

AMENDED IN SENATE JULY 1, 2009
AMENDED IN ASSEMBLY APRIL 22, 2009
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 479

Introduced by Assembly Member Chesbro

February 24, 2009

An act to amend Sections 41780 and 48000 of, and to add Sections 41780.01, 42649, and 48001.5 to, the Public Resources Code, relating to solid waste, and to amend Sections 41730, 41731, 47134, 41735, 41736, 41800, 44004, and 50001 of, and to add Sections 40004, 41734.5, 41780.01, and 42649 to, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 479, as amended, Chesbro. Solid waste: diversion.

(1) The California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, requires each city, county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan containing specified components, including a source reduction component, a recycling component, and a composting component. With certain exceptions, the source reduction and recycling element of that plan is required to divert 50% of all solid waste from landfill disposal or transformation by January 1, 2000, through source reduction, recycling, and composting activities.

Existing law requires the board to review, at least once every 2 years, a jurisdiction's source reduction and recycling element and household hazardous waste element. The board is required to issue an order of compliance if the board finds that a jurisdiction has failed to implement

its source reduction and recycling element or its household hazardous waste element, pursuant to a specified procedure. If, after issuing an order of compliance, the board finds the city, county, or regional agency has failed to make a good faith effort to implement those elements, the board is authorized to impose administrative civil penalties upon the city, county, or regional agency.

~~This bill would require a city or county to divert 60% the board, on January 1, 2020, and annually thereafter, to ensure that 75% of all solid waste through generated is source reduction, recycling, and composting activities on and after January 1, 2015, thereby imposing a state-mandated local program by imposing new duties on local agencies regarding solid waste management. The bill would also require the board to establish policies, programs, and incentives to ensure diversion of solid waste in accordance with a specified schedule reduced, recycled and composted.~~

(2) Existing law requires a local agency to impose certain requirements on an operator of a large venue or event to facilitate solid waste reduction, reuse, and recycling.

~~This bill would require the owner or operator of a business that contracts for solid waste services and generates more than 4 cubic yards of total solid waste and recyclable materials per week to arrange for recycling service, consistent with state and local laws and requirements, to the extent that these services are offered and reasonably available from a local service provider. The bill would require specified local agencies, by January 1, 2011, to adopt commercial recycling ordinances that include certain minimum requirements take specified action by January 1, 2011.~~

~~The bill would impose a state-mandated local program by imposing new duties upon local agencies with regard to the adoption of commercial recycling ordinances.~~

~~(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 in the Integrated Waste Management Fund in the State Treasury. The act requires the board to use the moneys in the account, upon appropriation by the Legislature, for specified purposes.~~

~~This bill would, on and after January 1, 2010, establish the amount of the fee in an amount of \$3.90 per ton and would require \$2.50 of that~~

fee after that date to be available for expenditure by the board, upon appropriation by the Legislature, for apportionment to jurisdictions, as specified.

(3) Existing law prohibits an operator of a solid waste facility from making a significant change in the design or operation of the solid waste facility that is not authorized by the existing permit unless the change is approved by the enforcement agency. Existing law requires the enforcement agency, within 60 days of receipt of an application for a revised permit, to inform the operator of its determination.

This bill would require the enforcement agency to inform the operator that it is requiring the revision of the solid waste facility permit to allow the change if the enforcement agency determines that the proposed change meets specified requirements. By imposing new duties upon a local enforcement agency with regard to an application for a revised permit, the bill would impose a state-mandated local program.

(4) Existing law requires a city, county, and city and county to incorporate the nondisposal facility element and any amendment to the element into the revised source reduction and recycling element at the time of the 5-year revision of the source reduction and recycling element. Existing law requires the board to review an amendment to a nondisposal facility element. Existing law requires a local task force to review and comment on amendments to a nondisposal facility element.

This bill would repeal those requirements. The bill would instead require a city, county, city and county, or regional agency to update all information required to be included in the nondisposal facility element. The bill would provide that the update is not subject to approval by the board or comment and review by a local task force.

~~(4)~~

(5) 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. (a) The Legislature finds and declares both of
2 the following:

1 (1) Since the enactment of the California Integrated Waste
2 Management Act of 1989 (Division 30 (commencing with Section
3 40000) of the Public Resources Code), local governments and
4 private industries have worked jointly to create an extensive
5 material collection and recycling infrastructure and have
6 implemented effective programs to achieve a statewide diversion
7 rate above 50 percent.

