

AMENDED IN SENATE AUGUST 6, 2014

AMENDED IN SENATE JULY 1, 2014

AMENDED IN SENATE JUNE 16, 2014

AMENDED IN ASSEMBLY APRIL 22, 2014

AMENDED IN ASSEMBLY MARCH 24, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1826**

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**Introduced by Assembly Member Chesbro  
(Coauthors: Assembly Members Gordon, Skinner, Ting,  
*Wieckowski*, and Williams)**

February 18, 2014

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An act to add Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1826, as amended, Chesbro. Solid waste: organic waste.

(1) The California Integrated Waste Management Act of 1989, which is administered by the Department of Resources Recycling and Recovery, establishes an integrated waste management program that requires each county and city and county to prepare and submit to the department a countywide integrated waste management plan. 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.

This bill would, *commencing April 1, 2016*, require a business that generates a specified amount of organic waste per week to arrange for recycling services for that organic waste in a specified manner. The bill would decrease the amount of organic waste under which a business would be subject to those requirements from 8 cubic yards or more ~~during 2016~~ to 4 cubic yards or more ~~during~~ *on January 1, 2017*. The bill would also require a business that generates 4 cubic yards or more of commercial solid waste per week, on and after January 1, 2019, to arrange for organic waste recycling services and would decrease that amount to 2 cubic yards, if the department makes a specified determination on or after January 1, 2020.

This bill would require the contract or work agreement between a business and a gardening or landscaping service to require the organic waste generated by those services to comply with the requirements of this act.

This bill would require each jurisdiction, on and after January 1, 2016, to implement an organic waste recycling program to divert organic waste from the businesses subject to this act, except as specified with regard to rural jurisdictions, thereby imposing a state-mandated local program by imposing new duties on local ~~government~~ *governmental* agencies. The bill would require each jurisdiction to report to the department on its progress in implementing the organic waste recycling program, and the department would be required to review whether a jurisdiction is in compliance with this act.

This bill would authorize a local governmental agency to charge and collect a fee from an organic waste generator to recover the local governmental agency's costs incurred in complying with this act.

This bill would require the department to identify and recommend actions to address permitting and siting challenges and to encourage the continued viability of the state's organic waste processing and recycling infrastructure, in partnership with the California Environmental Protection Agency and other specified state and regional agencies. The bill also would require the department to cooperate with local jurisdictions and industry to provide assistance ~~and incentives~~ for increasing the feasibility of organic waste recycling and to identify certain *state* financing mechanisms and *state* funding incentives and post this information on its Internet Web site.

(2) 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. Chapter 12.9 (commencing with Section 42649.8)  
2 is added to Part 3 of Division 30 of the Public Resources Code, to  
3 read:

4  
5 CHAPTER 12.9. RECYCLING OF ORGANIC WASTE  
6

7 42649.8. For purposes of this chapter, the following terms shall  
8 apply:

9 (a) "Business" means a commercial or public entity, including,  
10 but not limited to, a firm, partnership, proprietorship, joint stock  
11 company, corporation, or association that is organized as a  
12 for-profit or nonprofit entity, or a multifamily residential dwelling.

13 (b) "Commercial waste generator" means a business subject to  
14 subdivision (a) of Section 42649.2.

15 (c) "Organic waste" means food waste, green waste, landscape  
16 and pruning waste, nonhazardous wood waste, and food-soiled  
17 paper waste that is mixed in with food waste.

18 (d) "Organic waste generator" means a business subject to  
19 subdivision (a) of Section 42649.81.

20 (e) "Rural jurisdiction" means a jurisdiction that is located  
21 entirely within one or more rural counties, or a regional agency  
22 comprised of jurisdictions that are located within one or more rural  
23 counties.

24 (f) "Rural county" means a county that has a total population  
25 of less than ~~100,000~~ 70,000 persons.

26 (g) "Self-hauler" means a business that hauls its own waste  
27 rather than contracting for that service and "self-haul" means to  
28 act as a self-hauler.

