

AMENDED IN ASSEMBLY MAY 23, 2008
AMENDED IN ASSEMBLY APRIL 23, 2008
AMENDED IN ASSEMBLY APRIL 8, 2008
AMENDED IN ASSEMBLY MARCH 24, 2008
CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2866

Introduced by Assembly Member De Leon

February 22, 2008

An act to amend ~~Section 48000~~ *Sections 48000 and 48004* of, and to add Sections 43610.5 and 48001.5 to, the Public Resources Code, relating to solid waste, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2866, as amended, De Leon. Solid waste: closure liability: solid waste disposal fees.

(1) Existing law, the California Integrated Waste Management Act of 1989, requires an operator of a solid waste disposal facility to pay a quarterly fee to the State Board of Equalization based on the amount of solid waste disposed of at each disposal site. Commencing with the 1995–96 fiscal year, the act requires the California Integrated Waste Management Board to establish the amount of the fee, as specified, and limits the fee to a maximum of \$1.40 per ton. The fees are required to be deposited in the Integrated Waste Management Account (*account*) in the Integrated Waste Management Fund, and the board is authorized to expend the money in the account, upon appropriation by the Legislature, to administer and implement the act.

This bill would, on and after July 1, 2009, establish the amount of the fee in an amount of \$2 per ton and would require \$0.60 of that fee after that date to be deposited by the State Board of Equalization in the ~~Solid Waste Mitigation Account, which this bill would create in the fund.~~ *available for expenditure by the board, upon appropriation by the Legislature, in accordance with a specified schedule.*

The bill would ~~continuously appropriate the fee revenues in that account to the board for expenditure in accordance with a specified schedule, of which,~~ *require that* from July 1, 2009, until June 30, 2016, ~~25%~~ *20%* of the *additional* fee revenues ~~would be required to be~~ expended to fund demonstration projects by operators of diesel and natural gas fleets to accelerate the commercialization of hybrid hydraulic and hybrid electric propulsion systems in medium- and heavy-duty trucks used for the collection of recyclables, yard waste, and garbage, and in trucks used for the delivery and servicing of residential and commercial solid waste, recycling, and yard waste containers. ~~The~~

The bill would require, on and after July 1, 2016 2009, until June 30, 2016, that 25% of the additional fee revenues be expended by the board, upon appropriation by the Legislature in the annual Budget Act and would increase that percentage of the additional fee revenues subject to appropriation in the annual Budget Act to 45%, until June 30, 2017, would increase 70%, until July 1, 2020, and would increase 100% after that date.

The bill would also require, from July 1, 2009, until June 30, 2020, that ~~50%~~ *30%* of the *additional* fee revenues be expended for projects to divert 50% of compostable organics from land disposal by the year 2020, and for projects that demonstrate the commercial viability of producing clean transportation fuels, including ethanol, from municipal solid waste, and converting landfill gas to clean transportation fuels, as specified. ~~The bill would require, on and after July 1, 2020, that 50%~~ of the fee revenues be expended by the board, upon appropriation by the Legislature in the annual Budget Act.

The bill would require the board, on and after July 1, 2009, *but no later than July 1, 2020*, to deposit 25% of the fee revenues in the State Solid Waste Closure Trust ~~Subaccount~~ *Fund*, which the bill would establish in the ~~Solid Waste Mitigation Account Treasury~~ and continuously appropriate to the board. The bill would authorize the board to expend the money in the ~~subaccount~~ *trust fund* to pay for any future liability of the state resulting from the failure of a landfill operator to meet its responsibilities for landfill closure and postclosure care. The

board would be required to maintain an amount of \$50,000,000 in the ~~subaccount~~ *trust fund*, and if the amount of the fee revenues allocated to the ~~subaccount~~ *trust fund* exceeds that amount, the board would be required to expend those excess amounts ~~proportionally for the other purposes, as appropriated~~ *upon appropriation* by the Legislature in the annual Budget Act.

