

AMENDED IN ASSEMBLY JUNE 25, 2013

AMENDED IN SENATE MAY 8, 2013

AMENDED IN SENATE APRIL 22, 2013

AMENDED IN SENATE APRIL 9, 2013

**SENATE BILL**

**No. 804**

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**Introduced by Senator Lara**

February 22, 2013

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An act to amend Sections ~~40106 and 40051~~, 40106, 40116.1, 40127, 40194, 40201, 40507, 40900.1, 41780, 41780.01, 41780.02, 41780.1, and 41781 of, and to add Section 40103 to, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 804, as amended, Lara. Solid waste: energy.

The California Integrated Waste Management Act of 1989, 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 not more than 10% through transformation or "biomass conversion," as defined, if specified conditions are met. The act defines various terms, including "biomass conversion" and "composting," for the purposes of the act.

This bill would revise the definition of the term "biomass conversion" to include, in addition to controlled combustion, any other conversion technology, as specified. The bill would define "composting" to include

aerobic and anaerobic decomposition of organic wastes *in the presence of oxygen*. The bill would include as a part of the 50% diversion rate requirement the diversion of solid waste through anaerobic digestion, as defined.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 40051 of the Public Resources Code is  
2     amended to read:

3     40051. In implementing this division, the board and local  
4     agencies shall do both of the following:

5     (a) Promote the following waste management practices in order  
6     of priority:

7     (1) Source reduction.

8     (2) ~~Reeyeling and Recycling~~, composting, and anaerobic  
9     digestion.

10    (3) Environmentally safe transformation and environmentally  
11    safe land disposal, at the discretion of the city or county.

12    (b) Maximize the use of all feasible source reduction, recycling,  
13    and composting, and anaerobic digestion options in order to reduce  
14    the amount of solid waste that must be disposed of by  
15    transformation and land disposal. For wastes that cannot feasibly  
16    be reduced at their source, recycled, or composted, or anaerobically  
17    digested, the local agency may use environmentally safe  
18    transformation or environmentally safe land disposal, or both of  
19    those practices.

20    SEC. 2. Section 40103 is added to the Public Resources Code,  
21    to read:

22    40103. “Anaerobic digestion” means a process of breaking  
23    down organic materials using microorganisms under controlled  
24    conditions in the absence of oxygen or in an oxygen-starved  
25    environment, other than within a landfill.

26    SECTION 1.

27    SEC. 3. Section 40106 of the Public Resources Code is  
28    amended to read:

29    40106. (a) “Biomass conversion” means the controlled  
30    combustion, or other conversion technology, when separated from

1 other solid waste and used for producing electricity or heat, of the  
2 following materials:

- 3 (1) Agricultural crop residues.
- 4 (2) Bark, lawn, yard, and garden clippings.
- 5 (3) Leaves, silvicultural residue, and tree and brush pruning.
- 6 (4) Wood, wood chips, and wood waste.
- 7 (5) Nonrecyclable pulp or nonrecyclable paper materials.

8 (b) “Biomass conversion” does not include the controlled  
9 combustion of recyclable pulp or recyclable paper materials, or  
10 materials that contain sewage sludge, industrial sludge, medical  
11 waste, hazardous waste, or either high-level or low-level  
12 radioactive waste.

13 (c) For purposes of this section, “nonrecyclable pulp or  
14 nonrecyclable paper materials” means either of the following, as  
15 determined by the department:

16 (1) Paper products or fibrous materials that cannot be  
17 technically, feasibly, or legally recycled because of the manner in  
18 which the product or material has been manufactured, treated,  
19 coated, or constructed.

20 (2) Paper products or fibrous materials that have become soiled  
21 or contaminated and as a result cannot be technically, feasibly, or  
22 legally recycled.

23 ~~SEC. 2.~~

24 *SEC. 4.* Section 40116.1 of the Public Resources Code is  
25 amended to read:

26 40116.1. ~~(a)~~ “Composting” means the controlled or  
27 uncontrolled biological decomposition of organic wastes *in the*  
28 *presence of oxygen.*

29 ~~(b) “Composting” includes aerobic decomposition and anaerobic~~  
30 ~~decomposition of organic waste.~~

31 *SEC. 5. Section 40127 of the Public Resources Code is*  
32 *amended to read:*

33 40127. “Diversion program” means a program in the source  
34 reduction and recycling element of a jurisdiction’s integrated waste  
35 management plan, specified in Chapter 2 (commencing with  
36 Section 41000) of, or Chapter 3 (commencing with Section 41300)  
37 of, Part 2 and that has the purpose of diverting solid waste from  
38 landfill disposal or transformation through source reduction,  
39 recycling, ~~and~~ composting, *and anaerobic digestion* activities.  
40 “Diversion program” additionally includes any amendments,

1 revisions, or updates to the element, and any programs set forth  
2 in a time extension, alternative requirement, or compliance order  
3 approved by the board pursuant to Part 2 (commencing with  
4 Section 40900).

