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AMENDED IN ASSEMBLY MAY 5, 2011
AMENDED IN ASSEMBLY APRIL 6, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 341

Introduced by Assembly Member Chesbro
(Principal coauthor: Senator Padilla)
(Coauthors: Assembly Members Blumenfield and Williams)

February 10, 2011

An act to amend Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, to add Sections 40004, 41734.5, and 41780.01 to, and to add Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 341, as amended, Chesbro. Solid waste: diversion.

(1) 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 containing specified components, including a source reduction component, a recycling component, and a composting component. With certain exceptions, the source reduction and recycling element of that plan is required to divert 50% of all solid waste from landfill disposal or transformation by January 1, 2000, through source reduction, recycling, and composting activities.

This bill would require the department, on January 1, 2020, and annually thereafter, to ensure that *not less than 75%* of all solid waste generated is source reduced, recycled, or composted.

(2) Existing law requires a city, county, and city and county to incorporate the nondisposal facility element and any amendment to the element into the revised source reduction and recycling element at the time of the 5-year revision of the source reduction and recycling element. Existing law requires the department to review an amendment to a nondisposal facility element and requires a local task force to review and comment on amendments to a nondisposal facility element.

This bill would repeal those requirements. The bill would instead require a city, county, city and county, or regional agency to update all information required to be included in the nondisposal facility element. The bill would provide that the update is not subject to approval by the department or comment and review by a local task force.

(3) Existing law requires a local agency to impose certain requirements on an operator of a large venue or event to facilitate solid waste reduction, reuse, and recycling.

This bill would require the owner or operator of a business, defined to include a commercial or public entity; that contracts for solid waste services and generates more than 4 cubic yards of total solid waste per week or is a multifamily residential dwelling of 5 units or more to take specified action.

The bill would require a jurisdiction to implement a commercial solid waste recycling program meeting specified elements but would not require the jurisdiction to revise its source reduction and recycling element if the jurisdiction adds or expands a commercial solid waste recycling program to meet this requirement. The bill would authorize a local agency to charge and collect a fee from a commercial waste generator to recover the local agency's estimated costs incurred in complying with the commercial solid waste recycling program requirements. By requiring a jurisdiction to implement a commercial solid waste recycling program, this bill would impose a state-mandated local program.

The bill would require the department to review a jurisdiction's compliance with the above requirement as a part of the department's review of a jurisdiction's compliance with the 50% solid waste diversion requirement.

(4) Existing law requires each state agency to submit an annual report to the department summarizing its progress in reducing solid waste that is due on September 1 of each year starting in 2009.

This bill would change the due date to May 1 of each year.

(5) Existing law requires an operator of a solid waste facility that wants to change the design or operation of the solid waste facility in a manner not authorized by the current permit to apply for a revised permit. Within 60 days of receipt of the application for the revised permit, the enforcement agency is required to inform the operator, and in some circumstances the department, of its determination to allow the change without revision of the permit, disallow the change, require a revision of the permit to allow the change, or require review under the California Environmental Quality Act before a decision is made.

This bill would also require the enforcement agency to give notice of its determination to allow certain changes without a revision to the permit through a modification to the permit allowed by regulations developed by the department.

(6) 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. (a) The Legislature finds and declares both of
2 the following:

3 (1) Since the enactment of the California Integrated Waste
4 Management Act of 1989 (Division 30 (commencing with Section
5 40000) of the Public Resources Code), local governments and
6 private industries have worked jointly to create an extensive
7 material collection and recycling infrastructure and have
8 implemented effective programs to achieve a statewide diversion
9 rate above 50 percent.

10 (2) Although the state now leads the nation in solid waste
11 reduction and recycling, the state continues to dispose of more
12 than 40 million tons of solid waste each year, which is more than
13 the national average on a per capita basis. Additional efforts must

1 be undertaken to divert more solid waste from disposal in order
2 to conserve scarce natural resources.

3 (b) The Legislature further finds and declares all of the
4 following:

5 (1) Approximately 64 percent of the state’s solid waste disposal
6 is from commercial sources, including commercial, industrial,
7 construction, and demolition activities. In addition, 8 percent of
8 the state’s solid waste disposal is from multifamily residential
9 housing that is often collected along with the commercial waste
10 stream.