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

(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, 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 the closure and postclosure maintenance required by the closure and postclosure maintenance plans for the landfill. The act requires the owner and operator of a solid waste landfill to close, and to maintain the landfill during postclosure, in accordance with the most recent closure plan and the most recent postclosure maintenance plan approved by the board.

This bill would provide that an owner or operator of a disposal site who does not close and maintain the disposal site in accordance with the most recent closure plan or postclosure plan approved by the board is liable for any costs incurred by the board as a result of that failure. The board would be authorized to recover from that owner or operator any costs incurred by the board for the closure and postclosure maintenance of that site. The bill would require that any money recovered by the board be deposited in the Integrated Waste Management Account.

Vote: majority. 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 43610.5 is added to the Public Resources
- 2 Code, to read:
- 3 43610.5. (a) An owner or operator of a disposal site who does
- 4 not close or maintain the disposal site in accordance with the most
- 5 recent closure plan or postclosure plan approved by the board is

1 liable for any costs incurred by the board as a result of that failure.
2 The board may recover from the owner or operator of the disposal
3 site any costs incurred by the board for the closure and postclosure
4 maintenance of that site. The amount of any costs that may be
5 recovered pursuant to this section shall include, where applicable,
6 interest on any amount paid.

7 (b) The amount of costs determined pursuant to this section
8 shall be recoverable, at the discretion of the board, either in a
9 separate action or by way of intervention as of right in an action
10 for contribution or indemnity.

11 (c) Money recovered by the board pursuant to this section shall
12 be deposited in the Integrated Waste Management Account.

13 SEC. 2. Section 48000 of the Public Resources Code is
14 amended to read:

15 48000. (a) An operator of a disposal facility shall pay a fee
16 quarterly to the State Board of Equalization which is based on the
17 amount, by weight or volumetric equivalent, as determined by the
18 board, of all solid waste disposed of at each disposal site.

19 (b) Until July 1, 2009, the amount of the fee shall be established
20 by the board at an amount that is sufficient to generate revenues
21 equivalent to the approved budget for that fiscal year, including a
22 prudent reserve, but the fee shall not exceed one dollar and forty
23 cents (\$1.40) per ton.

24 (c) On and after July 1, 2009, the amount of the fee shall equal
25 two dollars (\$2) per ton.

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

30 (e) Notwithstanding Section 48001, on and after July 1, 2009,
31 an amount of sixty cents (\$0.60) of the fee imposed for each ton
32 of solid waste disposed of at each disposal site shall be deposited
33 by the State Board of Equalization in the Solid Waste Mitigation
34 Account created by Section 48001.5. *available to the board for*
35 *expenditure pursuant to Section 48001.5.*

36 SEC. 3. Section 48001.5 is added to the Public Resources Code,
37 to read:

38 48001.5. The fee revenues collected by the State Board of
39 Equalization pursuant to subdivision (e) of Section 48000 shall be
40 deposited in the Solid Waste Mitigation Account, which is hereby

1 established in the fund. Notwithstanding Section 13340 of the
2 Government Code, the revenues deposited in the Solid Waste
3 Mitigation Account are hereby continuously appropriated to the
4 board for expenditure in accordance with the following: *available*
5 *to the board, upon appropriation by the Legislature, for*
6 *expenditure by the board in accordance with the following:*

7 (a) (1) On and after July 1, 2009, until June 30, 2016, ~~25~~ 20
8 percent of the fee revenues shall be expended to fund demonstration
9 projects by operators of diesel and natural gas fleets to accelerate
10 the commercialization of hybrid hydraulic and hybrid electric
11 propulsion systems in medium- and heavy-duty trucks used for
12 the collection of recyclables, yard waste, and garbage, and in trucks
13 used for the delivery and servicing of residential and commercial
14 solid waste, recycling, and yard waste containers.