5 *SEC. 6. Section 40194 of the Public Resources Code is*  
6 *amended to read:*

7 40194. “Solid waste facility” includes a solid waste transfer  
8 or processing station, a composting facility, *an anaerobic digestion*  
9 *facility*, a gasification facility, a transformation facility, and a  
10 disposal facility. For purposes of Part 5 (commencing with Section  
11 45000), “solid waste facility” additionally includes a solid waste  
12 operation that may be carried out pursuant to an enforcement  
13 agency notification, as provided in regulations adopted by the  
14 board.

15 *SEC. 7. Section 40201 of the Public Resources Code is*  
16 *amended to read:*

17 40201. “Transformation” means incineration, pyrolysis,  
18 ~~distillation, or biological conversion other than composting or~~  
19 ~~distillation~~. “Transformation” does not include composting,  
20 *anaerobic digestion*, gasification, or biomass conversion.

21 *SEC. 8. Section 40507 of the Public Resources Code is*  
22 *amended to read:*

23 40507. (a) On or before March 1 of each year, the board shall  
24 file an annual report with the Legislature highlighting significant  
25 programs or actions undertaken by the board to implement  
26 programs pursuant to this division during the prior calendar year.  
27 The report shall include, but is not limited to, the information  
28 described in subdivision (b).

29 ~~(b) Commencing January 1, 1997, the~~ *The* board shall file annual  
30 progress reports with the Legislature covering the activities and  
31 actions undertaken by the board in the prior fiscal year. The board  
32 shall prepare, and may electronically file with the Legislature, the  
33 progress reports throughout the calendar year, as determined by  
34 the board, on the following programs:

- 35 (1) The local enforcement agency program.
- 36 (2) The research and development program.
- 37 (3) The public education program.
- 38 (4) The market development program.
- 39 (5) The used oil program.
- 40 (6) The planning and local assistance program.

1 (7) The site cleanup program.

2 (c) The progress report shall specifically include, but is not  
3 limited to, all of the following information:

4 (1) Pursuant to paragraph (1) of subdivision (b), the status of  
5 the certification and evaluation of local enforcement agencies  
6 pursuant to Chapter 2 (commencing with Section 43200) of Part  
7 4.

8 (2) Pursuant to paragraph (2) of subdivision (b), all of the  
9 following information:

10 (A) The results of the research and development programs  
11 established pursuant to Chapter 13 (commencing with Section  
12 42650) of Part 3.

13 (B) A report on information and activities associated with the  
14 establishment of the Plastics Recycling Information Clearinghouse,  
15 pursuant to Section 42520.

16 (C) A report on the progress in implementing the monitoring  
17 and control program for the subsurface migration of landfill gas  
18 established pursuant to Section 43030, including recommendations,  
19 as needed, to improve the program.

20 (D) A report on the comparative costs and benefits of the  
21 recycling or conversion processes for waste tires funded pursuant  
22 to Chapter 17 (commencing with Section 42860) of Part 3.

23 (3) Pursuant to paragraph (3) of subdivision (b), all of the  
24 following information:

25 (A) A review of actions taken by the board to educate and inform  
26 individuals and public and private sector entities who generate  
27 solid waste on the importance of source reduction, recycling, ~~and~~  
28 composting, *and anaerobic digestion* of solid waste, and  
29 recommendations for administrative or legislative actions which  
30 will inform and educate these parties.

31 (B) A report on the effectiveness of the public information  
32 program required to be implemented pursuant to Chapter 12  
33 (commencing with Section 42600) of Part 3, including  
34 recommendations on administrative and legislative changes to  
35 improve the program.

36 (C) A report on the status and effectiveness of school district  
37 source reduction and recycling programs implemented pursuant  
38 to Chapter 12.5 (commencing with Section 42620) of Part 3,  
39 including recommendations on administrative and legislative  
40 changes to improve the program's effectiveness.

1 (D) A report on the effectiveness of the integrated waste  
2 management educational program and teacher training plan  
3 implemented pursuant to Part 4 (commencing with Section 71300)  
4 of Division 34, including recommendations on administrative and  
5 legislative changes which will improve the program.

