

AMENDED IN SENATE JUNE 12, 2014
AMENDED IN ASSEMBLY MAY 27, 2014
AMENDED IN ASSEMBLY MAY 7, 2014
AMENDED IN ASSEMBLY APRIL 21, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1594

Introduced by Assembly Member Williams

February 3, 2014

An act to amend Section 41781.3 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1594, as amended, Williams. Solid waste: recycling: diversion: green material.

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~~ *The act* requires each city, county, and *joint powers authority formed under the act, referred to as a 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, commencing January 1, 2020, would provide that the use of green material, ~~not including materials left over from the composting process as defined,~~ as alternative daily cover does not constitute diversion through recycling and would be considered disposal for purposes of the act. ~~The bill, commencing August 1, 2018, would require a local jurisdiction to include information in an annual report on how the local jurisdiction intends to address these diversion requirements and divert green material that is being used as alternative daily cover.~~ The bill would ~~authorize~~ *require the department, with respect to a jurisdiction that, as a result of these provisions, would not be able to meet certain diversion requirements to apply before that date to the department for one deferral of up to two years of the application of these provisions* *requirements, to determine whether the local jurisdiction has made a good faith effort to divert green material that was used as alternative daily cover, based on consideration of specified circumstances.* The bill would ~~require the application form, to be developed by the department, to require the applicant to include specified information~~ *a local jurisdiction that the department has determined is not able to meet the diversion requirements to identify barriers to siting new or expanded green waste recycling facilities and to prepare a plan to address those barriers.* The bill would impose a state-mandated local program by imposing new duties upon local agencies with regard to the diversion of solid waste.

Existing law requires the operator of a disposal facility to pay a quarterly fee based on the amount of solid waste disposed of at each disposal site.

This bill would provide ~~that that~~, commencing January 1, 2020, green material used as alternative daily cover at a solid waste landfill is not subject to this fee.

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 41781.3 of the Public Resources Code
2 is amended to read:

3 41781.3. (a) (1) Except as provided in paragraphs (2) and ~~(3)~~
4 (4), the use of solid waste for beneficial reuse in the construction
5 and operation of a solid waste landfill, including use of alternative
6 daily cover, which reduces or eliminates the amount of solid waste
7 being disposed pursuant to Section 40124, shall constitute diversion
8 through recycling and shall not be considered disposal for purposes
9 of this division.

10 (2) (A) Commencing January 1, 2020, the use of green material,
11 ~~not including materials left over from the composting process,~~
12 *material* as alternative daily cover does not constitute diversion
13 through recycling and shall be considered disposal for purposes
14 of this division.

15 (B) Commencing January 1, 2020, green material used as
16 alternative daily cover at a solid waste landfill is not subject to the
17 fee imposed on disposed solid waste pursuant to Section 48000.

18 (3) *Commencing August 1, 2018, a local jurisdiction shall*
19 *include in the electronic annual report required pursuant to Section*
20 *41821 information on how the local jurisdiction intends to address*
21 *the requirements of paragraph (2) and divert green material that*
22 *is being used as alternative daily cover.*

23 ~~(3)~~

24 (4) (A) ~~If, after January 1, 2020, a local jurisdiction will no~~
25 ~~longer be in compliance with Section 41780 after January 1, 2020,~~
26 ~~as a result of using green material as alternative daily cover, that~~
27 ~~jurisdiction, pursuant to subparagraph (B), may apply before that~~
28 ~~date to the department for one deferral of up to two years of the~~
29 ~~application of subparagraph (A) of paragraph (2):~~ *the department,*
30 *pursuant to Section 41825, shall make a determination whether*
31 *the local jurisdiction has made a good faith effort to divert green*
32 *material that was used as alternative daily cover, based on*
33 *consideration of circumstances that shall include, but are not*
34 *limited to, all of the following:*

35 ~~(B) An application form for a deferral pursuant to this paragraph~~
36 ~~shall be developed by the department and shall require the applicant~~
37 ~~to do both of the following:~~