8 (2) Although the state now leads the nation in solid waste
9 reduction and recycling, the state continues to dispose of more
10 than 40 million tons of solid waste each year, which is more than
11 the national average on a per capita basis. Additional efforts must
12 be undertaken to divert more solid waste from disposal in order
13 to conserve scarce natural resources.

14 (b) The Legislature further finds and declares all of the
15 following:

16 (1) Approximately 64 percent of the state's solid waste disposal
17 is from commercial sources, including commercial, industrial,
18 construction, and demolition activities. In addition, 8 percent of
19 the state's solid waste disposal is from multifamily residential
20 housing that is often collected along with the commercial waste
21 stream.

22 (2) The state's local governments have made significant progress
23 in reducing the amount of solid waste disposal from single-family
24 residential sources that make up 28 percent of the state's disposal,
25 but have faced more challenges in reducing disposal from the
26 commercial and multifamily sources.

27 (3) The disposal of commercial solid wastes harms natural
28 resources, negatively impacts the state's environment, prevents
29 materials from circulating in the state economy to produce jobs
30 and new products, and contributes to global warming.

31 (4) The state has long been a national and international leader
32 in environmental stewardship efforts and mandating the diversion
33 of solid waste away from disposal. Bold environmental leadership
34 and a new approach are needed to divert commercial solid waste
35 away from disposal.

36 (5) By exercising a leadership role, the state will lead the
37 business community toward a future in which the environment
38 and the economy both grow stronger together by recycling
39 materials, which creates new jobs, instead of burying resources,
40 which exit the economy forever.

1 (6) By requiring commercial recycling, the state will help
2 businesses reduce costly disposal fees and reclaim valuable
3 resources.

4 ~~(7) Solid waste diversion and disposal reduction requires the~~
5 ~~availability of adequate solid waste processing and composting~~
6 ~~capacity.~~

7 ~~(8) The existing network of public and private solid waste~~
8 ~~processing and composting facilities provides a net environmental~~
9 ~~benefit to the communities served, and represents a valuable asset~~
10 ~~and resource of this state, one that must be sustained and expanded~~
11 ~~to provide the additional solid waste processing capacity that will~~
12 ~~be required to achieve the additional solid waste diversion~~
13 ~~mandates expressed in Section 41780 of the Public Resources~~
14 ~~Code as amended by this act.~~

15 ~~(9) It is the intent of the Legislature to encourage the~~
16 ~~development of the additional solid waste processing and~~
17 ~~composting capacity that is needed to meet state objectives for~~
18 ~~decreasing solid waste disposal by identifying incentives for local~~
19 ~~governments to locate and approve new or expanded facilities that~~
20 ~~meet and exceed their capacity needs, and to recognize local~~
21 ~~agencies that make significant contributions to the state's overall~~
22 ~~solid waste reduction and recycling objectives through the siting~~
23 ~~of facilities for the processing and composting of materials diverted~~
24 ~~from the solid waste stream.~~

25 ~~(10) The provisions in existing law that confer broad discretion~~
26 ~~on local agencies to determine aspects of solid waste handling that~~
27 ~~are of local concern have significantly contributed to the statewide~~
28 ~~diversion rate exceeding 50 percent, and further progress toward~~
29 ~~decreasing solid waste disposal requires that this essential element~~
30 ~~of local control be preserved.~~

31 ~~(11) Accordingly, by setting in this act new statewide solid~~
32 ~~waste diversion requirements in Section 41780 of the Public~~
33 ~~Resources Code, new solid waste diversion targets in Section~~
34 ~~41780.01 of the Public Resources Code, and new commercial~~
35 ~~waste recycling requirements in Section 42649 of the Public~~
36 ~~Resources Code, the Legislature does not intend to limit a right~~
37 ~~afforded to local governments pursuant to Section 40059 of the~~
38 ~~Public Resources Code, or to modify or abrogate in any manner~~
39 ~~the rights of a local government or solid waste enterprise with~~

1 ~~regard to a solid waste handling franchise or contract granted on~~
2 ~~or before January 1, 2010.~~