29 42649.81. (a) (1) On and after ~~January~~ April 1, 2016, a  
30 business that generates eight cubic yards or more of organic waste

1 per week shall arrange for recycling services specifically for  
2 organic waste in the manner specified in subdivision (b).

3 (2) On and after January 1, 2017, a business that generates four  
4 cubic yards or more of organic waste per week shall arrange for  
5 recycling services specifically for organic waste in the manner  
6 specified in subdivision (b).

7 (3) On and after January 1, 2019, a business that generates four  
8 cubic yards or more of commercial solid waste, as defined in  
9 Section 42649.1, per week, shall arrange for recycling services  
10 specifically for organic waste in the manner specified in  
11 subdivision (b).

12 (4) On or after January 1, 2020, if the department determines  
13 that statewide disposal of organic waste has not been reduced to  
14 50 percent of the level of disposal during 2014, a business that  
15 generates two cubic yards or more per week of commercial solid  
16 waste shall arrange for the organic waste recycling services  
17 specified in paragraph (3), unless the department determines that  
18 this requirement will not result in significant additional reductions  
19 of organics disposal.

20 (5) A business located in a rural jurisdiction that is exempted  
21 pursuant to paragraph (2) of subdivision (a) of Section 42649.82  
22 is not subject to this chapter.

23 (b) A business subject to subdivision (a) shall take at least one  
24 of the following actions:

25 (1) Source separate organic waste from other waste and  
26 subscribe to a basic level of organic waste recycling service that  
27 includes collection and recycling of organic waste.

28 (2) ~~Source separate organic waste from other solid waste and~~  
29 ~~manage~~ Recycle its organic waste onsite or self-haul its own  
30 organic waste *for recycling*.

31 (3) Subscribe to an organic waste recycling service that may  
32 include mixed waste processing that specifically recycles organic  
33 waste.

34 (4) Make other arrangements consistent with paragraph (3) of  
35 subdivision (b) of Section 42649.84.

36 (c) A business that is a property owner may require a lessee or  
37 tenant of that property to source separate their organic waste to  
38 aid in compliance with this section.

39 (d) A business generating organic waste shall arrange for the  
40 recycling services required by this section in a manner that is

1 consistent with state and local laws and requirements, including a  
2 local ordinance or local jurisdiction's franchise agreement,  
3 applicable to the collection, handling, or recycling of solid and  
4 organic waste.

5 (e) When arranging for gardening or landscaping services, the  
6 contract or work agreement between a business subject to this  
7 section and a gardening or landscaping service shall require *that*  
8 the organic waste generated by those services ~~to~~ be managed in  
9 compliance with this chapter.

10 (f) (1) A multifamily residential dwelling that consists of fewer  
11 than five units is not a business for purposes of this chapter.

12 (2) A business that is a multifamily dwelling is not required to  
13 arrange for the organic waste recycling services specified in  
14 subdivision (b) for food waste that is generated by the business.

15 (g) If separate organic waste collection and recycling services  
16 are not offered through a local ordinance or local jurisdiction's  
17 franchise agreement, a business generating organic waste may  
18 arrange for separate organic waste collection and recycling services,  
19 until the local ordinance or local jurisdiction's franchise agreement  
20 includes organic waste recycling services.

21 42649.82. (a) (1) In addition to the requirements of Section  
22 42649.3, on and after January 1, 2016, each jurisdiction shall  
23 implement an organic waste recycling program that is appropriate  
24 for that jurisdiction and designed specifically to divert organic  
25 waste generated by businesses subject to Section 42649.81, whether  
26 or not the jurisdiction has met the requirements of Section 41780.