6 (E) A summary of available and wanted materials, a profile of  
7 the participants, and the amount of waste diverted from disposal  
8 sites as a result of the California Materials Exchange Program  
9 established pursuant to subdivision (a) of Section 42600.

10 (4) Pursuant to paragraph (4) of subdivision (b), all of the  
11 following information:

12 (A) A review of market development strategies undertaken by  
13 the board pursuant to this division to ensure that markets exist for  
14 materials diverted from solid waste facilities, including  
15 recommendations for administrative and legislative actions which  
16 will promote expansion of those markets. The recommendations  
17 shall include, but not be limited to, all of the following:

18 (i) Recommendations for actions to develop more direct liaisons  
19 with private manufacturing industries in the state to promote  
20 increased utilization of recycled feedstock in manufacturing  
21 processes.

22 (ii) Recommendations for actions which can be taken to assist  
23 local governments in the inclusion of recycling activities in county  
24 overall economic development plans.

25 (iii) Recommendations for actions to utilize available financial  
26 resources for expansion of recycling industry capacity.

27 (iv) Recommendations to improve state, local, and private  
28 industry product and material procurement practices.

29 (B) Development and implementation of a program to assist  
30 local agencies in the identification of markets for materials that  
31 are diverted from disposal facilities through source reduction,  
32 recycling, ~~and~~ composting, *and anaerobic digestion* pursuant to  
33 Section 40913.

34 (C) A report on the Recycling Market Development Zone Loan  
35 Program conducted pursuant to Article 3 (commencing with  
36 Section 42010) of Chapter 1 of Part 3.

37 (D) A report on implementation of the Compost Market Program  
38 pursuant to Chapter 5 (commencing with Section 42230) of Part  
39 3.

1 (E) A report on the progress in developing and implementing  
2 the comprehensive Market Development Plan, pursuant to Article  
3 2 of Chapter 1 (commencing with Section 42005) of Part 3.

4 (F) The number of retreaded tires purchased by the Department  
5 of General Services during the prior fiscal year pursuant to Section  
6 42414.

7 (G) The results of the study performed in consultation with the  
8 Department of General Services pursuant to Section 42415 to  
9 determine if tire retreads, procured by the Department of General  
10 Services, have met all quality and performance criteria of a new  
11 tire, including any recommendations to expand, revise, or curtail  
12 the program.

13 (H) The number of recycled lead-acid batteries purchased during  
14 the prior fiscal year by the Department of General Services  
15 pursuant to Section 42443.

16 (I) A list of established price preferences for recycled paper  
17 products for the prior fiscal year pursuant to paragraph (1) of  
18 subdivision (c) of Section 12162 of the Public Contract Code.

19 (J) A report on the implementation of the white office paper  
20 recovery program pursuant to Chapter 10 (commencing with  
21 Section 42560) of Part 3.

22 (5) Pursuant to paragraph (5) of subdivision (b), both of the  
23 following information:

24 (A) A report on the annual audit of the used oil recycling  
25 program established pursuant to Chapter 4 (commencing with  
26 Section 48600) of Part 7.

27 (B) A summary of industrial and lubricating oil sales and  
28 recycling rates, the results of programs funded pursuant to Chapter  
29 4 (commencing with Section 48600) of Part 7, recommendations,  
30 if any, for statutory changes to the program, including changes in  
31 the amounts of the payment required by Section 48650 and the  
32 recycling incentive, and plans for present and future programs to  
33 be conducted over the next two years.

34 (6) Pursuant to paragraph (6) of subdivision (b), all of the  
35 following information:

36 (A) The development by the board of the model countywide or  
37 regional siting element and model countywide or regional agency  
38 integrated waste management plan pursuant to Section 40912,  
39 including its effectiveness in assisting local agencies.

1 (B) The adoption by the board of a program to provide assistance  
2 to cities, counties, or regional agencies in the development and  
3 implementation of source reduction programs pursuant to  
4 subdivision (c) of Section 40912.

5 (C) The development by the board of model programs and  
6 materials to assist rural counties and cities in preparing city and  
7 county source reduction and recycling elements pursuant to Section  
8 41787.3.

9 (D) A report on the number of tires that are recycled or otherwise  
10 diverted from disposal in landfills or stockpiles.

11 (E) A report on the development and implementation of  
12 recommendations, with proposed implementing regulations, for  
13 providing technical assistance to counties and cities that meet  
14 criteria specified in Section 41782, so that those counties and cities  
15 will be able to meet the objectives of this division. The  
16 recommendations shall, among other things, address both of the  
17 following matters:

18 (i) Assistance in developing methods of raising revenue at the  
19 local level to fund rural integrated waste management programs.

