

Assembly Bill No. 2296

Passed the Assembly August 28, 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 Section 43501 of, and to add Article 4 (commencing with Section 43050) to Chapter 1 of Part 4 of Division 30 of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2296, Montanez. Solid waste: landfill: standards: closure and postclosure maintenance.

(1) Existing law, the California Integrated Waste Management Act, requires the California Integrated Waste Management Board (board) to adopt regulations setting forth the minimum standards for solid waste disposal, including standards for the design, operation, maintenance and ultimate reuse of solid waste facilities.

This bill would require the board to conduct a study, by January 1, 2008, to define the conditions that potentially affect solid waste landfills, in order to identify potential long-term threats, as specified. The bill also would require the board to study various financial assurance mechanisms that would protect the state from long-term postclosure maintenance or corrective action costs if a landfill owner or operator fails to meet its legal obligation to fund postclosure maintenance or corrective action during the postclosure period. The bill would require the board to consult with specified representatives when conducting the study. The bill would require the board to adopt regulations and develop recommendations, by July 1, 2009, based upon the studies.

(2) The act requires a person owning or operating a solid waste landfill to submit to the board, the appropriate California Regional Water Quality Control Board (regional water board), and the local enforcement agency, a closure plan and a postclosure maintenance plan for the solid waste landfill. The act requires that person to also submit to the board evidence of financial ability in an amount, as specified, to provide for closure and postclosure maintenance contained in the closure and postclosure maintenance plans for the landfill.

The bill would require the board to adopt regulations on or before January 1, 2008, that would require closure and postclosure maintenance cost estimates to be based on reasonably foreseeable costs the state may incur if the state would have to assume responsibility for those activities due to the failure of the owner or operator, as specified.

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

SECTION 1. Article 4 (commencing with Section 43050) is added to Chapter 1 of Part 4 of Division 30 of the Public Resources Code, to read:

Article 4. Long-Term Threats to Landfills

43050. (a) On or before January 1, 2008, the board shall conduct a study to define the conditions that potentially affect solid waste landfills, including technologies and engineering controls designed to mitigate potential risks, in order to identify potential long-term threats to public health and safety and the environment. The board shall also study various financial assurance mechanisms that would protect the state from long-term postclosure and corrective action costs in the event that a landfill owner or operator fails to meet its legal obligations to fund postclosure maintenance or corrective action during the postclosure period. The board, on or before July 1, 2009, shall adopt regulations and develop recommendations for needed legislation to implement the findings of the study.

(b) In conducting the study described in subdivision (a), the board shall consult with representatives of the League of California Cities, the County Supervisors Association of California, private and public waste services, and environmental organizations.

SEC. 2. Section 43501 of the Public Resources Code is amended to read:

43501. (a) A person owning or operating a solid waste landfill, as defined in Section 40195.1, shall do both of the following:

(1) Upon application to become an operator of a solid waste facility pursuant to Section 44001, certify to the board and the

local enforcement agency that all of the following have been accomplished:

(A) The owner or operator has prepared an initial estimate of closure and postclosure maintenance costs.

(i) The board shall adopt regulations that provide for an increase in the initial closure and postclosure maintenance cost estimates to account for cost overruns due to unforeseeable circumstances, and to provide a reasonable contingency comparable to that which is built into cost estimates for other, similar public works projects.

(ii) The board shall adopt regulations on or before January 1, 2008, that require closure and postclosure maintenance cost estimates to be based on reasonably foreseeable costs the state may incur if the state would have to assume responsibility for the closure and postclosure maintenance due to the failure of the owner or operator. Cost estimates shall include, but not be limited to, estimates in compliance with Sections 1770, 1773, and 1773.1 of the Labor Code, and the replacement and repair costs for longer lived items, including, but not limited to, repair of the environmental control systems.

(B) The owner or operator has established a trust fund or equivalent financial arrangement acceptable to the board, as specified in Article 4 (commencing with Section 43600).

(C) The amounts that the owner or operator will deposit annually in the trust fund or equivalent financial arrangement acceptable to the board will ensure adequate resources for closure and postclosure maintenance.

(2) Submit to the regional water board, the local enforcement agency, and the board a plan for the closure of the solid waste landfill and a plan for the postclosure maintenance of the solid waste landfill.

(b) Notwithstanding subparagraph (C) of paragraph (1) of subdivision (a) or any other provision of law, if the owner or operator is a county with a population of 200,000 or less, as determined by the 1990 decennial census, the county shall not be required to make annual deposits in excess of the amount required by the federal act or any other applicable federal law, or by any board-approved formula that meets the requirements of the federal act.

(c) If not in conflict with federal law or regulations, a county or city may, with regard to a solid waste landfill owned or operated by the county or city, base its estimate of closure and postclosure maintenance costs on the costs of employing county or city employees or persons under contract with the county or city in performing closure and postclosure maintenance. However, even if, to meet federal requirements, the cost estimate is based on the most expensive costs of closure and postclosure maintenance performed by a third party, the county or city may, to effect cost savings, employ county or city employees or employ persons under contract to actually perform closure operations or postclosure maintenance operations.

Approved _____, 2006

Governor