27 (2) (A) A county board of supervisors of a rural county may  
28 adopt a resolution, as prescribed in this paragraph, to make the  
29 rural county exempt from the requirements of this section. If a  
30 rural jurisdiction is a city, the city council may adopt a resolution,  
31 as prescribed in this paragraph, to make the rural jurisdiction  
32 exempt from this section. If a rural jurisdiction is a regional agency  
33 comprised of jurisdictions that are located entirely within one or  
34 more rural counties, the board of the regional agency may adopt  
35 a resolution, as prescribed in this paragraph, to make the rural  
36 jurisdiction is exempt from the requirements of this section.

37 (B) A resolution adopted pursuant to subparagraph (A) shall  
38 include findings as to the purpose of and need for the exemption.

1 (C) A resolution to exempt a rural jurisdiction pursuant to  
 2 subparagraph (A) shall be submitted to the department at least six  
 3 months ~~prior to~~ *before* the operative date of the exemption.

4 (D) On or after January 1, 2020, if the department determines  
 5 that statewide disposal of organic waste has not been reduced to  
 6 50 percent of the level of disposal during the 2014 calendar year,  
 7 all exemptions authorized by this paragraph shall terminate unless  
 8 the department determines that applying this chapter to rural  
 9 jurisdictions will not result in significant additional reductions of  
 10 disposal of organic waste.

11 (b) If a jurisdiction, as of January 1, 2016, has in place an  
 12 organic waste recycling program that meets the requirements of  
 13 this section, it is not required to implement a new or expanded  
 14 organic waste recycling program.

15 (c) The organic waste recycling program required by this section  
 16 shall be directed at organic waste generators and may include, but  
 17 is not limited to, one or more of the following:

18 (1) Implementing a mandatory commercial organic waste  
 19 recycling policy or ordinance that addresses organic waste  
 20 recycling.

21 (2) Requiring a mandatory commercial organic waste recycling  
 22 program through a franchise contract or agreement.

23 (3) Requiring organic waste to go through a source separated  
 24 or mixed processing system that diverts material from disposal.

25 (d) (1) The organic waste recycling program shall do all of the  
 26 following:

27 ~~(H)~~

28 (A) Identify all of the following:

29 ~~(A)~~

30 (i) Existing organic waste recycling facilities within a reasonable  
 31 vicinity and the capacities available for materials to be accepted  
 32 at each facility.

33 ~~(B)~~

34 (ii) Existing solid waste and organic waste recycling facilities  
 35 within the jurisdiction that may be suitable for potential expansion  
 36 or colocation of organic waste processing or recycling facilities.

37 ~~(C)~~

38 (iii) Efforts of which the jurisdiction is aware that are underway  
 39 to develop new private or public regional organic waste recycling  
 40 facilities that may serve some or all of the organic waste recycling

1 needs of the commercial waste generators within the jurisdiction  
2 subject to this chapter, and the anticipated timeframe for  
3 completion of those facilities.

4 ~~(D)~~

5 (iv) Closed or abandoned sites that might be available for new  
6 organic waste recycling facilities.

7 ~~(E)~~

8 (v) Other nondisposal opportunities and markets.

9 ~~(F)~~

10 (vi) Appropriate zoning and permit requirements for the location  
11 of new organic waste recycling facilities.

12 ~~(G)~~

13 (vii) Incentives available, if any, for developing new organic  
14 waste recycling facilities within the jurisdiction.

15 ~~(2)~~

16 (B) Identify barriers to siting new or expanded ~~organic waste~~  
17 ~~recycling facilities~~ *compostable materials handling operations,*  
18 *as defined in paragraph (12) of subdivision (a) of Section 17852*  
19 *of the Title 14 of the California Code of Regulations,* and specify  
20 a plan to remedy those barriers that are within the control of the  
21 local jurisdiction.

22 ~~(3)~~

23 (C) Provide for the education of, outreach to, and monitoring  
24 of, businesses. The program shall require the jurisdiction to notify  
25 a business if the business is not in compliance with Section  
26 42649.81.

