

**Senate Bill No. 804**

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Passed the Senate September 12, 2013

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*Secretary of the Senate*

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Passed the Assembly September 12, 2013

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Section 40106 of, and to add Chapter 6 (commencing with Section 48800) to Part 7 of Division 30 of, the Public Resources Code, relating to solid waste.

## LEGISLATIVE COUNSEL'S DIGEST

SB 804, 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.

This bill would revise the definition of the term “biomass conversion” to include, in addition to controlled combustion used for producing heat or electricity, the conversion technology used in a biomass conversion technology facility, as defined by this bill. The bill would require a biomass conversion technology facility to meet specified requirements. The bill would require the department to notify an air district within 48 hours of determining there is a specified violation so the air district can investigate and begin any necessary enforcement action. The bill would require an air district, prior to issuing a permit to a biomass conversion technology facility, to determine whether a facility meets all the requirements for best available control technology, as specified. The bill would also require a biomass conversion technology facility to submit specified documents to the city or county, including a city and county, with land use permitting authority over the proposed facility that demonstrate the design and operation of the facility. Because the bill would impose additional duties on an air district, cities, and counties, this bill would impose a state-mandated local program.

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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

SECTION 1. Section 40106 of the Public Resources Code is amended to read:

40106. (a) “Biomass conversion” means the controlled combustion used for producing heat or electricity, or the conversion technology specified in subdivision (c) of Section 48800, when separated from other solid waste, of the following materials:

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

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

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

- (1) Paper products or fibrous materials that cannot be technically, feasibly, or legally recycled because of the manner in which the product or material has been manufactured, treated, coated, or constructed.
- (2) Paper products or fibrous materials that have become soiled or contaminated and as a result cannot be technically, feasibly, or legally recycled.

SEC. 2. Chapter 6 (commencing with Section 48800) is added to Part 7 of Division 30 of the Public Resources Code, to read:

CHAPTER 6. BIOMASS CONVERSION TECHNOLOGY FACILITY

48800. For the purpose of this chapter, the following terms have the following meanings:

(a) “Air district” means an air quality management district or an air pollution control district with jurisdiction over the biomass conversion technology facility.

(b) “Biomass” means nonrecyclable organic waste materials as specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 40106.

(c) “Biomass conversion technology facility” means a facility that uses a conversion technology capable of converting biomass into marketable products and fuels through noncombustion thermal, chemical, or biological process. “Biomass conversion technology facility” does not include composting or biomass controlled combustion.

48805. (a) A biomass conversion technology facility shall comply with both of the following requirements:

(1) Certify to the air district that a local agency sending biomass to the facility is in compliance with this division.

(2) Allow the department, consistent with the authority of the department specified in Section 44100, to inspect the facility to ensure that the facility is only processing biomass that meets the local certification requirement and is limited to the biomass eligible waste stream, as specified in subdivision (a) of Section 40106.

(b) The department shall notify an air district within 48 hours of determining there is a violation of subdivision (a) so the air district can investigate and begin any necessary enforcement action, which may include, but is not limited to, permit revocation pursuant to Section 42307 of the Health and Safety Code, and seeking a temporary restraining order, injunctive relief, an order for abatement, or civil or criminal penalties.

(c) Prior to issuing a permit to a biomass conversion technology facility, an air district shall determine whether the facility meets all the requirements for best available control technology for criteria air pollutants, toxic air contaminants, and greenhouse gases

required pursuant to federal and state law and the rules of the air district.

(d) A biomass conversion technology facility shall submit documents to the city, county, or city and county with land use permitting authority over the proposed facility, that demonstrate all of the following:

(1) The biomass conversion technology facility is designed to cause no net increase in toxic air contaminants, or criteria air pollutants for which state ambient air quality standards are specified, as compared to an existing and comparable biomass controlled combustion facility.

(2) The biomass conversion technology facility is not designed to produce hazardous waste, as defined in Section 40141, as a byproduct of the technology that remains a hazardous waste at the end of the production process, unless the hazardous waste is treated at the facility, in compliance with all applicable requirements, to render the hazardous waste nonhazardous.

(3) The biomass conversion technology facility will operate using a process to ensure that any hazardous waste generated by the facility is disposed of in accordance with state law and, as applicable, is consistent with the requirements of Section 25143.5 of the Health and Safety Code.

(e) A biomass conversion technology facility shall comply with this chapter in addition to all other applicable provisions of local, state, and federal law.

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

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.





Approved \_\_\_\_\_, 2013

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*Governor*