

Assembly Bill No. 381

CHAPTER 219

An act to amend Section 41850 of the Public Resources Code, relating to solid waste.

[Approved by Governor July 30, 1995. Filed with
Secretary of State July 31, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 381, Baca. Solid waste: diversion requirements.

Existing law, the California Integrated Waste Management Act of 1989, requires each city, county, and, if formed, each regional agency to develop a source reduction and recycling element and a household hazardous waste element. The act generally authorizes the California Integrated Waste Management Board, if the board finds that a city, county, or regional agency has failed to implement its source reduction and recycling element or its household hazardous waste element, to impose administrative civil penalties upon the city or county, or upon the city or county as a member of a regional agency, in an amount up to \$10,000 per day until the city, county, or regional agency implements the element.

The act requires the board, in determining whether or not to impose those penalties, to consider, among other things, the extent to which a city, county, or regional agency has made good faith efforts to implement its source reduction and recycling element or household hazardous waste element, and defines, for those purposes, "good faith efforts" as all reasonable and feasible efforts by a city, county, or regional agency to implement those programs or activities identified in its source reduction element or household hazardous waste element, or alternative programs or activities that achieve the same or similar results.

This bill would revise that definition of good faith efforts to also include the evaluation by a city, county, or regional agency of improved technology for the handling and management of solid waste that would reduce costs, improve efficiency in the collection, processing, or marketing of recyclable materials or yard waste, and enhance the ability of the city, county, or regional agency to meet the solid waste diversion requirements of the act, provided that certain other requirements of the act are satisfied.

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

SECTION 1. Section 41850 of the Public Resources Code is amended to read:

41850. (a) (1) Except as specifically provided in Section 41813, if, after holding the public hearing and issuing an order of compliance pursuant to Section 41825, the board finds that the city, county, or regional agency has failed to implement its source reduction and recycling element or its household hazardous waste element, the board may impose administrative civil penalties upon the city or county or, pursuant to Section 40974, upon the city or county as a member of a regional agency, of up to ten thousand dollars (\$10,000) per day until the city, county, or regional agency implements the element.

(b) In determining whether or not to impose any penalties, or in determining the amount of any penalties imposed under this section, including any penalties imposed due to the exclusion of solid waste pursuant to Section 41781.2 which results in a reduction in the quantity of solid waste diverted by a city, county, or regional agency, the board shall consider only those relevant circumstances which have prevented a city, county, or regional agency from meeting the requirements of this division, including the diversion requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780, including, but not limited to, all of the following:

(1) Natural disasters.

(2) Budgetary conditions within a city, county, or regional agency which could not be remedied by the imposition or adjustment of solid waste fees.

(3) Work stoppages which directly prevent a city, county, or regional agency from implementing its source reduction and recycling element or household hazardous waste element.

(c) In addition to the factors specified in subdivision (b), the board shall consider all of the following:

(1) (A) The extent to which a city, county, or regional agency has made good faith efforts to implement its source reduction and recycling element or household hazardous waste element.

(B) (i) For the purposes of this paragraph, “good faith efforts” means all reasonable and feasible efforts by a city, county, or regional agency to implement those programs or activities identified in its source reduction and recycling element or household hazardous waste element, or alternative programs or activities that achieve the same or similar results.

(ii) For purposes of this paragraph, “good faith efforts” may also include the evaluation by a city, county, or regional agency of improved technology for the handling and management of solid waste that would reduce costs, improve efficiency in the collection, processing, or marketing of recyclable materials or yard waste, and enhance the ability of the city, county, or regional agency to meet the diversion requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780, provided that the city, county, or regional agency has submitted a compliance schedule pursuant to Section 41825, and



has made all other reasonable and feasible efforts to implement the programs identified in its source reduction and recycling element or household hazardous waste element.

(2) The extent to which a city, county, or regional agency has implemented additional source reduction, recycling, and composting activities to comply with the diversion requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780.

(3) The extent to which a city, county, or regional agency is meeting the diversion requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780.

