

AMENDED IN ASSEMBLY APRIL 7, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2640

Introduced by Assembly Member Huffman
(Coauthor: Assembly Member Dymally)

February 22, 2008

An act to amend ~~Sections 41781.3 and~~ Section 48000 of, to add Section 41781.5 to, and to add Article 3 (commencing with Section 48030) to Chapter 2 of Part 7 of Division 30 of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2640, as amended, Huffman. Solid waste: compostable organics management.

(1) 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 city, county, city and county, or regional agency to develop a source reduction and recycling element of an integrated waste management plan containing specified components.

The act requires the source reduction and recycling element to divert 50% of all solid waste subject to the element from disposal through source reduction, recycling, and composting activities, with specified exceptions. Under the act, the use of solid waste for beneficial reuse in the construction and operation of a solid waste landfill, including the use of alternative daily cover, constitutes diversion through recycling and is not considered disposal for purposes of the act. ~~The act requires the board, prior to December 31, 1997, to adopt rules and regulations establishing conditions for the use of alternative daily cover that are~~

~~consistent with the act and requires, until the board adopts those regulations, that the use of alternative daily cover be governed by specified existing regulations.~~

This bill would require the board to adopt policies and to develop and implement programs; to ensure that, on and after January 1, 2020, the amount of compostable organics subject to landfill disposal or otherwise deposited in landfills is reduced as specified.

~~This bill would provide that, on and after January 1, 2015, the use of green material, as defined, for beneficial reuse in the construction and operation of a solid waste landfill, including the use of green material as alternative daily cover, would not constitute diversion and would require that green material be considered disposal for purposes of the act. The bill would require the board to notify operators of disposal facilities of this provision on or before July 1, 2009.~~

~~This bill would require the board, on or before July 1, 2010, to adopt or revise regulations that establish conditions for the use of alternative daily cover that are consistent with the act. The bill also would delete an obsolete reference to the board's existing regulations.~~

~~This bill would impose a state-mandated local program by imposing new duties upon local agencies related to implementing those provisions.~~

(2) The act requires an operator of a solid waste disposal facility to pay a quarterly fee of up to \$1.40 per ton based on the amount of all solid waste disposed of at each disposal site and requires the State Board of Equalization to collect the fees and deposit the fees in the Integrated Waste Management Account in the Integrated Waste Management Fund (fund) in the State Treasury. The act requires the Integrated Waste Management Board to use the moneys in the account, upon appropriation by the Legislature, for specified purposes.

This bill, with regard to green material used for beneficial reuse, including use as alternative daily cover, at a disposal site, would ~~instead~~, *beginning January 1, 2010*, require an operator of a solid waste disposal facility to pay a quarterly fee of \$1.40 per ton, would establish the Organics Management Account in the fund, and would require the State Board of Equalization to collect and deposit the fees imposed on that green material in the account, *as specified*. The bill would require the California Integrated Waste Management Board to expend the moneys in the account, upon appropriation by the Legislature, for competitive grants and loans for compostable organics management projects and, commencing on July 1, 2010, for a program adopted by the board for compostable organics management.

~~(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.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: *yes-no*.

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) With the enactment of the California Integrated Waste
4 Management Act of 1989 (the act), the Legislature declared that
5 the California Integrated Waste Management Board and local
6 agencies shall promote recycling and composting over land disposal
7 and transformation.

8 (b) Since the enactment of the act, local governments and private
9 industries have worked jointly to create an extensive material
10 collection infrastructure and have implemented effective programs
11 to achieve a statewide diversion rate greater than 50 percent.

12 (c) Although California now leads the nation in waste reduction
13 and recycling, the state continues to dispose of more than 10
14 million tons of compostable organics each year in solid waste
15 landfills.

16 (d) The landfilling of compostable organics, including organic
17 materials used as landfill cover, squanders dwindling disposal
18 capacity, adds to landfill volatility, and results in the emission of
19 greenhouse gases, volatile organic compounds, and ammonia.

20 (e) Composting organic materials results in substantial
21 environmental and agricultural benefits, including the reduction
22 of methane gas and naturally occurring volatile organic compounds
23 and ammonia.

24 (f) The Economic and Technology Advancement Advisory
25 Committee, formed pursuant to the California Global Warming
26 Solutions Act of 2006 (A.B. 32, 2005–06 Reg. Sess.), has identified
27 composting as a cost-effective technology for reducing greenhouse
28 gas emissions and has recommended providing financial incentives
29 to assist compost operators to offset the cost of complying with
30 new and existing environmental regulations.

