

AMENDED IN ASSEMBLY MAY 23, 2008

AMENDED IN ASSEMBLY APRIL 7, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2640**

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**Introduced by Assembly Member Huffman**  
**(Principal coauthor: Assembly Member Leno)**  
**(Coauthor: Assembly Member Dymally)**

February 22, 2008

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An act to amend ~~Section 48000~~ *Sections 41850, 48000, and 48004* of, to add ~~Section 41781.5~~ *Sections 40507.5, 41781.5, and 41850.2* 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 board is required to file an annual report with the Legislature regarding the implementation of the act.* 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.

This bill would require the board *to annually recommend to the Legislature the allocation of the funds that the board should expend to provide the grants and loans authorized by the act. The bill would also 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.*

*(2) The board is required to review each city, county, or regional agency source reduction and recycling element and household hazardous waste element at least once every 2 years and to issue an order of compliance if the board finds that the city, county, or regional agency has failed to implement those elements. The board, in determining whether or not to impose any penalties on a city or county for a failure to implement those elements, is required to consider whether the jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element.*

*This bill would require the board, in determining whether a jurisdiction is making a good faith effort to implement the source reduction and recycling element, to additionally consider the jurisdiction's efforts in diverting organic materials from disposal or deposit in solid waste landfills.*

~~(2)~~

*(3) 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 (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, beginning January 1, 2010, require an operator of a solid waste disposal facility to pay a quarterly fee of \$1.40 per ton equal to that solid waste tonnage fee, 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.~~ *those fee revenues deposited in the account, upon appropriation by the Legislature, to provide competitive grants to operators of new or existing green and food material composting facilities. The bill would specify the projects that may be funded through these grants, including, but not limited to, actual operating costs for machinery upgrades, construction costs, and other capital investments for composting facilities. The board would be required to include, in the annual report that the board is required to submit to the Legislature, an update on the success of the grant and loan program established by the bill and the implementation of the diversion of compostable organics from disposal.*

*The bill would additionally specify that the funds in the account may be expended by the board, upon appropriation by the Legislature, for the grant and loan programs that are authorized or required to be administered by the board pursuant to the act.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: 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

1 million tons of compostable organics each year in solid waste  
2 landfills.

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

7 (e) Composting organic materials results in substantial  
8 environmental and agricultural benefits, including the reduction  
9 of methane gas and naturally occurring volatile organic compounds  
10 and ammonia.

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

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

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

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

31 (j) In order to reduce the landfilling of organics, increase  
32 composting, and meet the organics disposal reduction target  
33 adopted by the California Integrated Waste Management Board,  
34 the state should reduce barriers to, and provide incentives for,  
35 increasing processing capacity and end-use markets for  
36 compostable organics.

37 *SEC. 2. Section 40507.5 is added to the Public Resources Code,*  
38 *to read:*

1 40507.5. *The board shall annually recommend to the*  
2 *Legislature the allocation of the funds that the board should expend*  
3 *to provide the grants and loans authorized by this division.*

4 ~~SEC. 2.~~

5 *SEC. 3.* Section 41781.5 is added to the Public Resources Code,  
6 to read:

7 41781.5. The board shall adopt policies and develop and  
8 implement programs to ensure that, on and after January 1, 2020,  
9 ~~the amount of compostable organics subject to landfill disposal or~~  
10 ~~otherwise deposited in landfills in the state annually is 50 percent~~  
11 ~~or less of the amount of compostable organics disposed or~~  
12 ~~otherwise deposited in landfills during the 2008 calendar year. the~~  
13 *amount of organics annually subject to disposal or deposited in*  
14 *landfills in the state is 50 percent or less of the amount of organics*  
15 *disposed of or deposited in landfills during the 2008 calendar*  
16 *year.*

17 *SEC. 4.* Section 41850 of the Public Resources Code is  
18 *amended to read:*

19 41850. (a) Except as specifically provided in Section 41813,  
20 if, after holding the public hearing and issuing an order of  
21 compliance pursuant to Section 41825, the board finds that the  
22 city, county, or regional agency has failed to make a good faith  
23 effort to implement its source reduction and recycling element or  
24 its household hazardous waste element, the board may impose  
25 administrative civil penalties upon the city or county or, pursuant  
26 to Section 40974, upon the city or county as a member of a regional  
27 agency, of up to ten thousand dollars (\$10,000) per day until the  
28 city, county, or regional agency implements the element.

