

AMENDED IN SENATE AUGUST 12, 2013
AMENDED IN SENATE JUNE 19, 2013
AMENDED IN ASSEMBLY MAY 8, 2013
AMENDED IN ASSEMBLY APRIL 18, 2013
AMENDED IN ASSEMBLY MARCH 21, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1126

**Introduced by Assembly Members Gordon and Mullin
(Principal coauthor: Assembly Member Wilk)**

February 22, 2013

An act to amend Sections 40121, 40180, 40192, 40194, 40200, 40201, 41700, 41721, 41781, and 50001 of, and to add Section 40131.2 to, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1126, as amended, Gordon. Solid waste: biomass conversion: engineered municipal solid waste (EMSW) conversion.

(1) The California Integrated Waste Management Act of 1989 (act), which is administered by the Department of Resources Recycling and Recovery, requires each city, county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan. With certain exceptions, the source reduction and recycling element of that plan is required to divert 50% of all solid waste, through source reduction, recycling, and composting activities. Existing law allows the 50% diversion requirement to include, pursuant to specified conditions, not more than 10% through biomass conversion,

which is defined as the controlled combustion of specific materials for use in producing electricity or heat. *Existing law defines the term “transformation” and excludes from that definition composting, gasification, and biomass conversion.*

This bill would define the terms “EMSW conversion” and “EMSW conversion facility,” and would make conforming changes to existing definitions with regard to those operations and facilities. *The bill would additionally exclude EMSW conversion from the definition of transformation, and would provide that a transformation facility that conducts EMSW conversion is an EMSW conversion facility.*

(2) The act requires the integrated waste management plan required to be adopted by a county to include a countywide siting element that provides a description of the areas to be used for the development of certain facilities. The act excludes certain solid wastes, for purposes of determining the base rate for the diversion of solid waste, and requires that the amount of solid waste diverted include solid waste diverted from a disposal facility or transformation facility.

This bill would require the countywide siting element to include a description of the areas to be used for the development of adequate EMSW conversion, thereby imposing a state-mandated local program by imposing new duties upon local agencies.

This bill would additionally exclude certain used or waste tires or biomass materials from the solid waste calculation used in that base rate determination and would require the amount of solid waste to include solid waste diverted from an EMSW conversion facility.

(3) Existing law prohibits a person from establishing or expanding a solid waste facility in a county, after a countywide or regional agency integrated waste management plan has been approved, unless the solid waste facility is, among other things, a disposal facility or a transformation facility that meets certain criteria.

This bill would additionally include, as one of those facilities, an EMSW conversion facility.

(4) 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. Section 40121 of the Public Resources Code is
2 amended to read:

3 40121. “Disposal facility” or “facility” means a facility or
4 location where disposal of solid waste occurs or an EMSW
5 conversion facility.

6 SEC. 2. Section 40131.2 is added to the Public Resources Code,
7 to read:

8 40131.2. (a) “Engineered municipal solid waste conversion”
9 or “EMSW conversion” means the conversion of solid waste
10 through a process that meets all of the following requirements:

11 (1) The waste to be converted is beneficial and effective in that
12 it replaces or supplements the use of fossil fuels.

13 (2) The waste to be converted, the resulting ash, and any other
14 products of conversion do not meet the criteria or guidelines for
15 the identification of a hazardous waste adopted by the Department
16 of Toxic Substances Control pursuant to Section 25141 of the
17 Health and Safety Code.

18 (3) The conversion is efficient and maximizes the net calorific
19 value and burn rate of the waste.

20 (4) The waste to be converted contains less than 25 percent
21 moisture and less than 25 percent noncombustible waste.

22 (5) The waste received at the facility for conversion is handled
23 in compliance with the requirements for the handling of solid waste
24 imposed pursuant to this division, and no more than a seven-day
25 supply of that waste, based on the throughput capacity of the
26 operation or facility, is stored at the facility at any one time.

27 (6) No more than 500 tons per day of waste is converted at the
28 facility where the operation takes place.