11 (2) The state’s local governments have made significant progress
12 in reducing the amount of solid waste disposal from single-family
13 residential sources that make up 28 percent of the state’s disposal,
14 but have faced more challenges in reducing disposal from the
15 commercial and multifamily sources.

16 (3) The disposal of recyclable materials in the commercial solid
17 waste stream prevents materials from circulating in the state
18 economy to produce jobs and new products. Reducing the disposal
19 of these materials will conserve landfill capacity and contribute
20 to a reduction in greenhouse gas emissions and climate change.

21 (4) The state has long been a national and international leader
22 in environmental stewardship efforts and mandating the diversion
23 of solid waste away from disposal. Bold environmental leadership
24 and a new approach are needed to divert commercial solid waste
25 away from disposal.

26 (5) By exercising a leadership role, the state will lead the
27 business community toward a future in which the environment
28 and the economy both grow stronger together by recycling
29 materials, which creates new jobs, instead of burying resources,
30 which exit the economy forever.

31 (6) By requiring commercial recycling, the state will help
32 businesses reduce costly disposal fees and reclaim valuable
33 resources.

34 SEC. 2. Section 40004 is added to the Public Resources Code,
35 to read:

36 40004. (a) The Legislature finds and declares all of the
37 following:

38 (1) Solid waste diversion and disposal reduction require the
39 availability of adequate solid waste processing and composting
40 capacity.

1 (2) The existing network of public and private solid waste
2 processing and composting facilities provides a net environmental
3 benefit to the communities served, and represents a valuable asset
4 and resource of this state, one that must be sustained and expanded
5 to provide the additional solid waste processing capacity that will
6 be required to achieve the additional solid waste diversion targets
7 expressed in Section 41780.01 and the commercial solid waste
8 recycling requirement expressed in Section 42649.

9 (3) The provisions in existing law that confer broad discretion
10 on local agencies to determine aspects of solid waste handling that
11 are of local concern have significantly contributed to the statewide
12 diversion rate exceeding 50 percent, and further progress toward
13 decreasing solid waste disposal requires that this essential element
14 of local control be preserved.

15 (b) It is the intent of the Legislature to encourage the
16 development of the additional solid waste processing and
17 composting capacity that is needed to meet state objectives for
18 decreasing solid waste disposal by identifying incentives for local
19 governments to locate and approve new or expanded facilities that
20 meet and exceed their capacity needs, and to recognize local
21 agencies that make significant contributions to the state's overall
22 solid waste reduction and recycling objectives through the siting
23 of facilities for the processing and composting of materials diverted
24 from the solid waste stream.

25 (c) By setting new commercial solid waste recycling
26 requirements in Section 42649, the Legislature does not intend to
27 limit a right afforded to local governments pursuant to Section
28 40059, or to modify or abrogate in any manner the rights of a local
29 government or solid waste enterprise with regard to a solid waste
30 handling franchise or contract.

31 SEC. 3. Section 41730 of the Public Resources Code is
32 amended to read:

33 41730. Except as provided in Section 41750.1, each city shall
34 prepare, adopt, and, except for a city and county, transmit to the
35 county in which the city is located a nondisposal facility element
36 that includes all of the information required by this chapter and
37 that is consistent with the implementation of a city source reduction
38 and recycling element adopted pursuant to this part. The
39 nondisposal facility element and any updates to the element shall

1 not be subject to the approval of the county and the majority of
2 cities with the majority of the population in the incorporated area.

3 SEC. 4. Section 41731 of the Public Resources Code is
4 amended to read:

5 41731. Except as provided in Section 41750.1, each county
6 shall prepare, adopt, and, except for a city and county, transmit to
7 the cities located in the county a nondisposal facility element that
8 includes all of the information required by this chapter and that is
9 consistent with the implementation of a county source reduction
10 and recycling element adopted pursuant to this part. The
11 nondisposal facility element and any updates to the element shall
12 not be subject to the approval of the majority of cities with the
13 majority of the population in the incorporated area.

14 SEC. 5. Section 41734 of the Public Resources Code is
15 amended to read:

16 41734. (a) (1) Prior to adopting a nondisposal facility element,
17 the city, county, or regional agency shall submit the element to
18 the task force created pursuant to Section 40950 for review and
19 comment.