27 (2) *For purposes of subparagraph (A) of paragraph (1), an*  
28 *“organic waste recycling facility” shall include compostable*  
29 *materials handling operations, as defined in paragraph (12) of*  
30 *subdivision (a) of Section 17852 of Title 14 of the California Code*  
31 *of Regulations, and may include other facilities that recycle organic*  
32 *waste.*

33 (e) The organic waste recycling program may include any one  
34 or more of the following:

35 (1) Enforcement provisions that are consistent with the  
36 jurisdiction’s authority, including a structure for fines and penalties.

37 (2) Certification requirements for self-haulers.

38 (3) Exemptions, on a case-by-case basis, from the requirements  
39 of Section 42649.81 that are deemed appropriate by the jurisdiction  
40 for any of the following reasons:

1 (A) Lack of sufficient space in multifamily complexes or  
2 businesses to provide additional organic material recycling bins.

3 (B) The current implementation by a business of actions that  
4 result in the recycling of a significant portion of its organic waste.

5 (C) The business or group of businesses does not generate at  
6 least one-half of a cubic yard of organic waste per week.

7 (D) Limited-term exemptions for extraordinary and unforeseen  
8 events.

9 (E) (i) *The business or group of businesses does not generate*  
10 *at least one cubic yard of organic waste per week, if the local*  
11 *jurisdiction provides the department with information that explains*  
12 *the need for this higher exemption than that authorized by*  
13 *subparagraph (C).*

14 (ii) *The information described in clause (i) shall be provided*  
15 *to the department with the information provided pursuant to*  
16 *subdivision (f).*

17 (iii) *This subparagraph shall not be operative on or after*  
18 *January 1, 2020, if the department, pursuant to paragraph (4) of*  
19 *subdivision (a) of Section 42649.81, determines that statewide*  
20 *disposal of organic waste has not been reduced to 50 percent of*  
21 *the level of disposal during the 2014 calendar year.*

22 (f) (1) Each jurisdiction shall provide the department with  
23 information on the number of regulated businesses that generate  
24 organic waste and, if available, the number that are recycling  
25 organic waste. The jurisdiction shall include this information as  
26 part of the annual report required pursuant to Section 41821.

27 (2) On and after August 1, 2017, in addition to the information  
28 required by paragraph (1), each jurisdiction shall report to the  
29 department on the progress achieved in implementing its organic  
30 waste recycling program, including education, outreach,  
31 identification, and monitoring, on its rationale for allowing  
32 exemptions, and, if applicable, on enforcement efforts. The  
33 jurisdiction shall include this information as part of the annual  
34 report required pursuant to Section 41821.

35 (g) (1) The department shall review a jurisdiction's compliance  
36 with this section as part of the department's review required by  
37 Section 41825.

38 (2) The department also may review whether a jurisdiction is  
39 in compliance with this section at any time that the department  
40 receives information that a jurisdiction has not implemented, or is

1 not making a good faith effort to implement, an organic waste  
2 recycling program.

3 (h) During a review pursuant to subdivision (g), the department  
4 shall determine whether the jurisdiction has made a good faith  
5 effort to implement its selected organic waste recycling program.  
6 For purposes of this section, “good faith effort” means all  
7 reasonable and feasible efforts by a jurisdiction to implement its  
8 organic waste recycling program. During its review, the department  
9 may include, but is not limited to, consideration of the following  
10 factors in its evaluation of a jurisdiction’s good faith effort:

11 (1) The extent to which businesses have complied with Section  
12 42649.81, including information on the amount of disposal that is  
13 being diverted from the businesses, if available, and on the number  
14 of businesses that are complying with Section 42649.81.

15 (2) The recovery rate of the organic waste from the material  
16 recovery facilities that are utilized by the businesses, all  
17 information, methods, and calculations, and any additional  
18 performance data, as requested by the department from the material  
19 recovery facilities pursuant to Section 18809.4 of Title 14 of the  
20 California Code of Regulations.

21 (3) The extent to which the jurisdiction is conducting education  
22 and outreach to businesses.

23 (4) The extent to which the jurisdiction is monitoring businesses  
24 and notifying those businesses that are not in compliance.