20 (ii) Assistance in developing alternative methods of source  
21 reduction, recycling, ~~and~~ composting, *and anaerobic digestion* of  
22 solid waste suitable for rural local governments.

23 (F) A report on the status and implementation of the “Buy  
24 Recycled” program established pursuant to subdivision (d) of  
25 Section 42600, including the waste collection and recycling  
26 programs established pursuant to Sections 12164.5 and 12165 of  
27 the Public Contract Code.

28 (7) Pursuant to paragraph (7) of subdivision (b), a description  
29 of sites cleaned up under the Solid Waste Disposal and Codisposal  
30 Site Cleanup Program established pursuant to Article 2.5  
31 (commencing with Section 48020) of Chapter 2 of Part 7, a  
32 description of remaining sites where there is no responsible party  
33 or the responsible party is unable or unwilling to pay for cleanup,  
34 and recommendations for any needed legislative changes.

35 *SEC. 9. Section 40900.1 of the Public Resources Code is*  
36 *amended to read:*

37 40900.1. The Legislature hereby further finds and declares all  
38 of the following:

39 (a) It is important to encourage state agencies to plan and  
40 implement programs that will reduce the amount of solid waste



1 going to disposal facilities through source reduction, recycling,  
2 ~~and~~ composting, *and anaerobic digestion*.

3 (b) Local agencies, other than a host jurisdiction, and federal  
4 agencies should be encouraged to plan and implement programs  
5 that will reduce the amount of solid waste going to disposal  
6 facilities through source reduction, recycling, ~~and~~ composting,  
7 *and anaerobic digestion*.

8 (c) Each state agency shall, to the extent feasible and within  
9 existing budgetary constraints, develop and implement source  
10 reduction, recycling, ~~and~~ composting, *and anaerobic digestion*  
11 programs that will reduce the amount of solid waste going to  
12 disposal facilities. Those programs shall be consistent with  
13 Executive Order W-7-91, which ordered state agencies to establish  
14 recycling programs, reduce paper waste, purchase recycled  
15 products, and implement measures that minimize the generation  
16 of waste.

17 (d) Local, state, and federal agencies generating solid waste that  
18 is sent to a host jurisdiction for disposal should be encouraged to  
19 provide the host jurisdiction with information on the amount of  
20 solid waste and regarding any solid waste source reduction,  
21 recycling, ~~or~~ composting, *or anaerobic digestion* programs that  
22 have been implemented by the agency, to assist the host jurisdiction  
23 in developing and implementing the planning requirements of this  
24 division.

25 *SEC. 10. Section 41780 of the Public Resources Code is*  
26 *amended to read:*

27 41780. (a) Each jurisdiction's source reduction and recycling  
28 element shall include an implementation schedule that shows both  
29 of the following:

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

33 (2) Except as provided in Sections 41783 and 41784, for the  
34 first and each subsequent revision of the element, the jurisdiction  
35 shall divert 50 percent of all solid waste on and after January 1,  
36 2000, through source reduction, recycling, ~~and~~ composting, *and*  
37 *anaerobic digestion* activities.

38 (b) This section does not prohibit a jurisdiction from  
39 implementing source reduction, recycling, ~~and~~ composting, *and*

1 *anaerobic digestion* activities designed to exceed the requirements  
2 of this division.

3 *SEC. 11. Section 41780.01 of the Public Resources Code is*  
4 *amended to read:*

5 41780.01. (a) The Legislature hereby declares that it is the  
6 policy goal of the state that not less than 75 percent of solid waste  
7 generated be source reduced, recycled,~~—or~~ composted, *or*  
8 *anaerobically digested* by the year 2020, and annually thereafter.

9 (b) Notwithstanding subdivision (a), the department shall not  
10 establish or enforce a diversion rate on a city or county that is  
11 greater than the 50 percent diversion rate established pursuant to  
12 Section 41780.

13 *SEC. 12. Section 41780.02 of the Public Resources Code is*  
14 *amended to read:*

15 41780.02. (a) On or before January 1, 2014, the department  
16 shall submit a report to the Legislature that provides strategies to  
17 achieve the state's policy goal that not less than 75 percent of solid  
18 waste generated be source reduced, recycled,~~—or~~ composted, *or*  
19 *anaerobically digested* by the year 2020, and annually thereafter,  
20 pursuant to Section 41780.01.