1 (g) The application of compost in agriculture and landscaping
2 has been shown to offer significant water quality benefits, provide
3 erosion control, reduce the need for synthetic fertilizers and
4 pesticides, and conserve water and irrigation-associated energy.

5 (h) The use of compostable organics as alternative daily cover
6 in the construction and operation of solid waste landfills deprives
7 California agriculture and the environment of compostable organic
8 material for compost and other higher and better uses.

9 (i) The California Integrated Waste Management Board has
10 adopted a Strategic Directive to reduce the amount of organics in
11 the waste stream by 50 percent by the year 2020 and has identified
12 the need for as many as 100 additional facilities in the state to
13 process compostable organics.

14 (j) In order to reduce the landfilling of organics, increase
15 composting, and meet the organics disposal reduction target
16 adopted by the California Integrated Waste Management Board,
17 the state should reduce barriers to, and provide incentives for,
18 increasing processing capacity and end-use markets for
19 compostable organics.

20 ~~SEC. 2. Section 41781.3 of the Public Resources Code is~~
21 ~~amended to read:~~

22 ~~41781.3. (a) (1) The use of solid waste for beneficial reuse~~
23 ~~in the construction and operation of a solid waste landfill, including~~
24 ~~the use of alternative daily cover, which reduces or eliminates the~~
25 ~~amount of solid waste being disposed pursuant to Section 40124,~~
26 ~~shall constitute diversion through recycling and shall not be~~
27 ~~considered disposal for the purposes of this division.~~

28 ~~(2) On and after January 1, 2015, the use of green material, as~~
29 ~~defined in regulations adopted by the board pursuant to Section~~
30 ~~40502, for beneficial reuse in the construction and operation of a~~
31 ~~solid waste landfill, including the use of green material as~~
32 ~~alternative daily cover, shall not constitute diversion through~~
33 ~~recycling and shall be considered disposal for purposes of this~~
34 ~~division.~~

35 ~~(3) On January 1, 2009, the board shall provide notice to all~~
36 ~~operators of disposal facilities of the requirements of paragraph~~
37 ~~(2).~~

38 ~~(b) On or before July 1, 2010, pursuant to the board's authority~~
39 ~~to adopt rules and regulations pursuant to Section 40502, the board~~
40 ~~shall adopt or revise regulations that establish conditions for the~~

1 use of alternative daily cover that are consistent with this division.
2 In adopting the regulations, the board shall consider, but is not
3 limited to, all of the following criteria:

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

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

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

12 (e) Until the adoption of additional regulations, the use of
13 alternative daily cover shall be governed by the conditions
14 established by the board in its existing regulations as those
15 regulations read on the effective date of the amendments to this
16 section, as enacted by the Statutes of 2008.

17 (d) In adopting rules and regulations pursuant to this section,
18 Section 40124, and this division, including, but not limited to, Part
19 2 (commencing with Section 40900), the board shall provide
20 guidance to local enforcement agencies on any conditions and
21 restrictions on the utilization of alternative daily cover so as to
22 ensure proper enforcement of those rules and regulations.

23 ~~SEC. 3.~~

24 *SEC. 2.* Section 41781.5 is added to the Public Resources Code,
25 to read:

26 41781.5. The board shall adopt policies and develop and
27 implement programs to ensure that, on and after January 1, 2020,
28 the amount of compostable organics subject to landfill disposal or
29 otherwise deposited in landfills in the state annually is 50 percent
30 or less of the amount of compostable organics disposed or
31 otherwise deposited in landfills during the 2008 calendar year.

32 ~~SEC. 4.~~

33 *SEC. 3.* Section 48000 of the Public Resources Code is
34 amended to read:

35 48000. (a) An operator of a disposal facility shall pay a fee
36 quarterly to the State Board of Equalization that is based on the
37 amount, by weight or volumetric equivalent, as determined by the
38 board, of all solid waste disposed of at each disposal site, except
39 solid waste for which the payment of a fee is required pursuant to
40 Section 48030.

1 (b) The fee for solid waste disposed of shall be one dollar and
 2 thirty-four cents (\$1.34) per ton. Commencing with the 1995–96
 3 fiscal year, the amount of the fee shall be established by the board
 4 at an amount that is sufficient to generate revenues equivalent to
 5 the approved budget for that fiscal year, including a prudent
 6 reserve, but shall not exceed one dollar and forty cents (\$1.40) per
 7 ton.

8 (c) The board shall notify the State Board of Equalization on
 9 the first day of the period in which the rate shall take effect of any
 10 rate change adopted pursuant to this section.