38 (i) ~~Identify all of the following:~~

- 1 ~~(I)~~
2 ~~(i) Existing organic waste recycling green material facilities~~
3 ~~within a reasonable vicinity of the local jurisdiction and the~~
4 ~~permitted capacities available for materials to be accepted at each~~
5 ~~facility.~~
6 ~~(ii) Efforts that the jurisdiction is aware of that are underway~~
7 ~~to develop new private or public regional green material recycling~~
8 ~~facilities that may become available to accept the green material~~
9 ~~being used as alternative daily cover, and the expected time frame~~
10 ~~for completion.~~
11 ~~(II)~~
12 ~~(iii) Facilities for potential expansion or collocation.~~
13 ~~(III)~~
14 ~~(iv) Closed or abandoned sites within the jurisdiction that might~~
15 ~~be available for use as new green material recycling facilities.~~
16 ~~(IV)~~
17 ~~(v) Other nondisposal opportunities and markets.~~
18 ~~(V) Appropriate~~
19 ~~(vi) Applicable zoning and permit requirements within the~~
20 ~~jurisdiction for the location of new organic waste green material~~
21 ~~recycling facilities.~~
22 ~~(VI)~~
23 ~~(vii) Incentives available for developing new organic waste~~
24 ~~green material recycling facilities.~~
25 ~~(ii) Identify barriers to siting new or expanded organic waste~~
26 ~~recycling facilities and a plan to remedy those barriers that are~~
27 ~~within the control of the local jurisdiction.~~
28 ~~(C) Upon receipt of an application pursuant to this paragraph,~~
29 ~~the department may, in its sole discretion, grant a local jurisdiction~~
30 ~~one deferral of up to two years of the application of subparagraph~~
31 ~~(A) of paragraph (2).~~
32 ~~(viii) Steps being taken by the jurisdiction to reduce solid waste~~
33 ~~generation or to identify new methods for diverting green or other~~
34 ~~solid waste to meet the requirements of Section 41780.~~
35 ~~(B) Upon the department's determination that a local~~
36 ~~jurisdiction will no longer be in compliance with Section 41780~~
37 ~~after January 1, 2020, as a result of using green material as~~
38 ~~alternative daily cover, the local jurisdiction shall, on a schedule~~
39 ~~determined by the department, identify barriers to siting new or~~
40 ~~expanded green waste recycling facilities, and if sufficient green~~

1 *material recycling facility capacity is not expected to be*
2 *operational within a reasonable amount of time, prepare a plan*
3 *to address those barriers that are within the control of the local*
4 *jurisdiction.*

5 (b) Before December 31, 1997, pursuant to the department's
6 authority to adopt rules and regulations pursuant to Section 40502,
7 the department shall, by regulation, establish conditions for the
8 use of alternative daily cover that are consistent with this division.
9 In adopting the regulations, the department shall consider, but is
10 not limited to *consideration of*, all of the following criteria:

11 (1) Those conditions established in past policies adopted by the
12 department affecting the use of alternative daily cover.

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

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

19 (c) Until the adoption of additional regulations, the use of
20 alternative daily cover shall be governed by the conditions
21 established by the department in its existing regulations set forth
22 in paragraph (3) of subdivision (b) of, and paragraph (3) of
23 subdivision (c) of, Section 18813 of Title 14 of the California Code
24 of Regulations, as those sections read on January 1, 1997, and by
25 the conditions established in the department's policy adopted on
26 January 25, 1995.

27 (d) In adopting rules and regulations pursuant to this division,
28 including, but not limited to, Part 2 (commencing with Section
29 40900), the department shall provide guidance to local enforcement
30 agencies on any conditions and restrictions on the utilization of
31 alternative daily cover so as to ensure proper enforcement of those
32 rules and regulations.

33 (e) *Notwithstanding subparagraph (B) of paragraph (4) of*
34 *subdivision (a), nothing in this section modifies, limits, or*
35 *abrogates the authority of a local jurisdiction with respect to land*
36 *use, zoning, or facility siting decisions within that local jurisdiction.*

37 (f) *For purposes of this section, "green material" has the same*
38 *meaning as "processed green material," as defined in subdivision*
39 *(b) of Section 20690 of Title 27 of the California Code of*
40 *Regulations. The term does not include materials left over from*

1 *the composting process, materials left over after the material*
2 *recovery process, commonly referred to as “fines,” or processed*
3 *construction and demolition waste materials.*

4 *(g) For purposes of this section, “processed construction and*
5 *demolition waste material” has the same meaning as defined in*
6 *subdivision (b) of Section 20690 of Title 27 of the California Code*
7 *of Regulations.*

8 SEC. 2. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 a local agency or school district has the authority to levy service
11 charges, fees, or assessments sufficient to pay for the program or
12 level of service mandated by this act, within the meaning of Section
13 17556 of the Government Code.