sites involving solid waste handling. The bill would authorize the board to expend funds directly for the cleanup of a publicly owned or operated site only if the board determines that the public entity lacks resources or expertise to manage the cleanup itself. The bill would delete the requirement that the grants provided be matching grants and would instead authorize the board to provide grants to public entities, to assist in site cleanup.

The bill would specify, for purposes of expending funds to abate illegal disposal sites, that an “illegal disposal site” includes, but is not limited to, storm water related activities, if the grant funds are used for solid waste cleanup activities.

The bill would instead require the board to seek reimbursement to the extent feasible and would require the board to forgo cost recovery if the board makes a determination based on mitigating factors.

The bill would make an appropriation by changing the terms and conditions under which the funds in a continuously appropriated account may be expended.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 48020 of the Public Resources Code is
- 2 amended to read:
- 3 48020. (a) For purposes of this article, the following terms
- 4 have the following meaning:
- 5 (1) “Codisposal site” means a hazardous substance release site
- 6 listed pursuant to Section 25356 of the Health and Safety Code,
- 7 where the disposal of hazardous substances, hazardous waste,
- 8 and solid waste has occurred.
- 9 (2) “Trust fund” means the Solid Waste *Disposal Site* Cleanup
- 10 Trust Fund created pursuant to Section 48027.
- 11 (b) The board shall, on January 1, 1994, initiate a program for
- 12 the cleanup of solid waste disposal sites and for the cleanup of
- 13 solid waste at codisposal sites where the responsible party either
- 14 cannot be identified or is unable or unwilling to pay for timely
- 15 remediation, and where cleanup is needed to protect public health
- 16 and safety or the environment.

1 (c) The board shall not expend more than 5 percent of the
2 funds appropriated for the purpose of the program by a statute
3 other than the Budget Act to administer that program, unless a
4 different amount is otherwise appropriated to administer the
5 program in the annual Budget Act. If a different amount is
6 appropriated to administer the program in the annual Budget Act,
7 it shall be set forth in a separate line item. All remaining funds
8 appropriated for the purposes of the program shall be expended
9 on direct cleanup *pursuant to subdivision (b)* or emergency
10 actions at solid waste *facilities*, disposal sites, *sites involving*
11 *solid waste handling*, and for solid waste at codisposal sites.

12 SEC. 2. Section 48021 of the Public Resources Code is
13 amended to read:

14 48021. (a) In prioritizing the sites for cleanup pursuant to
15 Section 48020, the board shall consider the degree of risk to
16 public health and safety and the environment posed by conditions
17 at a site, the ability of the site owner to clean up the site without
18 monetary assistance, the ability of the board to ~~adequately~~ clean
19 up the site *adequately* with available funds, maximizing the use
20 of available funds, and other factors as determined by the board.

21 (b) (1) In administering the program authorized by Section
22 48020, the board may expend funds directly for cleanup *in*
23 *accordance with paragraph (2)*, provide loans to parties who
24 demonstrate the ability to repay state funds , and provide
25 ~~matching~~ grants to public entities, to assist in site cleanup.

26 (2) *The board may expend funds directly for the cleanup of a*
27 *publicly owned or operated site only if the board determines that*
28 *the public entity lacks resources or expertise to manage the*
29 *cleanup itself.*

30 (c) (1) In addition to the expenditures specified in subdivision
31 (b), the board may expend a portion of the funds appropriated for
32 the program to abate illegal disposal sites. ~~For~~

33 (2) *For the purposes of this subdivision, the board may*
34 *provide grants to public entities. Where*

35 (3) *Where funds are provided by the board to address illegal*
36 *disposal sites within a jurisdiction, the local enforcement agency*
37 *shall provide ongoing enforcement to prevent recurring illegal*
38 *disposal at the site.*

1 (4) For purposes of this subdivision an “illegal disposal site”
2 includes, but is not limited to, storm water related activities, if
3 the grant funds are used for solid waste cleanup activities.

4 (d) In developing and implementing the program, the board
5 shall consult with certified local enforcement agencies and the
6 regional water boards.

7 SEC. 3. Section 48023 of the Public Resources Code is
8 amended to read:

9 48023. (a) ~~If~~ Except as provided in subdivision (d), if the
10 board expends any funds pursuant to this article, the board shall,
11 to the extent ~~possible~~ *feasible*, seek repayment from responsible
12 parties in an amount equal to the amount expended, a reasonable
13 amount for the board’s cost of contract administration, and an
14 amount equal to the interest that would have been earned on the
15 expended funds.

16 (b) In implementing this article, the board is vested, in
17 addition to its other powers, with all the powers of an
18 enforcement agency under this division.

19 (c) The amount of any cost incurred by the board pursuant to
20 this article shall be recoverable from responsible parties in a civil
21 action brought by the board or, upon the request of the board, by
22 the Attorney General pursuant to Section 40432.

23 (d) *The board shall pursue cost recovery for each site*
24 *remediated with funds expended pursuant to this article unless*
25 *the board determines not to pursue cost recovery based upon one*
26 *or more of the following mitigating factors:*

27 (1) *The site is publicly owned and is maintained for the public*
28 *benefit and use.*

29 (2) *The property owner did not cause the disposal of the*
30 *waste.*

31 (3) *The value of the property is significantly less than cost of*
32 *cleanup.*

33 (4) *Cost recovery would result in hardship to the property*
34 *owner.*