3 ~~SEC. 2. Section 41780 of the Public Resources Code is~~
4 ~~amended to read:~~

5 ~~41780. (a) Each jurisdiction's source reduction and recycling~~
6 ~~element shall include an implementation schedule that shows both~~
7 ~~of the following:~~

8 ~~(1) For the initial element, the jurisdiction shall divert 25 percent~~
9 ~~of all solid waste by January 1, 1995, through source reduction,~~
10 ~~recycling, and composting activities.~~

11 ~~(2) Except as provided in Sections 41783 and 41784, for the~~
12 ~~first and each subsequent revision of the element, the jurisdiction~~
13 ~~shall divert 50 percent of all solid waste on and after January 1,~~
14 ~~2000, through source reduction, recycling, and composting~~
15 ~~activities.~~

16 ~~(3) Except as provided in Sections 41783 and 41784, for each~~
17 ~~subsequent revision of the element, the jurisdiction shall divert 60~~
18 ~~percent of all solid waste on or after January 1, 2015, through~~
19 ~~source reduction, recycling, and composting activities.~~

20 ~~(b) This part does not prohibit a jurisdiction from implementing~~
21 ~~source reduction, recycling, and composting activities designed~~
22 ~~to exceed these requirements.~~

23 ~~SEC. 3. Section 41780.01 is added to the Public Resources~~
24 ~~Code, to read:~~

25 ~~41780.01. The board shall adopt policies, programs, and~~
26 ~~incentives to ensure that solid waste generated in this state is source~~
27 ~~reduced, recycled, or composted in accordance with the following~~
28 ~~schedule:~~

29 ~~(a) On and before January 1, 2015, ensure that 60 percent of all~~
30 ~~solid waste generated is source reduced, recycled, or composted.~~

31 ~~(b) On or before January 1, 2020, and annually thereafter, ensure~~
32 ~~that 75 percent of solid waste generated is source reduced, recycled,~~
33 ~~and composted.~~

34 ~~SEC. 2. Section 40004 is added to the Public Resources Code,~~
35 ~~to read:~~

36 ~~40004. (a) The Legislature finds and declares all of the~~
37 ~~following:~~

38 ~~(1) Solid waste diversion and disposal reduction require the~~
39 ~~availability of adequate solid waste processing and composting~~
40 ~~capacity.~~

1 (2) *The existing network of public and private solid waste*
2 *processing and composting facilities provides a net environmental*
3 *benefit to the communities served, and represents a valuable asset*
4 *and resource of this state, one that must be sustained and expanded*
5 *to provide the additional solid waste processing capacity that will*
6 *be required to achieve the additional solid waste diversion targets*
7 *expressed in Section 41780.01 and the commercial recycling*
8 *requirement expressed in Section 42649.*

9 (3) *The provisions in existing law that confer broad discretion*
10 *on local agencies to determine aspects of solid waste handling*
11 *that are of local concern have significantly contributed to the*
12 *statewide diversion rate exceeding 50 percent, and further progress*
13 *toward decreasing solid waste disposal requires that this essential*
14 *element of local control be preserved.*

15 (b) *It is the intent of the Legislature to encourage the*
16 *development of the additional solid waste processing and*
17 *composting capacity that is needed to meet state objectives for*
18 *decreasing solid waste disposal by identifying incentives for local*
19 *governments to locate and approve new or expanded facilities that*
20 *meet and exceed their capacity needs, and to recognize local*
21 *agencies that make significant contributions to the state's overall*
22 *solid waste reduction and recycling objectives through the siting*
23 *of facilities for the processing and composting of materials diverted*
24 *from the solid waste stream.*

25 (c) *By setting a new solid waste diversion target in Section*
26 *41780.01 and new commercial waste recycling requirements in*
27 *Section 42649, the Legislature does not intend to limit a right*
28 *afforded to local governments pursuant to Section 40059, or to*
29 *modify or abrogate in any manner the rights of a local government*
30 *or solid waste enterprise with regard to a solid waste handling*
31 *franchise or contract.*