15 ~~(2) On and after July 1, 2016~~

16 (2) (A) *On and after July 1, 2009, until June 30, 2016, 25*
17 *percent of the fee revenues shall be expended by the board, upon*
18 *appropriation by the Legislature in the annual Budget Act.*

19 (B) *On and after July 1, 2016, until June 30, 2017, 45 percent*
20 *of the fee revenues shall be expended by the board, upon*
21 *appropriation by the Legislature in the annual Budget Act.*

22 (C) *On and after July 1, 2017, until June 30, 2020, 70 percent*
23 *of the fee revenues shall be expended by the board, upon*
24 *appropriation by the Legislature in the annual Budget Act.*

25 (D) *On and after July 1, 2020, 100 percent of the fee revenues*
26 *shall be expended by the board, upon appropriation by the*
27 *Legislature in the annual Budget Act.*

28 ~~(b) (1) On and after July 1, 2009, until June 30, 2020, 50 percent~~

29 (b) *On and after July 1, 2009, until June 30, 2020, 30 percent*
30 *of the fee revenues shall be expended by the board for both of the*
31 *following:*

32 ~~(A)~~

33 (1) *Projects to achieve the goal of diverting 50 percent of*
34 *compostable organics from land disposal by the year 2020.*

35 ~~(B)~~

36 (2) *Projects that demonstrate the commercial viability of*
37 *producing clean transportation fuels, including ethanol, from*
38 *municipal solid waste, and converting landfill gas to clean*
39 *transportation fuels, including compressed natural gas, liquefied*
40 *natural gas, or methane-based fuels, for use in existing diesel*

1 engines as a means of reducing both criteria air pollutants and
 2 greenhouse gas emissions from on-road or off-road vehicles. A
 3 project that utilizes thermal technologies is not eligible for
 4 expenditure pursuant to this subparagraph.

5 ~~(2) On and after July 1, 2020, 50 percent of the fee revenues~~
 6 ~~shall be expended by the board, upon appropriation by the~~
 7 ~~Legislature in the annual Budget Act.~~

8 (c) (1) On and after July 1, 2009, except as provided in
 9 paragraph (3), *but no later than July 1, 2020*, 25 percent of the fee
 10 revenues shall be deposited in the State Solid Waste Closure Trust
 11 ~~Subaccount, which is hereby established in the State Solid Waste~~
 12 ~~Mitigation Account Fund, which is hereby established in the State~~
 13 *Treasury* and continuously appropriated for expenditure by the
 14 board.

15 (2) The board may expend the money in the State Solid Waste
 16 Closure Trust ~~Subaccount Fund~~ to pay for any future liability of
 17 the state resulting from the failure of a landfill operator to meet
 18 its responsibilities for landfill closure and postclosure care.

19 (3) The board shall continue to deposit the percentage amount
 20 of the fees specified in paragraph (1) to maintain an amount of
 21 fifty million dollars (\$50,000,000) in the State Solid Waste Closure
 22 Trust ~~Subaccount Fund~~. If the amount of the fee revenues allocated
 23 to the State Solid Waste Closure Trust Subaccount exceeds that
 24 amount, the board shall expend those excess amounts upon
 25 appropriation by the Legislature in the annual Budget Act.

26 *SEC. 4. Section 48004 of the Public Resources Code is*
 27 *amended to read:*

28 48004. (a) The money in the account shall be used by the
 29 board, upon appropriation by the Legislature, for the following
 30 purposes:

31 (1) The administration and implementation of this division by
 32 the board.

33 (2) The state water board's and regional water board's
 34 administration and implementation of Division 7 (commencing
 35 with Section 13000) of the Water Code at solid waste disposal
 36 sites.

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

39 (b) It is the intent of the Legislature that an amount which is
 40 sufficient to fund state water board and regional water board

1 regulatory activities for solid waste landfills be appropriated from
2 the account by the Legislature in the annual Budget Act. Those
3 persons who are required to pay the fee imposed pursuant to
4 Section 48000 shall not be required to pay the annual fee imposed
5 pursuant to subdivision (d) of Section 13260 of the Water Code
6 with regard to the same discharge.

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