29 (b) In determining whether or not to impose any penalties, or  
30 in determining the amount of any penalties imposed under this  
31 section, including any penalties imposed due to the exclusion of  
32 solid waste pursuant to Section 41781.2 that results in a reduction  
33 in the quantity of solid waste diverted by a city, county, or regional  
34 agency, the board shall consider whether the jurisdiction has made  
35 a good faith effort to implement its source reduction and recycling  
36 element or its household hazardous waste element. In addition,  
37 the board shall consider only those relevant circumstances that  
38 have prevented a city, county, or regional agency from meeting  
39 the requirements of this division, including the diversion  
40 requirements of paragraphs (1) and (2) of subdivision (a) of Section

1 41780, including, but not limited to, all of the following  
2 *circumstances*:

3 (1) Natural disasters.

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

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

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

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

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

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

24 (3) Whether the jurisdiction has requested and been granted an  
25 extension to the requirements of Section 41780, ~~pursuant to Section~~  
26 ~~41820~~, or an alternative requirement to Section 41780, ~~pursuant~~  
27 ~~to Section 41785~~.

28 (4) Whether a local jurisdiction has provided information to the  
29 board concerning whether construction and demolition waste  
30 material is at least a moderately significant portion of the waste  
31 stream, and, if so, whether the local jurisdiction has adopted an  
32 ordinance for diversion of construction and demolition waste  
33 materials from solid waste disposal facilities, has adopted a model  
34 ordinance pursuant to subdivision (a) of Section 42912 for  
35 diversion of construction and demolition waste materials from  
36 solid waste disposal facilities, or has implemented another program  
37 to encourage or require diversion of construction and demolition  
38 waste materials from solid waste disposal facilities.

39 (d) (1) For the purposes of this section, "good faith effort"  
40 means all reasonable and feasible efforts by a city, county, or

1 regional agency to implement those programs or activities  
2 identified in its source reduction and recycling element or  
3 household hazardous waste element, or alternative programs or  
4 activities that achieve the same or similar results.

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

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

21 (4) *In determining whether a jurisdiction has made a good faith*  
22 *effort, the board shall also consider the jurisdiction’s efforts in*  
23 *diverting organic materials, as specified in Section 41850.2.*

24 *SEC. 5. Section 41850.2 is added to the Public Resources Code,*  
25 *to read:*

26 *41850.2. (a) In determining whether a jurisdiction is making*  
27 *a good faith effort to implement its source reduction and recycling*  
28 *element pursuant to Section 41850, the board shall additionally*  
29 *consider the jurisdiction’s efforts in diverting organic materials*  
30 *from disposal or deposit in solid waste landfills.*

31 *(b) The board shall identify actions conducive to achieving the*  
32 *organics diversion goal established in Section 41781.5.*

33 *(c) The board shall include the actions identified pursuant to*  
34 *subdivision (b) in any procedures used by the board to determine*  
35 *good faith compliance pursuant to this article.*

36 ~~SEC. 3.~~

37 *SEC. 6. Section 48000 of the Public Resources Code is*  
38 *amended to read:*

39 *48000. (a) An operator of a disposal facility shall pay a fee*  
40 *quarterly to the State Board of Equalization that is based on the*

1 amount, by weight or volumetric equivalent, as determined by the  
2 board, of all solid waste disposed of at each disposal site, except  
3 solid waste for which the payment of a fee is required pursuant to  
4 Section 48030.

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

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

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

19 *SEC. 7. Section 48004 of the Public Resources Code is*  
20 *amended to read:*

21 48004. (a) The money in the account shall be used by the  
22 board, upon appropriation by the Legislature, for the following  
23 purposes:

24 (1) The administration and implementation of this division by  
25 the board.

26 (2) The state water board's and regional water board's  
27 administration and implementation of Division 7 (commencing  
28 with Section 13000) of the Water Code at solid waste disposal  
29 sites.

30 (3) *Grant and loan programs that are authorized or required*  
31 *to be administered by the board pursuant to this division.*

32 (b) It is the intent of the Legislature that an amount which is  
33 sufficient to fund state water board and regional water board  
34 regulatory activities for solid waste landfills be appropriated from  
35 the account by the Legislature in the annual Budget Act. Those  
36 persons who are required to pay the fee imposed pursuant to  
37 Section 48000 shall not be required to pay the annual fee imposed  
38 pursuant to subdivision (d) of Section 13260 of the Water Code  
39 with regard to the same discharge.

