

ASSEMBLY BILL

No. 323

**Introduced by Assembly Member Chesbro
(Coauthor: Assembly Member Williams)**

February 12, 2013

An act to amend Sections 41781.3, 42649.1, and 42649.2 of, and to add Section 41781.4 to, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 323, as introduced, Chesbro. Solid waste: recycling: diversion: green materials.

(1) The existing California Integrated Waste Management Act of 1989, which is administered by the Department of Resources Recycling and Recovery, establishes an integrated waste management program. Existing law requires each city, county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan. The act requires the source reduction and recycling element to divert from disposal 50% of all solid waste subject to the element 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.

This bill would require the department to adopt regulations to provide that, no later than January 1, 2020, the use of green material as alternative daily cover or alternative intermediate cover does not constitute diversion through recycling and would be considered disposal for purposes of the act. The bill would authorize the department to delay

the effective date of this requirement, as specified. The bill would impose a state-mandated local program by imposing new duties upon local agencies with regard to the diversion of solid waste.

This bill would require the department, by January 1, 2015, to conduct an analysis of the use of residual fines from material recovery facilities and materials left over from the composting process for use as alternative daily cover and other forms of beneficial use in the design and operation of a solid waste landfill. The bill would require the department to adopt regulations, by July 1, 2015, based on this analysis, if the department makes a specified determination that residual fines from material recovery facilities and materials left over from the composting process would serve as adequate daily cover.

(2) The act requires a business, which is defined as a commercial or public entity, that generates more than 4 cubic yards of commercial solid waste per week or is a multifamily residential dwelling of 5 units or more, to arrange for recycling services. Existing law also requires jurisdictions to implement a commercial solid waste recycling program meeting specified elements. Existing law defines the term “commercial solid waste” by reference to a specified regulation.

This bill would instead define commercial solid waste in statute to include all types of solid waste generated by a store, office, or other commercial or public entity source, including a business or a multifamily dwelling of 5 or more units. The bill would also require the department to adopt, by January 1, 2017, regulations to require a large-quantity commercial organics generator, as defined, to arrange for separate organics collection and recycling services, except as specified.

The bill would impose a state-mandated local program by imposing new duties upon local agencies with regard to the commercial solid waste program required to be implemented by local agencies.

(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.

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 (Division 30 (commencing with Section
5 40000) of the Public Resources Code), the Legislature declared
6 that the Department of Resources Recycling and Recovery
7 (CalRecycle) and local agencies shall promote recycling, anaerobic
8 digestion, and composting over land disposal and transformation.

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

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

17 (d) Composting or anaerobically digesting organic materials
18 results in substantial environmental and agricultural benefits,
19 including the reduction of naturally occurring volatile organic
20 compounds and ammonia.

21 (e) The Economic and Technology Advancement Advisory
22 Committee, formed pursuant to the California Global Warming
23 Solutions Act of 2006 (Division 25.5 (commencing with Section
24 38500) of the Health and Safety Code), has identified composting
25 and anaerobic digestion as a cost-effective technology for reducing
26 greenhouse gas emissions.

27 (f) The application of compost in agriculture and landscaping
28 has been shown to offer significant water quality benefits, provide
29 erosion control, reduce the need for synthetic fertilizers and
30 pesticides, and conserve water and irrigation-associated energy.

31 (g) In 2007, the former state agency that preceded CalRecycle
32 adopted a Strategic Directive 6.1 to reduce the amount of organics
33 in the waste stream by 50 percent by the year 2020.

34 (h) To reduce the landfilling of organics, increase composting
35 and anaerobic digestion, and meet the organics disposal reduction
36 target adopted by CalRecycle, the state should reduce barriers to,
37 and provide incentives for, increasing processing capacity and
38 end-use markets for compostable organics.

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

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

9 (2) *The department shall adopt regulations to provide that, no*
10 *later than January 1, 2020, the use of green material, as defined*
11 *in regulations by the department, as alternative daily cover or*
12 *alternative intermediate cover, does not constitute diversion*
13 *through recycling and shall be considered disposal for purposes*
14 *of this division.*

15 (3) *When adopting regulations pursuant to paragraph (2), the*
16 *department may establish requirements for different regions of the*
17 *state to be in effect on or before January 1, 2020, but not later*
18 *than January 1, 2020.*

19 (4) *The department shall provide notice to all operators of*
20 *disposal facilities of the requirements in the regulations adopted*
21 *pursuant to paragraph (2) one year before the effective date of the*
22 *requirements.*

23 (5) *The department may, at its sole discretion, delay the effective*
24 *date of the regulations required to be adopted pursuant to*
25 *paragraph (2) for up to two years if the department determines*
26 *that sufficient regional green material processing infrastructure*
27 *will not exist to handle this material.*

28 (b) ~~Prior to~~ *Before* December 31, 1997, pursuant to the ~~board's~~
29 *department's* authority to adopt rules and regulations pursuant to
30 Section 40502, the ~~board~~ *department* shall, by regulation, establish
31 conditions for the use of alternative daily cover that are consistent
32 with this division. In adopting the regulations, the ~~board~~ *department*
33 shall consider, but is not limited to, all of the following criteria:

34 (1) Those conditions established in past policies adopted by the
35 ~~board~~ *department* affecting the use of alternative daily cover.

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

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

4 (c) ~~Until~~ *Except as provided in paragraph (2) of subdivision*
5 *(a), until* the adoption of additional regulations, the use of
6 alternative daily cover shall be governed by the conditions
7 established by the ~~board~~ *department* in its ~~existing~~ *former*
8 regulations set forth in paragraph (3) of subdivision (b) of, and
9 paragraph (3) of subdivision (c) of, Section 18813 of Title 14 of
10 the California Code of Regulations, as those sections read on ~~the~~
11 ~~effective date of this section~~ *January 1, 1997*, and by the conditions
12 established in the ~~board's~~ *department's* policy adopted on January
13 25, 1995.