25 (5) The appropriateness of exemptions allowed by the  
26 jurisdiction.

27 (6) The availability of markets for collected organic waste  
28 recyclables.

29 (7) Budgetary constraints.

30 (8) In the case of a rural jurisdiction, the effects of small  
31 geographic size, low population density, or distance to markets.

32 (9) The availability, or lack thereof, of sufficient organic waste  
33 processing infrastructure, organic waste recycling—~~facilities~~  
34 *facilities*, and other nondisposal opportunities and markets.

35 (10) The extent to which the jurisdiction has taken steps that  
36 are under its control to remove barriers to siting and expanding  
37 organic waste recycling facilities.

38 42649.83. (a) If a jurisdiction adds or expands an organic  
39 waste recycling program to meet the requirements of Section  
40 42649.82, the jurisdiction shall not be required to revise its source

1 reduction and recycling element or obtain the department’s  
2 approval pursuant to Article 1 (commencing with Section 41800)  
3 of Chapter 7 of Part 2.

4 (b) If an addition or expansion of a jurisdiction’s organic waste  
5 recycling program is necessary, the jurisdiction shall include this  
6 information in the annual report required pursuant to Section  
7 41821.

8 42649.84. (a) This chapter does not limit the authority of a  
9 local governmental agency to adopt, implement, or enforce a local  
10 organic waste recycling requirement, or a condition imposed upon  
11 a self-hauler, that is more stringent or comprehensive than the  
12 requirements of this chapter.

13 (b) This chapter does not modify, limit, or abrogate in any  
14 manner any of the following:

15 (1) A franchise granted or extended by a city, county, city and  
16 county, or other local governmental agency.

17 (2) A contract, license, or permit to collect solid waste  
18 previously granted or extended by a city, county, city or county,  
19 or other local governmental agency.

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

22 (c) Notwithstanding any other requirement of this chapter,  
23 nothing in this chapter modifies, limits, or abrogates the authority  
24 of a local jurisdiction with respect to land use, zoning, or facility  
25 siting decisions by or within that local jurisdiction.

26 42649.85. A local governmental agency may charge and collect  
27 a fee from an organic waste generator to recover the local  
28 governmental agency’s costs incurred in complying with this  
29 chapter.

30 42649.86. (a) The department shall identify and recommend  
31 actions to address, with regard to both state agencies and the federal  
32 government, the permitting and siting challenges associated with  
33 composting and anaerobic digestion, and to encourage the  
34 continued viability of the state’s organic waste processing and  
35 recycling infrastructure, in partnership with the California  
36 Environmental Protection Agency and other state and regional  
37 agencies. These other state and regional agencies shall include,  
38 but are not limited to, the State Air Resources Board, the State  
39 Energy Resources Conservation and Development Commission,  
40 the Public Utilities Commission, the Department of Food and

1 Agriculture, the State Water Resources Control Board, California  
2 regional water quality control boards, and air pollution control and  
3 air quality management districts.

4 (b) The department shall cooperate with local governmental  
5 agencies and industry to provide assistance ~~and incentives~~ for  
6 increasing the feasibility of organic recycling by promoting  
7 processing opportunities and the development of new infrastructure  
8 of sufficient capacity to meet the needs of generators, and  
9 developing sufficient end-use markets throughout the state for the  
10 quantity of organic waste required to be diverted.

11 (c) The department shall identify and post on its Internet Web  
12 site *state* financing mechanisms and *state* funding incentives that  
13 are available for in-state development of organic waste  
14 infrastructure to help the state achieve its greenhouse gas reduction  
15 goals and waste reduction goals.

16 SEC. 2. No reimbursement is required by this act pursuant to  
17 Section 6 of Article XIII B of the California Constitution because  
18 a local agency or school district has the authority to levy service  
19 charges, fees, or assessments sufficient to pay for the program or  
20 level of service mandated by this act, within the meaning of Section  
21 17556 of the Government Code.