32 *SEC. 3. Section 41730 of the Public Resources Code is*
33 *amended to read:*

34 41730. Except as provided in Section 41750.1, each city shall
35 prepare, adopt, and, except for a city and county, transmit to the
36 county in which the city is located a nondisposal facility element
37 that includes all of the information required by this chapter and
38 that is consistent with the implementation of a city source reduction
39 and recycling element adopted pursuant to this part.—The
40 nondisposal facility element and any amendments to the element

1 ~~may be appended to the city's source reduction and recycling~~
 2 ~~element when that element is included in the countywide integrated~~
 3 ~~waste management plan, prepared pursuant to Section 41750. The~~
 4 ~~nondisposal facility element and any amendments~~ *updates* to the
 5 element shall not be subject to the approval of the county and the
 6 majority of cities with the majority of the population in the
 7 incorporated area.

8 *SEC. 4. Section 41731 of the Public Resources Code is*
 9 *amended to read:*

10 41731. Except as provided in Section 41750.1, each county
 11 shall prepare, adopt, and, except for a city and county, transmit to
 12 the cities located in the county a nondisposal facility element that
 13 includes all of the information required by this chapter and that is
 14 consistent with the implementation of a county source reduction
 15 and recycling element adopted pursuant to this part. ~~The~~
 16 ~~nondisposal facility element and any amendments to the element~~
 17 ~~may be appended to the county's source reduction and recycling~~
 18 ~~element when that element is included in the countywide integrated~~
 19 ~~waste management plan prepared pursuant to Section 41750. The~~
 20 nondisposal facility element and any ~~amendments~~ *updates* to the
 21 element shall not be subject to the approval of the majority of cities
 22 with the majority of the population in the incorporated area.

23 *SEC. 5. Section 41734 of the Public Resources Code is*
 24 *amended to read:*

25 41734. (a) (1) ~~Prior to adopting or amending~~ a nondisposal
 26 facility element, the city, county, or regional agency shall submit
 27 the element ~~or amendment~~ to the task force created pursuant to
 28 Section 40950 for review and comment.

29 (2) ~~Prior to adopting or amending~~ a regional agency nondisposal
 30 facility element, if the jurisdiction of the regional agency extends
 31 beyond the boundaries of a single county, the regional agency shall
 32 submit the element ~~or amendment~~ for review and comment to each
 33 task force created pursuant to Section 40950 of each county within
 34 the jurisdiction of the regional agency.

35 (b) Comments by the task force shall include an assessment of
 36 the regional impacts of potential diversion facilities and shall be
 37 submitted to the ~~city~~, *city*, county, or regional agency and to the
 38 board within 90 days of the date of receipt of the nondisposal
 39 facility element for review and comment.

1 *SEC. 6. Section 41734.5 is added to the Public Resources Code,*
2 *to read:*

3 41734.5. (a) *Once a nondisposal facility element has been*
4 *adopted, the city, county, or regional agency shall update all*
5 *information required to be included in the nondisposal facility*
6 *element, including, but not limited to, new information regarding*
7 *existing and new, or proposed nondisposal facilities.*

8 (b) *Updates shall be provided to the board within 30 days of*
9 *any change in information.*

10 (c) *Copies of the updated information shall also be provided to*
11 *the local task force and shall be appended or otherwise added to*
12 *the nondisposal facility element.*

13 (d) *The local task force shall not be required to review and*
14 *comment on the updates to the nondisposal facility elements.*

15 (e) *Updates to the nondisposal facility elements are not subject*
16 *to approval by the board.*

17 *SEC. 7. Section 41735 of the Public Resources Code is*
18 *amended to read:*

19 41735. (a) *Notwithstanding Division 13 (commencing with*
20 *Section 21000), the adoption or—amendment update of a*
21 *nondisposal facility element shall not be subject to environmental*
22 *review.*

23 (b) *Local agencies may impose a fee on project proponents to*
24 *fund their necessary and actual costs of preparing and approving*
25 *amendments updates to nondisposal facility elements.*

26 *SEC. 8. Section 41736 of the Public Resources Code is*
27 *amended to read:*

28 41736. *It is not the intent of the Legislature to require cities*
29 *and counties to revise their source reduction and recycling elements*
30 *to comply with the requirements of this chapter. ~~At the time of the~~*
31 *~~five-year revision of the source reduction and recycling element,~~*
32 *~~each city, county, and city and county shall incorporate the~~*
33 *~~nondisposal facility element and any amendments thereto into the~~*
34 *~~revised source reduction and recycling element.~~*