29 (7) ~~After conversion, the~~ *The waste has a value of an energy*
30 *content equal to, or greater than, 5,000 BTU per pound.*

31 (8) *The waste to be converted is mechanically processed at a*
32 *transfer or processing station to reduce the fraction of chlorinated*
33 *plastics and materials that do not maximize the net caloric value*
34 *and burn rate of the waste.*

35 (b) “Engineered municipal solid waste conversion facility” or
36 “EMSW facility” means a facility where municipal solid waste
37 conversion that meets the requirements of subdivision (a) takes
38 place.

1 (c) Notwithstanding Section 40201, a transformation facility
2 where solid waste conversion takes place that meets the
3 requirements of subdivision (a) shall be considered an EMSW
4 facility for purposes of this division and Division 31 (commencing
5 with Section 50000).

6 SEC. 3. Section 40180 of the Public Resources Code is
7 amended to read:

8 40180. “Recycle” or “recycling” means the process of
9 collecting, sorting, cleansing, treating, and reconstituting materials
10 that would otherwise become solid waste, and returning them to
11 the economic mainstream in the form of raw material for new,
12 reused, or reconstituted products which meet the quality standards
13 necessary to be used in the marketplace. “Recycling” does not
14 include transformation, as defined in Section 40201 or EMSW
15 conversion.

16 SEC. 4. Section 40192 of the Public Resources Code is
17 amended to read:

18 40192. (a) Except as provided in subdivisions (b) and (c),
19 “solid waste disposal,” “disposal,” or “dispose” means the final
20 deposition of solid wastes onto land, into the atmosphere, or into
21 the waters of the state.

22 (b) For purposes of Part 2 (commencing with Section 40900),
23 “solid waste disposal,” “dispose,” or “disposal” means the
24 management of solid waste through landfill disposal,
25 transformation, or EMSW conversion, at a permitted solid waste
26 facility, unless the term is expressly defined otherwise.

27 (c) For purposes of Chapter 16 (commencing with Section
28 42800) and Chapter 19 (commencing with Section 42950) of Part
29 3, Part 4 (commencing with Section 43000), Part 5 (commencing
30 with Section 45000), Part 6 (commencing with Section 45030),
31 and Chapter 2 (commencing with Section 47901) of Part 7, “solid
32 waste disposal,” “dispose,” or “disposal” means the final deposition
33 of solid wastes onto land.

34 SEC. 5. Section 40194 of the Public Resources Code is
35 amended to read:

36 40194. “Solid waste facility” includes a solid waste transfer
37 or processing station, a composting facility, a gasification facility,
38 a transformation facility, an EMSW conversion facility, and a
39 disposal facility. For purposes of Part 5 (commencing with Section
40 45000), “solid waste facility” additionally includes a solid waste

1 operation that may be carried out pursuant to an enforcement
2 agency notification, as provided in regulations adopted by the
3 department.

4 SEC. 6. Section 40200 of the Public Resources Code is
5 amended to read:

6 40200. (a) “Transfer or processing station” or “station”
7 includes those facilities utilized to receive solid wastes, temporarily
8 store, separate, convert, or otherwise process the materials in the
9 solid wastes, or to transfer the solid wastes directly from smaller
10 to larger vehicles for transport, and those facilities utilized for
11 transformation.

12 (b) “Transfer or processing station” or “station” does not include
13 any of the following:

14 (1) A facility, whose principal function is to receive, store,
15 separate, convert, or otherwise process in accordance with state
16 minimum standards, manure.

17 (2) A facility, whose principal function is to receive, store,
18 convert, or otherwise process wastes that have already been
19 separated for reuse and are not intended for disposal.

20 (3) The operations premises of a duly licensed solid waste
21 handling operator who receives, stores, transfers, or otherwise
22 processes wastes as an activity incidental to the conduct of a refuse
23 collection and disposal business in accordance with regulations
24 adopted pursuant to Section 43309.

25 (4) An EMSW conversion facility.

26 SEC. 7. Section 40201 of the Public Resources Code is
27 amended to read:

28 40201. “Transformation” means incineration, pyrolysis,
29 distillation, or biological conversion other than composting.
30 “Transformation” does not include composting, gasification,
31 EMSW conversion, or biomass conversion.

32 SEC. 8. Section 41700 of the Public Resources Code is
33 amended to read:

34 41700. Each county shall prepare a countywide siting element
35 that provides a description of the areas to be used for development
36 of adequate transformation, EMSW conversion, or disposal
37 capacity concurrent and consistent with the development and
38 implementation of the county and city source reduction and
39 recycling elements adopted pursuant to this part.