14 (d) In adopting rules and regulations pursuant to this section,
15 Section 40124, and this division, including, but not limited to, Part
16 2 (commencing with Section 40900), the ~~board~~ *department* shall
17 provide guidance to local enforcement agencies on any conditions
18 and restrictions on the utilization of alternative daily cover so as
19 to ensure proper enforcement of those rules and regulations.

20 SEC. 3. Section 41781.4 is added to the Public Resources Code,
21 to read:

22 41781.4. (a) On or before January 1, 2015, the department
23 shall conduct an analysis of the effect on public health and safety,
24 consistent with state minimum standards, of the use of residual
25 fines from material recovery facilities and materials left over from
26 the composting process for alternative daily cover and other forms
27 of beneficial use in the design and operation of a solid waste
28 landfill.

29 (b) On or before July 1, 2015, based on the analysis conducted
30 pursuant to subdivision (a), if the department determines that fines
31 from material recovery facilities or materials left over from the
32 composting process would serve as an adequate daily cover, the
33 department shall adopt regulations for residual fines from material
34 recovery facilities or materials left over from the composting
35 process as an authorized material for use as alternative daily cover
36 and beneficial reuse at solid waste facility landfills in the state,
37 which regulations shall include performance standards and
38 limitations on the maximum functional thickness necessary to
39 ensure protection of public health and safety, consistent with state
40 minimum standards.

1 (c) The regulations adopted pursuant to subdivision (b) shall
 2 include performance standards, and may include standards for
 3 screening, processing, and testing material recovery facility fines,
 4 to insure all of the following:

5 (1) The material does not contain hazardous materials above
 6 approved thresholds.

7 (2) The material performs adequately in its ability to control
 8 odors, vectors, litter, and scavenging.

9 (3) The use of the material does not negatively affect the
 10 conditions necessary to provide for the continued economic
 11 development, economic viability, and employment opportunities
 12 provided by the composting and recycling industries in the state.

13 (d) The regulations adopted pursuant to this section for the use
 14 of residual fines from materials recovery facilities for use as
 15 alternative daily cover or for beneficial reuse in the design and
 16 operation of a solid waste landfill, shall meet both of the following
 17 requirements:

18 (1) The regulations shall not allow the use of residual fines from
 19 mixed waste processing.

20 (2) The regulations shall require that any materials left over
 21 from the composting process used as alternative daily cover or
 22 beneficial reuse in the design and operation of a solid waste landfill
 23 not exceed 5 percent of the incoming material at the source
 24 compost facility, by weight.

25 SEC. 4. Section 42649.1 of the Public Resources Code is
 26 amended to read:

27 42649.1. For purposes of this chapter, the following ~~terms~~
 28 ~~mean the following~~ *shall apply*:

29 (a) “Business” means a commercial or public entity, including,
 30 but not limited to, a firm, partnership, proprietorship, joint stock
 31 company, corporation, or association that is organized as a
 32 for-profit or nonprofit entity, or a multifamily residential dwelling.

33 (b) “Commercial solid waste” ~~has the same meaning as defined~~
 34 ~~in Section 17225.12 of Title 14 of the California Code of~~
 35 *Regulations includes all types of solid waste generated by a store,*
 36 *office, or other commercial or public entity source, including a*
 37 *business or multifamily dwelling of five or more units.*

38 (c) “Commercial waste generator” means a business subject to
 39 subdivision (a) of Section 42649.2.

1 (d) *“Large-quantity commercial organics generator” means a*
2 *business that generates significant amounts of organic waste,*
3 *including, but not limited to, food waste and green materials, that*
4 *is traditionally disposed of in a solid waste landfill, as determined*
5 *by the department.*

6 ~~(e)~~

7 (e) *“Self-hauler” means a business that hauls its own waste*
8 *rather than contracting for that service.*

9 SEC. 5. Section 42649.2 of the Public Resources Code is
10 amended to read:

11 42649.2. (a) On and after July 1, 2012, a business that
12 generates four cubic yards or more of commercial solid waste per
13 week or is a multifamily residential dwelling of five units or more
14 shall arrange for recycling services, consistent with state or local
15 laws or requirements, including a local ordinance or agreement,
16 applicable to the collection, handling, or recycling of solid waste,
17 to the extent that these services are offered and reasonably available
18 from a local service provider.

19 (b) A commercial waste generator shall take at least one of the
20 following actions:

21 (1) Source separate recyclable materials from solid waste and
22 subscribe to a basic level of recycling service that includes
23 collection, self-hauling, or other arrangements for the pickup of
24 the recyclable materials.

25 (2) Subscribe to a recycling service that may include mixed
26 waste processing that yields diversion results comparable to source
27 separation.

28 (c) A property owner of a multifamily residential dwelling may
29 require tenants to source separate their recyclable materials to aid
30 in compliance with this section.

31 (d) (1) (A) *On or before January 1, 2017, the department shall*
32 *adopt regulations to require a large-quantity commercial organics*
33 *generator to arrange for separate organics collection and recycling*
34 *services that may include, but are not limited to, self-hauling.*

35 (B) *This paragraph does not apply to green material collected*
36 *by a city, county, or other local agency.*

37 (2) *When adopting the regulations pursuant to paragraph (1),*
38 *the department may establish different timelines for different types*
39 *of organic materials, different types of large-quantity commercial*
40 *organics generators, and different regions of the state, but the*

1 *regulations shall require these requirements to be in effect no later*
2 *than January 1, 2017.*

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

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