35 *SEC. 9. Section 41780.01 is added to the Public Resources*
36 *Code, to read:*

37 41780.01. *On or before January 1, 2020, and annually*
38 *thereafter, the board shall ensure that 75 percent of solid waste*
39 *generated is source reduced, recycled, or composted.*

1 *SEC. 10. Section 41800 of the Public Resources Code is*
2 *amended to read:*

3 41800. (a) Except as provided in subdivision (b), within 120
4 days from the date of receipt of a countywide or regional integrated
5 waste management plan ~~which~~ *that* the board has determined to
6 be complete, or any element of the plan ~~which~~ *that* the board has
7 determined to be complete, the board shall determine whether the
8 plan or element is in compliance with Article 2 (commencing with
9 Section 40050) of Chapter 1 of Part 1, Chapter 2 (commencing
10 with Section 41000), and Chapter 5 (commencing with Section
11 41750), and, based upon that determination, the board shall
12 approve, conditionally approve, or disapprove the plan or element.

13 (b) (1) Within 120 days from the date of receipt of a city,
14 county, or regional agency nondisposal facility element, ~~which~~
15 *that* the board has determined to be complete, ~~and within 60 days~~
16 ~~from the date of receipt of an amendment to a city, county, or~~
17 ~~regional agency nondisposal facility element,~~ the board shall
18 determine whether the element, ~~which~~ *that* the board has
19 determined to be complete, ~~or amendment~~ is in compliance with
20 Chapter 4.5 (commencing with Section 41730) and Article 1
21 (commencing with Section 41780) of Chapter 6, and, based upon
22 that determination, the board shall approve, conditionally approve,
23 or disapprove the element ~~or amendment~~ within that time period.

24 (2) In reviewing the element ~~or amendment~~, the board shall:

25 (A) Not consider the estimated capacity of the facility or
26 facilities in the element ~~or amendment~~ unless the board determines
27 that this information is needed to determine whether the element
28 ~~or amendment~~ meets the requirements of Article 1 (commencing
29 with Section 41780) of Chapter 6.

30 (B) Recognize that individual facilities represent portions of
31 local plans or programs that are designed to achieve the diversion
32 requirements of Section 41780 and therefore may not arbitrarily
33 require new or expanded diversion at proposed facilities.

34 (C) Not disapprove an element ~~or amendment~~ that includes a
35 transfer station or other facility solely because the facility does
36 not contribute towards the jurisdiction's efforts to comply with
37 Section 41780.

38 (c) If the board does not act to approve, conditionally approve,
39 or disapprove an element ~~which~~ *that* the board has determined to
40 be complete within 120 days, ~~or an amendment which the board~~

1 ~~has determined to be complete within 60 days, the board shall be~~
2 ~~deemed to have approved the element or amendment.~~

3 ~~SEC. 4.~~

4 *SEC. 11.* Section 42649 is added to the Public Resources Code,
5 to read:

6 42649. (a) ~~The~~ *On or before January 1, 2011, the owner or*
7 *operator of a business that contracts for solid waste services and*
8 *generates more than four cubic yards of total solid waste and*
9 *recyclable materials that are not solid waste per week shall arrange*
10 *for recycling services, consistent with state or local laws or*
11 *requirements, including a local ordinance or agreement, applicable*
12 *to the collection, handling, or recycling of solid waste, to the extent*
13 *that these services are offered and reasonably available from a*
14 *local service provider.*

15 ~~(b) On or before January 1, 2011, each city, county, solid waste~~
16 ~~authority, or other joint powers authority located within a county~~
17 ~~with a population of 200,000 or more shall adopt a commercial~~
18 ~~recycling ordinance that is consistent with this section.~~

19 ~~(c) A commercial recycling ordinance adopted pursuant to this~~
20 ~~section shall include, at a minimum, both of the following:~~

21 ~~(1) An enforceable requirement that a commercial waste~~
22 ~~generator take one of the following actions:~~

23 ~~(A) Source separate specified recyclable materials from solid~~
24 ~~waste and subscribe to a basic level of recycling service that~~
25 ~~includes the collection of those recyclable materials or specific~~
26 ~~provisions for authorized self-hauling.~~