11 (d) The board and the State Board of Equalization shall ensure
 12 that all the fees for solid waste imposed pursuant to this section
 13 that are collected at a transfer station are paid to the State Board
 14 of Equalization in accordance with this article.

15 ~~SEC. 5.~~

16 *SEC. 4.* Article 3 (commencing with Section 48030) is added
 17 to Chapter 2 of Part 7 of Division 30 of the Public Resources Code,
 18 to read:

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 20
 21

Article 3. Organics Management Account

22 48030. (a) ~~(1) On and after January 1, 2009~~ *Commencing*
 23 *January 1, 2010*, an operator of a disposal facility shall pay a fee
 24 quarterly to the State Board of Equalization that is based on the
 25 amount, by weight or volumetric equivalent, as determined by the
 26 board, of all green material, as defined in regulations adopted by
 27 the California Integrated Waste Management Board pursuant to
 28 Section 40502, that is used for beneficial reuse, including use as
 29 alternative daily cover, at each disposal site.

30 *(2) Notwithstanding paragraph (1), the State Board of*
 31 *Equalization may require the payment of the fee imposed pursuant*
 32 *to this section and the filing of returns for other than quarterly*
 33 *periods.*

34 *(3) An operator of a disposal facility shall pay the fee imposed*
 35 *pursuant to this section by the 25th day of the calendar month*
 36 *following the quarterly period for which the fee is due.*

37 *(4) (A) Each payment of a fee pursuant to this section shall be*
 38 *accompanied by a return in the form as prescribed by the State*
 39 *Board of Equalization, including, but not limited to, electronic*
 40 *media. The return shall include the following information:*

- 1 (i) *The total amount of green material subject to the fee.*
- 2 (ii) *The amount of the fee for the period covered by the return.*
- 3 (iii) *Other information that the State Board of Equalization*
- 4 *determines to be necessary.*

5 (B) *A return submitted pursuant to this paragraph shall be*
6 *authenticated pursuant to methods as may be prescribed by the*
7 *State Board of Equalization.*

8 (b) *The fee imposed pursuant to this section shall be one dollar*
9 *and forty cents (\$1.40) per ton.*

10 (c) *The board and the State Board of Equalization shall ensure*
11 *that all fees for green material imposed pursuant to this section*
12 *that are collected at a transfer station are paid to the State Board*
13 *of Equalization in accordance with this article.*

14 (d) *The State Board of Equalization shall collect the fee imposed*
15 *pursuant to this section in accordance with the Fee Collection*
16 *Procedures Law (Part 30 (commencing with Section 55001) of*
17 *Division 2 of the Revenue and Taxation Code).*

18 48031. (a) *The revenue from the fees paid pursuant to Section*
19 *48030 shall, after payment of refunds and administrative costs of*
20 *collection, be deposited in the Organics Management Account,*
21 *which is hereby created in the Integrated Waste Management Fund.*

22 (b) *For purposes of this article, "account" means the Organics*
23 *Management Account, created pursuant to subdivision (a).*

24 48032. *The state board shall adopt rules and regulations to*
25 *carry out Section 48030, including, but not limited to, provisions*
26 *governing collections, reporting, refunds, and appeals.*

27 48033. *The state board shall not spend more than one-half of*
28 *1 percent of the total revenues deposited, or anticipated to be*
29 *deposited, in the account during a fiscal year for the administration*
30 *of this article during that fiscal year.*

31 48034. (a) *The board shall expend the moneys in the account,*
32 *upon appropriation by the Legislature, for the administration and*
33 *implementation of this article.*

34 (b) *The board shall adopt rules and regulations governing the*
35 *expenditure of the moneys in the account, in accordance with the*
36 *purposes set forth in this article.*

37 48035. (a) (1) *The board shall develop a program of grants*
38 *and loans for compostable organics management projects.*

1 (2) In expending the moneys in the account pursuant to
2 paragraph (1), the board shall support only projects that meet or
3 exceed new or existing state environmental standards.

4 (b) The board shall adopt a program, to commence on July 1,
5 2010, for compostable organics management. The program shall
6 be administered by the board pursuant to regulations adopted by
7 the board.

8 ~~SEC. 6. No reimbursement is required by this act pursuant to~~
9 ~~Section 6 of Article XIII B of the California Constitution because~~
10 ~~a local agency or school district has the authority to levy service~~
11 ~~charges, fees, or assessments sufficient to pay for the program or~~
12 ~~level of service mandated by this act, within the meaning of Section~~
13 ~~17556 of the Government Code.~~