

AMENDED IN SENATE JANUARY 13, 2006

AMENDED IN SENATE JANUARY 4, 2006

AMENDED IN SENATE APRIL 26, 2005

**SENATE BILL**

**No. 411**

---

---

**Introduced by Senator Alarcon**

February 17, 2005

---

---

An act to amend Section 41781.3 of the Public Resources Code, and to repeal Section 1 of Chapter 978 of the Statutes of 1996, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 411, as amended, Alarcon. Solid waste: nonbiodegradable materials: landfills.

(1) 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. Under existing law, the act requires each city, county, city and county, and regional agency, if any, 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, from landfill disposal or transformation through source reduction, recycling, and composting activities, except as specified. Existing law provides that the use of solid waste for beneficial reuse in the construction and operation of a solid waste landfill, including use of alternative daily cover, is diversion and not disposal for purposes of that requirement.

This bill would instead require that if the alternative daily cover is comprised of woody and green material, *as the bill would define that*

*term*, that material shall not be considered as being diverted and shall be included in the amount of solid waste that is subjected to disposal for purposes of the diversion requirements of the act, thereby imposing a state-mandated local program by imposing new duties upon local agencies.

The bill would require the board to develop a schedule for excluding solid waste that is used as an alternative daily cover and comprised of woody and green material from being included in meeting the 50% diversion requirements of the act.

*The bill also would repeal legislative findings pertaining to diversion, landfill cover materials, and green materials.*

(2) 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 all of the  
2 following:

3 (a) Californians create nearly 2,900 pounds, or one and  
4 one-half tons, of household garbage and industrial waste each  
5 and every second, which is a total of 45 million tons of waste per  
6 year.

7 (b) Until recently, the only place to put that trash was in local  
8 landfills. Today, however, waste and its byproducts are being  
9 recycled into more useful products.

10 (c) At the present time, the amount of green materials  
11 generated in California is in excess of the quantity that existing  
12 markets can absorb. It is thus in the interests of the state to  
13 encourage the expansion of markets for green materials.

14 (d) It is the intent of the Legislature that the California  
15 Integrated Waste Management Board, and other state agencies,  
16 continue their efforts to promote the expansion of compost and  
17 other markets.

1 SEC. 2. Section 41781.3 of the Public Resources Code is  
2 amended to read:

3 41781.3. (a) (1) The use of solid waste for beneficial reuse  
4 in the construction and operation of a solid waste landfill,  
5 including the use of alternative daily cover that is not comprised  
6 of woody and green material and that reduces or eliminates the  
7 amount of solid waste being disposed, for purposes of Section  
8 40124, shall constitute diversion through recycling and shall not  
9 be considered disposal for the purposes of this division.

10 (2) If the alternative daily cover is comprised of woody and  
11 green material, that material shall not be considered as being  
12 diverted, as defined in Section 40124, and shall be included in  
13 determining the amount of solid waste that is subjected to  
14 disposal for purposes of this division, in accordance with a  
15 schedule adopted pursuant to subdivision (b).

16 (b) The board shall adopt a schedule for excluding solid waste  
17 that is used as an alternative daily cover and is comprised of  
18 woody and green material from being included in meeting the  
19 50-percent diversion requirements of this division.

20 (c) The board shall adopt or revise regulations that establish  
21 conditions for the use of alternative daily cover that are  
22 consistent with this division. In adopting or revising the  
23 regulations, the board shall consider, but is not limited to, all of  
24 the following criteria:

25 (1) Those conditions established in past policies adopted by  
26 the board affecting the use of alternative daily cover.

27 (2) Those conditions necessary to provide for the continued  
28 economic development, economic viability, and employment  
29 opportunities provided by the composting industry in the state.

30 (3) Those performance standards and limitations on maximum  
31 functional thickness necessary to ensure protection of public  
32 health and safety consistent with state minimum standards.

33 (d) In adopting regulations pursuant to this section, Section  
34 40124, and this division, including, but not limited to, Part 2  
35 (commencing with Section 40900), the board shall provide  
36 guidance to local enforcement agencies on any conditions and  
37 restrictions on the utilization of alternative daily cover so as to  
38 ensure proper enforcement of those rules and regulations.