27 ~~(B) Subscribe to an alternative type of recycling service, which~~
28 ~~may include mixed waste processing, that yields diversion results~~
29 ~~comparable to source separation.~~

30 ~~(2) Educational, implementation, and enforcement provisions.~~

31 ~~(b) A commercial waste generator shall take either of the~~
32 ~~following actions:~~

33 ~~(1) Source separate specified recyclable materials from solid~~
34 ~~waste and subscribe to a basic level of recycling service that~~
35 ~~includes the collection of those recyclable materials or specific~~
36 ~~provisions for authorized self-hauling.~~

37 ~~(2) Subscribe to an alternative type of recycling service that~~
38 ~~may include mixed waste processing that yields diversion results~~
39 ~~comparable to source separation.~~

40 ~~(d)~~

1 (c) For the purposes of this section, “business” means a
 2 commercial entity operated by a firm, partnership, proprietorship,
 3 joint stock company, corporation, or association that is organized
 4 as a for-profit or nonprofit entity.

5 (e)

6 (d) This section does not limit the authority of a local agency
 7 to adopt, implement, or enforce a local commercial recycling
 8 ordinance requirement that is more stringent or comprehensive
 9 than the requirements of this section or limit the authority of a
 10 local agency in a county with a population of less than 200,000 to
 11 require commercial recycling.

12 (f)

13 (e) This section does not modify or abrogate in any manner
 14 either of the following:

15 (1) A franchise granted or extended by a city, county, or other
 16 local government agency on or before January 1, 2010.

17 (2) A contract, license, or permit to collect solid waste
 18 previously granted or extended by a city, county, or other local
 19 government agency on or before January 1, 2010.

20 (3) The existing right of a business to sell or donate their
 21 recyclable materials.

22 (g)

23 (f) (1) When adopting an ordinance pursuant to this section, a
 24 local agency may consider the adequacy of areas for collecting
 25 and loading recyclable materials.

26 (2) Notwithstanding paragraph (1), a local agency shall not
 27 consider the adequacy of areas for collecting and loading recyclable
 28 materials for purposes of determining noncompliance with this
 29 section at a development project, as defined pursuant to Section
 30 42905, if the development project was approved by the local
 31 agency on or after September 1, 1994.

32 (g) *Subdivision (a) shall be enforced pursuant to Section 40059.*

33 ~~SEC. 5. 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.~~

39 ~~(b) On and after January 1, 2010, the amount of the fee shall~~
 40 ~~equal three dollars and ninety cents (\$3.90) per ton.~~

1 ~~(e) The board and the State Board of Equalization shall ensure~~
2 ~~that all the fees for solid waste imposed pursuant to this section~~
3 ~~that are collected at a transfer station are paid to the State Board~~
4 ~~of Equalization in accordance with this article.~~

5 ~~(d) Notwithstanding Section 48001, on and after January 1,~~
6 ~~2010, an amount of two dollars and fifty cents (\$2.50) of the fee~~
7 ~~imposed for each ton of solid waste disposed of at each disposal~~
8 ~~site shall be available to the board for expenditure pursuant to~~
9 ~~Section 48001.5.~~

10 ~~SEC. 6. Section 48001.5 is added to the Public Resources Code,~~
11 ~~to read:~~

12 ~~48001.5. The fee amount of two dollars and fifty cents (\$2.50)~~
13 ~~per ton of solid waste described in subdivision (d) of Section 48000~~
14 ~~that is collected by the board shall be available to the board, upon~~
15 ~~appropriation by the Legislature, for expenditure by the board~~
16 ~~according to the following:~~

17 ~~(a) Between January 1, 2010, and January 1, 2015, the fee~~
18 ~~revenue shall be apportioned on a per capita basis to jurisdictions~~
19 ~~for the expansion of source reduction, recycling, and composting~~
20 ~~programs, including residential recycling programs and commercial~~
21 ~~recycling programs, as well as the development of new and~~
22 ~~expanded recycling and composting infrastructure.~~