20 (2) Prior to adopting a regional agency nondisposal facility
21 element, if the jurisdiction of the regional agency extends beyond
22 the boundaries of a single county, the regional agency shall submit
23 the element for review and comment to each task force created
24 pursuant to Section 40950 of each county within the jurisdiction
25 of the regional agency.

26 (b) Comments by the task force shall include an assessment of
27 the regional impacts of potential diversion facilities and shall be
28 submitted to the city, county, or regional agency and to the
29 department within 90 days of the date of receipt of the nondisposal
30 facility element for review and comment.

31 SEC. 6. Section 41734.5 is added to the Public Resources Code,
32 to read:

33 41734.5. (a) Once a nondisposal facility element has been
34 adopted, the city, county, or regional agency shall update all
35 information required to be included in the nondisposal facility
36 element, including, but not limited to, new information regarding
37 existing and new, or proposed, nondisposal facilities.

38 (b) Updates shall be provided to the department within 30 days
39 of any change in information.

1 (c) Copies of the updated information shall also be provided to
2 the local task force and shall be appended or otherwise added to
3 the nondisposal facility element.

4 (d) The local task force shall not be required to review and
5 comment on the updates to the nondisposal facility elements.

6 (e) Updates to the nondisposal facility elements are not subject
7 to approval by the department.

8 SEC. 7. Section 41735 of the Public Resources Code is
9 amended to read:

10 41735. (a) Notwithstanding Division 13 (commencing with
11 Section 21000), the adoption or update of a nondisposal facility
12 element shall not be subject to environmental review.

13 (b) Local agencies may impose a fee on project proponents to
14 fund their necessary and actual costs of preparing and approving
15 updates to nondisposal facility elements.

16 SEC. 8. Section 41736 of the Public Resources Code is
17 amended to read:

18 41736. It is not the intent of the Legislature to require cities
19 and counties to revise their source reduction and recycling elements
20 to comply with the requirements of this chapter.

21 SEC. 9. Section 41780.01 is added to the Public Resources
22 Code, to read:

23 41780.01. (a) On or before January 1, 2020, and annually
24 thereafter, the department shall ensure that *not less than 75 percent*
25 of solid waste generated is source reduced, recycled, or composted.

26 (b) *Notwithstanding subdivision (a), the department shall not*
27 *establish or enforce a diversion rate on a city or county that is*
28 *greater than the 50 percent diversion rate established pursuant to*
29 *Section 41780.*

30 SEC. 10. Section 41800 of the Public Resources Code is
31 amended to read:

32 41800. (a) Except as provided in subdivision (b), within 120
33 days from the date of receipt of a countywide or regional integrated
34 waste management plan that the department has determined to be
35 complete, or any element of the plan that the department has
36 determined to be complete, the department shall determine whether
37 the plan or element is in compliance with Article 2 (commencing
38 with Section 40050) of Chapter 1 of Part 1, Chapter 2 (commencing
39 with Section 41000), and Chapter 5 (commencing with Section

1 41750), and, based upon that determination, the department shall
2 approve, conditionally approve, or disapprove the plan or element.

3 (b) (1) Within 120 days from the date of receipt of a city,
4 county, or regional agency nondisposal facility element that the
5 department has determined to be complete, the department shall
6 determine whether the element that the department has determined
7 to be complete is in compliance with Chapter 4.5 (commencing
8 with Section 41730) and Article 1 (commencing with Section
9 41780) of Chapter 6, and, based upon that determination, the
10 department shall approve, conditionally approve, or disapprove
11 the element within that time period.

12 (2) In reviewing the element, the department shall:

13 (A) Not consider the estimated capacity of the facility or
14 facilities in the element unless the department determines that this
15 information is needed to determine whether the element meets the
16 requirements of Article 1 (commencing with Section 41780) of
17 Chapter 6.

18 (B) Recognize that individual facilities represent portions of
19 local plans or programs that are designed to achieve the diversion
20 requirements of Section 41780 and therefore may not arbitrarily
21 require new or expanded diversion at proposed facilities.

22 (C) Not disapprove an element that includes a transfer station
23 or other facility solely because the facility does not contribute
24 toward the jurisdiction’s efforts to comply with Section 41780.