1 SEC. 9. Section 41721 of the Public Resources Code is
2 amended to read:

3 41721. (a) The countywide siting element shall be approved
4 by the county and by a majority of the cities within the county that
5 contain a majority of the population of the incorporated area of
6 the county except in those counties that have only two cities, in
7 which case the element is subject to approval of the city that
8 contains the majority of the population of the incorporated area of
9 the county. Each city shall act upon the countywide siting element
10 within 90 days after receipt of the siting element. If a city fails to
11 act upon the siting element within 90 days after receiving the siting
12 element, the city shall be deemed to have approved the siting
13 element as submitted.

14 (b) Notwithstanding subdivision (a), a siting element providing
15 for an EMSW conversion facility is only required to be approved
16 by the city in which it is located, or if the EMSW is not located in
17 a city, by the county.

18 SEC. 10. Section 41781 of the Public Resources Code is
19 amended to read:

20 41781. (a) Except as provided in Sections 41781.1, and
21 41781.2, for the purpose of determining the base rate of solid waste
22 from which diversion requirements shall be calculated, “solid
23 waste” includes only the following:

24 (1) The amount of solid waste generated within a local agency’s
25 jurisdiction, the types and quantities of which were disposed of at
26 a permitted disposal facility as of January 1, 1990. Nothing in this
27 section requires local agencies to perform waste characterization
28 in addition to the waste characterization requirements established
29 under Sections 41030, 41031, 41330, 41331, and 41332.

30 (2) The amount of solid waste diverted from a disposal facility,
31 transformation facility, or EMSW facility, through source
32 reduction, recycling, or composting.

33 (b) For the purposes of this section, “solid waste” does not
34 include any of the following:

35 (1) Solid waste that would not normally be disposed of at a
36 disposal facility.

37 (2) Used or waste tires, as defined in Article 1 (commencing
38 with Section 42800) of Chapter 16 of Part 3, or biomass material,
39 as described in subdivision (a) of Section 40106, which are
40 converted at an EMSW conversion facility.

1 (c) For the purposes of this chapter, the amount of solid waste
2 from which the required reductions are measured shall be the
3 amount of solid waste existing on January 1, 1990, with future
4 adjustments for increases or decreases in the quantity of waste
5 caused only by changes in population or changes in the number
6 or size of governmental, industrial, or commercial operations in
7 the jurisdiction.

8 SEC. 11. Section 50001 of the Public Resources Code is
9 amended to read:

10 50001. (a) Except as provided by subdivision (b), after a
11 countywide or regional agency integrated waste management plan
12 has been approved by the Department of Resources Recycling and
13 Recovery pursuant to Division 30 (commencing with Section
14 40000), a person shall not establish or expand a solid waste facility,
15 as defined in Section 40194, in the county unless the solid waste
16 facility meets one of the following criteria:

17 (1) The solid waste facility is a disposal facility, a transformation
18 facility, or an EMSW conversion facility, the location of which is
19 identified in the countywide siting element or amendment to that
20 element, which has been approved pursuant to Section 41721.

21 (2) The solid waste facility is a facility that is designed to
22 recover for reuse or recycling at least 5 percent of the total volume
23 of material received by the facility, and that is identified in the
24 nondisposal facility element that has been approved pursuant to
25 Section 41800 or is included in an update to that element.

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

29 (c) The person or agency proposing to establish a solid waste
30 facility shall prepare and submit a site identification and description
31 of the proposed facility to the task force established pursuant to
32 Section 40950. Within 90 days after the site identification and
33 description is submitted to the task force, the task force shall meet
34 and comment on the proposed solid waste facility in writing. These
35 comments shall include, but are not limited to, the relationship
36 between the proposed solid waste facility and the implementation
37 schedule requirements of Section 41780 and the regional impact
38 of the facility. The task force shall transmit these comments to the
39 person or public agency proposing establishment of the solid waste
40 facility, to the county, and to all cities within the county. The

1 comments shall become part of the official record of the proposed
2 solid waste facility.

3 (d) The review and comment by the local task force shall not
4 be required for an update to a nondisposal facility element.

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

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