23 ~~(b) On and after January 1, 2015, the fee revenues shall be~~
24 ~~apportioned on a per capita basis to jurisdictions that have achieved~~
25 ~~the diversion rate specified in paragraph (3) of subdivision (a) of~~
26 ~~Section 41780 for use pursuant to subdivision (a) of this section.~~
27 ~~For jurisdictions that have not reach the diversion rate required in~~
28 ~~paragraph (3) of subdivision (a) of Section 41780, the board shall~~
29 ~~expend the fee revenues to establish local programs to help the~~
30 ~~jurisdictions achieve the diversion rate required by paragraph (3)~~
31 ~~of subdivision (a) of Section 41780.~~

32 ~~SEC. 12. Section 44004 of the Public Resources Code is~~
33 ~~amended to read:~~

34 44004. (a) An operator of a solid waste facility may not make
35 a significant change in the design or operation of the solid waste
36 facility that is not authorized by the existing permit, unless the
37 change is approved by the enforcement agency, the change
38 conforms with this division and all regulations adopted pursuant
39 to this division, and the terms and conditions of the solid waste
40 facilities permit are revised to reflect the change.

1 (b) If the operator wishes to change the design or operation of
2 the solid waste facility in a manner that is not authorized by the
3 existing permit, the operator shall file an application for revision
4 of the existing solid waste facilities permit with the enforcement
5 agency. The application shall be filed at least 180 days in advance
6 of the date when the proposed modification is to take place unless
7 the 180-day time period is waived by the enforcement agency.

8 (c) The enforcement agency shall review the application to
9 determine all of the following:

10 (1) Whether the change conforms with this division and all
11 regulations adopted pursuant to this division.

12 (2) Whether the change requires review pursuant to Division
13 13 (commencing with Section 21000).

14 (d) Within 60 days from the date of the receipt of the application
15 for a revised permit, the enforcement agency shall inform the
16 operator, and if the enforcement agency is a local enforcement
17 agency, also inform the board, of its determination to do any of
18 the following:

19 (1) Allow the change without a revision to the permit.

20 (2) Disallow the change because it does not conform with the
21 requirements of this division or the regulations adopted pursuant
22 to this division.

23 (3) Require a revision of the solid waste facilities permit to
24 allow the change *including cases where the enforcement agency*
25 *determines that the proposed change to add maximum tonnage is*
26 *provided for within the existing design capacity as described in*
27 *the facility transfer processing report and environmental review*
28 *pursuant to the California Environmental Quality Act (Division*
29 *13 (commencing with Section 21000)).*

30 (4) Require review under Division 13 (commencing with Section
31 21000) before a decision is made.

32 (e) The operator has 30 days within which to appeal the decision
33 of the enforcement agency to the hearing panel, as authorized
34 pursuant to Article 2 (commencing with Section 44305) of Chapter
35 4. The enforcement agency shall provide notice of a hearing held
36 pursuant to this subdivision in the same manner as notice is
37 provided pursuant to subdivision (h).

38 (f) Under circumstances that present an immediate danger to
39 the public health and safety or to the environment, as determined

1 by the enforcement agency, the 180-day filing period may be
2 waived.

3 (g) (1) A permit revision is not required for the temporary
4 suspension of activities at a solid waste facility if the suspension
5 meets either of the following criteria:

6 (A) The suspension is for the maintenance or minor
7 modifications to a solid waste unit or to solid waste management
8 equipment.

9 (B) The suspension is for temporarily ceasing the receipt of
10 solid waste at a solid waste management facility and the owner or
11 operator is in compliance with all other applicable terms and
12 conditions of the solid waste facilities permit and minimum
13 standards adopted by the board.

14 (2) An owner or operator of a solid waste facility who
15 temporarily suspends operations shall remain subject to the closure
16 and postclosure maintenance requirements of this division and to
17 all other requirements imposed by federal law pertaining to the
18 operation of a solid waste facility.

19 (3) The enforcement agency may impose any reasonable
20 conditions relating to the maintenance of the solid waste facility,
21 environmental monitoring, and periodic reporting during the period
22 of temporary suspension. The board may also impose any
23 reasonable conditions determined to be necessary to ensure
24 compliance with applicable state standards.