39 (e) *For the purposes of this section, "woody and green*  
40 *material" means plant material that is either separated at the*

1 *point of generation or separated at a centralized facility that*  
2 *employs methods to minimize contamination. Woody and green*  
3 *material includes, but is not limited to, yard trimmings, untreated*  
4 *wood waste, paper products, and natural fiber products. Woody*  
5 *and green material does not include treated wood waste, mixed*  
6 *demolition or mixed construction debris, or manure and plant*  
7 *waste from the food processing industry, alone or blended with*  
8 *soil. Woody and green material may include varying proportions*  
9 *of wood waste from urban and other sources.*

10 *SEC. 3. Section 1 of Chapter 978 of the Statutes of 1996 is*  
11 *repealed.*

12 ~~SECTION 1. (a) The Legislature hereby finds and declares~~  
13 ~~all of the following:~~

14 ~~(1) The diversion of solid waste from disposal at solid waste~~  
15 ~~landfills and the application of landfill cover materials are~~  
16 ~~matters of statewide concern and provisions governing those~~  
17 ~~activities must be applied in a uniform and consistent manner~~  
18 ~~throughout the state.~~

19 ~~(2) On January 25, 1995, the California Integrated Waste~~  
20 ~~Management Board adopted a policy regarding the use of~~  
21 ~~alternative daily cover at solid waste landfills and subsequently~~  
22 ~~adopted implementing regulations that were approved by the~~  
23 ~~Office of Administrative Law.~~

24 ~~(3) In *Natural Resources Defense Council vs. California*~~  
25 ~~*Integrated Waste Management Board*, the trial court's opinion~~  
26 ~~interpreted the meaning of various provisions of the California~~  
27 ~~Integrated Waste Management Act of 1989 and, in its~~  
28 ~~construction of provisions pertaining to alternative daily cover~~  
29 ~~and diversion at solid waste landfills, misinterpreted legislative~~  
30 ~~intent.~~

31 ~~(4) The board's policy, as adopted on January 25, 1995, and~~  
32 ~~the implementing regulations, regarding the use of alternative~~  
33 ~~daily cover at solid waste landfills are consistent with applicable~~  
34 ~~statutes.~~

35 ~~(5) It is necessary to amend applicable provisions of the act of~~  
36 ~~1989 to clarify existing law so as to clearly express the legislative~~  
37 ~~intent and to remove any uncertainty as to the authority of the~~  
38 ~~board to adopt the implementing regulations specified in~~  
39 ~~paragraph (4).~~

1 ~~(6) It is necessary to amend provisions of the act of 1989 to~~  
2 ~~clarify the intent of existing law that the diversion of solid waste~~  
3 ~~from solid waste disposal is diversion under the act of 1989 for~~  
4 ~~purposes of meeting the requirements of Sections 41780,~~  
5 ~~41780.1, 41780.2, and 41781 of the Public Resources Code, as~~  
6 ~~distinguished from diversion of solid waste from a solid waste~~  
7 ~~disposal facility.~~

8 ~~(b) (1) The Legislature further finds and declares that, at the~~  
9 ~~present time, the amount of green materials generated in~~  
10 ~~California is in excess of the quantity that existing markets can~~  
11 ~~absorb. It is thus in the interests of the state to encourage the~~  
12 ~~expansion of markets for green materials.~~

13 ~~(2) It is the intent of the Legislature that the California~~  
14 ~~Integrated Waste Management Board, and other state agencies,~~  
15 ~~continue their efforts to promote the expansion of compost and~~  
16 ~~other markets for green materials, including, but not limited to,~~  
17 ~~the compost market program activities specified in Chapter 5~~  
18 ~~(commencing with Section 42230) of Part 3 of Division 30 of the~~  
19 ~~Public Resources Code.~~

20 ~~SEC. 3.~~

21 ~~SEC. 4. No reimbursement is required by this act pursuant to~~  
22 ~~Section 6 of Article XIII B of the California Constitution because~~  
23 ~~a local agency or school district has the authority to levy service~~  
24 ~~charges, fees, or assessments sufficient to pay for the program or~~  
25 ~~level of service mandated by this act, within the meaning of~~  
26 ~~Section 17556 of the Government Code.~~