1 (c) Notwithstanding subdivisions (a) and (b), if the fee  
2 established pursuant to Section 48000 does not generate revenues  
3 sufficient to fund the programs specified in this section, or if the  
4 amount appropriated by the Legislature for these purposes is  
5 reduced, those reductions shall be equally and proportionally  
6 distributed between funding for the solid waste programs of the  
7 state water board and the regional water boards and the board.

8 ~~SEC. 4.~~

9 *SEC. 8.* Article 3 (commencing with Section 48030) is added  
10 to Chapter 2 of Part 7 of Division 30 of the Public Resources Code,  
11 to read:

12  
13 Article 3. Organics Management ~~Account~~ *Grant Program*

14  
15 48030. (a) (1) Commencing January 1, 2010, an operator of  
16 a disposal facility shall pay a fee quarterly to the State Board of  
17 Equalization that is based on the amount, by weight or volumetric  
18 equivalent, as determined by the board, of all green material, as  
19 defined in regulations adopted by the California Integrated Waste  
20 Management Board pursuant to ~~Section 40502, that is used for~~  
21 ~~beneficial reuse, including use as alternative daily cover, at each~~  
22 ~~disposal site. Section 40502, that is used for alternative daily cover~~  
23 ~~at each disposal site.~~

24 (2) Notwithstanding paragraph (1), the ~~State Board of~~  
25 ~~Equalization~~ *state board* may require the payment of the fee  
26 imposed pursuant to this section and the filing of returns for other  
27 than quarterly periods.

28 (3) An operator of a disposal facility shall pay the fee imposed  
29 pursuant to this section ~~by quarterly, on or before~~ the 25th day of  
30 the calendar month following the quarterly period for which the  
31 fee is due.

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

36 (i) The total amount of green material subject to the fee.

37 (ii) The amount of the fee for the period covered by the return.

38 (iii) Other information that the State Board of Equalization  
39 determines to be necessary.

1 (B) A return submitted pursuant to this paragraph shall be  
2 authenticated pursuant to methods as may be prescribed by the  
3 State Board of Equalization.

4 (b) The fee imposed pursuant to this section shall be ~~one dollar~~  
5 ~~and forty cents (\$1.40) per ton.~~ *in the same amount as the total*  
6 *amount that is required to be paid to the state board pursuant to*  
7 *Section 48000 for each ton of solid waste subject to that fee.*

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

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

16 48031. ~~(a) The revenue from the fees paid pursuant to Section~~  
17 ~~48030 shall, after payment of refunds and administrative costs of~~  
18 ~~collection, be deposited in the Organics Management Account,~~  
19 ~~which is hereby created in the Integrated Waste Management Fund.~~

20 ~~(b) For purposes of this article, "account" means the Organics~~  
21 ~~Management Account, created pursuant to subdivision (a).~~ *of*  
22 *collection, be deposited in the Integrated Waste Management*  
23 *Account pursuant to Section 48001.*

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 *48034. (a) The board shall expend the funds deposited in the*  
9 *account pursuant to Section 48030, upon appropriation by the*  
10 *Legislature, to provide competitive grants to operators of new or*  
11 *existing green and food material composting facilities. The projects*  
12 *that may be funded through these grants include, but are not limited*  
13 *to, actual operating costs for machinery upgrades, construction*  
14 *costs, and other capital investments for composting facilities.*

15 *(b) In awarding grants pursuant to this section, the board shall*  
16 *provide preference to those projects that maximize the achievement*  
17 *of the goals set forth in Section 41781.5, including projects that*  
18 *would do either of the following:*

19 *(1) Comply, including early compliance, with existing or*  
20 *proposed regulations or rules governing air quality, as adopted*  
21 *or proposed to be adopted by the State Air Resources Board or a*  
22 *district, as defined in Section 39025 of the Health and Safety Code.*

23 *(2) Comply, including early compliance, with existing or*  
24 *proposed regulations that would otherwise prevent the achievement*  
25 *of the goals set forth in Section 41781.5, as determined by the*  
26 *board.*

27 *48035. The board shall include, in its annual report to the*  
28 *Legislature pursuant to Section 40507, an update on the success*  
29 *of the grant program established by this article and an update on*  
30 *the implementation of Section 41781.5 to annually divert 50 percent*  
31 *of compostable organics from disposal on and after January 1,*  
32 *2020.*