25 (h) (1) (A) Before making its determination pursuant to
26 subdivision (d), the enforcement agency shall submit the proposed
27 determination to the board for comment and hold at least one public
28 hearing on the proposed determination. The enforcement agency
29 shall give notice of the hearing pursuant to Section 65091 of the
30 Government Code, except that the notice shall be provided to all
31 owners of real property within a distance other than 300 feet of
32 the real property that is the subject of the hearing, if specified in
33 the regulations adopted by the board pursuant to subdivision (i).
34 The enforcement agency shall also provide notice of the hearing
35 to the board when it submits the proposed determination to the
36 board.

37 (B) The enforcement agency shall mail or deliver the notice
38 required pursuant to subparagraph (A) at least 10 days prior to the
39 date of the hearing to any person who has filed a written request
40 for the notice with a person designated by the enforcement agency

1 to receive these requests. The enforcement agency may charge a
 2 fee to the requester in an amount that is reasonably related to the
 3 costs of providing this service and the enforcement agency may
 4 require each request to be annually renewed.

5 (C) The enforcement agency shall consider environmental justice
 6 issues when preparing and distributing the notice to ensure that
 7 the notice is concise and understandable for
 8 limited-English-speaking populations.

9 (2) If the board comments pursuant to paragraph (1), the board
 10 shall specify whether the proposed determination is consistent with
 11 the regulation adopted pursuant to subdivision (i).

12 (i) (1) The board shall, to the extent resources are available,
 13 adopt regulations that implement subdivision (h) and define the
 14 term “significant change in the design or operation of the solid
 15 waste facility that is not authorized by the existing permit.”

16 (2) While formulating and adopting the regulations required
 17 pursuant to paragraph (1), the board shall consider
 18 recommendations of the Working Group on Environmental Justice
 19 and the advisory group made pursuant to Sections 71113 and 71114
 20 and the report required pursuant to Section 71115.

21 *SEC. 13. Section 50001 of the Public Resources Code is*
 22 *amended to read:*

23 50001. (a) Except as provided by subdivision (b), after a
 24 countywide or regional agency integrated waste management plan
 25 has been approved by the California Integrated Waste Management
 26 Board pursuant to Division 30 (commencing with Section 40000),
 27 ~~no~~ a person shall *not* establish or expand a solid waste facility, as
 28 defined in Section 40194, in the county unless the solid waste
 29 facility meets one of the following criteria:

30 (1) The solid waste facility is a disposal facility or a
 31 transformation facility, the location of which is identified in the
 32 countywide siting element or amendment thereto, which has been
 33 approved pursuant to Section 41721.

34 (2) The solid waste facility is a facility ~~which~~ *that* is designed
 35 ~~to, and which as a condition of its permit, will recover for reuse~~
 36 ~~or recycling at least 5 percent of the total volume of material~~
 37 ~~received by the facility, and which that is identified~~ *described* in
 38 the nondisposal facility element or amendment thereto, ~~which that~~
 39 has been approved pursuant to Section 41800 ~~or 41801.5~~ *or is*
 40 *included in an update to that element.*

1 (b) Solid waste facilities other than those specified in paragraphs
2 (1) and (2) of subdivision (a) shall not be required to comply with
3 the requirements of this section.

4 (c) The person or agency proposing to establish a solid waste
5 facility shall prepare and submit a site identification and description
6 of the proposed facility to the task force established pursuant to
7 Section 40950. Within 90 days after the site identification and
8 description is submitted to the task force, the task force shall meet
9 and comment on the proposed solid waste facility in writing. These
10 comments shall include, but are not limited to, the relationship
11 between the proposed solid waste facility and the implementation
12 schedule requirements of Section 41780 and the regional impact
13 of the facility. The task force shall transmit these comments to the
14 person or public agency proposing establishment of the solid waste
15 facility, to the county, and to all cities within the county. The
16 comments shall become part of the official record of the proposed
17 solid waste facility.

18 (d) The review and comment by the local task force *shall not*
19 *be required by subdivision (e) for amendment to an update to a*
20 *nondisposal facility element may be satisfied by the review*
21 *required by subdivision (a) of Section 41734 for an amendment*
22 *to an element.*

23 ~~SEC. 7.~~

24 *SEC. 14.* No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 a local agency or school district has the authority to levy service
27 charges, fees, or assessments sufficient to pay for the program or
28 level of service mandated by this act, within the meaning of Section
29 17556 of the Government Code.