21 (b) The report shall also include all of the following:

22 (1) A review and update of the information required pursuant  
23 to subparagraph (A) of paragraph (4) of subdivision (c) of Section  
24 40507, with emphasis on new and emerging trends in resource  
25 management.

26 (2) Identification of problematic waste streams and sources and  
27 recommendations on handling those waste streams.

28 (3) Evaluation of current programs and their effectiveness, and  
29 recommendations for changes to those programs.

30 (4) Recommendations for reprioritizing existing resources to  
31 best achieve the purpose of Section 41780.01.

32 (5) Recommendations for legislative changes, if any, that are  
33 necessary to achieve the goals of Section 41780.01.

34 (6) Report on regulatory changes, if any, that are necessary, to  
35 achieve the goals of Section 41780.01.

36 (7) Any other information or recommendations the department  
37 deems pertinent.

38 (c) The department may provide the report required pursuant  
39 to this section in conjunction with the report required pursuant to

1 Section 40507 if the combined report is submitted on or before  
2 January 1, 2014.

3 (d) The department may hold public workshops to gather input  
4 from stakeholders.

5 (e) (1) Pursuant to Section 10231.5 of the Government Code,  
6 this section is repealed on January 1, 2017.

7 (2) The report shall be submitted in compliance with Section  
8 9795 of the Government Code.

9 *SEC. 13. Section 41780.1 of the Public Resources Code is*  
10 *amended to read:*

11 41780.1. (a) Notwithstanding any other requirement of this  
12 part, for the purposes of determining the amount of solid waste  
13 that a regional agency is required to divert from disposal or  
14 transformation through source reduction, recycling,~~—and~~  
15 composting, *and anaerobic digestion* to meet the diversion  
16 requirements of Section 41780, the regional agency shall use the  
17 solid waste disposal projections in the source reduction and  
18 recycling elements of the regional agency's member agencies. The  
19 method prescribed in Section 41780.2 shall be used to determine  
20 the maximum amount of disposal allowable to meet the diversion  
21 requirements of Section 41780.

22 (b) Notwithstanding any other requirement of this part, for the  
23 purposes of determining the amount of solid waste that a city or  
24 county is required to divert from disposal or transformation through  
25 source reduction, recycling,~~—and~~ composting, *and anaerobic*  
26 *digestion* to meet the diversion requirements of Section 41780, the  
27 city or county shall use the solid waste disposal projections in the  
28 source reduction and recycling elements of the city or county. The  
29 method prescribed in Section 41780.2 shall be used to determine  
30 the maximum amount of disposal allowable to meet the diversion  
31 requirements of Section 41780.

32 (c) To determine achievement of the diversion requirements of  
33 Section 41780 in 1995 and in the year 2000, projections of disposal  
34 amounts from the source reduction and recycling elements shall  
35 be adjusted to reflect annual increases or decreases in population  
36 and other factors affecting the waste stream, as determined by the  
37 board. By January 1, 1994, the board shall study the factors which  
38 affect the generation and disposal of solid waste and shall develop  
39 a standard methodology and guidelines to be used by cities,

1 counties, and regional agencies in adjusting disposal projections  
2 as required by this section.

3 (d) The amount of additional diversion required to be achieved  
4 by a regional agency to meet the diversion requirements of Section  
5 41780 shall be equal to the sum of the diversion requirements of  
6 its member agencies. To determine the maximum amount of  
7 disposal allowable for the regional agency to meet the diversion  
8 requirements of Section 41780, the maximum amount of disposal  
9 allowable for each member agency shall be added together to yield  
10 the agency disposable maximum.

11 *SEC. 14. Section 41781 of the Public Resources Code is*  
12 *amended to read:*

13 41781. (a) Except as provided in Sections 41781.1, and  
14 41781.2, for the purpose of determining the base rate of solid waste  
15 from which diversion requirements shall be calculated, “solid  
16 waste” includes only the following:

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

23 (2) The amount of solid waste diverted from a disposal facility  
24 or transformation facility through source reduction, recycling, ~~or~~  
25 composting, *or anaerobic digestion*.

26 (b) For the purposes of this section, “solid waste” does not  
27 include any solid waste which would not normally be disposed of  
28 at a disposal facility.

29 (c) For the purposes of this chapter, the amount of solid waste  
30 from which the required reductions are measured shall be the  
31 amount of solid waste existing on January 1, 1990, with future  
32 adjustments for increases or decreases in the quantity of waste  
33 caused only by changes in population or changes in the number  
34 or size of governmental, industrial, or commercial operations in  
35 the jurisdiction.