25 (c) If the department does not act to approve, conditionally
26 approve, or disapprove an element that the department has
27 determined to be complete within 120 days, the department shall
28 be deemed to have approved the element.

29 SEC. 11. Chapter 12.8 (commencing with Section 42649) is
30 added to Part 3 of Division 30 of the Public Resources Code, to
31 read:

32
33 CHAPTER 12.8. RECYCLING OF COMMERCIAL SOLID WASTE
34

35 42649. (a) It is the intent of the Legislature to require
36 businesses to recycle solid waste that they generate.

37 (b) It is the intent of the Legislature to allow jurisdictions
38 flexibility in developing and maintaining commercial solid waste
39 recycling programs.

1 42649.1. For purposes of this chapter, the following terms
2 mean the following:

3 (a) “Business” means a commercial or public entity, including,
4 but not limited to, a firm, partnership, proprietorship, joint stock
5 company, corporation, or association that is organized as a
6 for-profit or nonprofit entity, or a multifamily residential dwelling.

7 (b) “Commercial waste generator” means a business subject to
8 subdivision (a) of Section 42649.2.

9 (c) “Self-hauler” means a business that hauls its own waste
10 rather than contracting for that service.

11 42649.2. (a) The owner or operator of a business that contracts
12 for solid waste services and generates more than four cubic yards
13 of total solid waste per week or is a multifamily residential
14 dwelling of five units or more shall arrange for recycling services,
15 consistent with state or local laws or requirements, including a
16 local ordinance or agreement, applicable to the collection, handling,
17 or recycling of solid waste, to the extent that these services are
18 offered and reasonably available from a local service provider.

19 (b) A commercial waste generator shall take either of the
20 following actions:

21 (1) Source separate specified recyclable materials from solid
22 waste and subscribe to a basic level of recycling service that
23 includes the collection of those recyclable materials or specific
24 provisions for authorized self-hauling.

25 (2) Subscribe to an alternative type of recycling service that
26 may include mixed waste processing that yields diversion results
27 comparable to source separation.

28 42649.3. (a) Each jurisdiction shall implement a commercial
29 solid waste recycling program appropriate for that jurisdiction
30 designed to divert solid waste from businesses subject to Section
31 426492, whether or not the jurisdiction has met the requirements
32 of Section 41780.

33 (b) If a jurisdiction already has a commercial solid waste
34 recycling program as one of its diversion elements that meets the
35 requirements of this section, it shall not be required to implement
36 a new or expanded commercial solid waste recycling program.

37 (c) The commercial solid waste recycling program shall be
38 directed at a commercial waste generator, as defined in subdivision
39 (b) of Section 42649.1, and may include, but is not limited to, any
40 of the following:

- 1 (1) Implementing a mandatory commercial solid waste recycling
2 policy or ordinance.
- 3 (2) Requiring a mandatory commercial solid waste recycling
4 program through a franchise contract or agreement.
- 5 (3) Requiring all commercial solid waste to go through a mixed
6 processing system that diverts material from disposal.
- 7 (d) The commercial solid waste recycling program shall include
8 education and outreach to businesses.
- 9 (e) The commercial solid waste recycling program may include
10 enforcement and monitoring provisions.
- 11 (f) The commercial solid waste recycling program may include
12 certification requirements for self-haulers.
- 13 (g) The department shall review a jurisdiction’s compliance
14 with this section as part of the department’s review required by
15 Section 41825.
- 16 42649.4. (a) If a jurisdiction adds or expands a commercial
17 solid waste recycling program to meet the requirements of Section
18 42649.3, the jurisdiction shall not be required to revise its source
19 reduction and recycling element, or obtain the department’s
20 approval pursuant to Article 1 (commencing with Section 41800)
21 of Chapter 7 of Part 1.
- 22 (b) If an addition or expansion of a jurisdiction’s commercial
23 solid waste recycling program is necessary, the jurisdiction shall
24 update in its annual report required pursuant to Section 41821.
- 25 42649.5. (a) This chapter does not limit the authority of a local
26 agency to adopt, implement, or enforce a local commercial solid
27 waste recycling requirement that is more stringent or
28 comprehensive than the requirements of this section or limit the
29 authority of a local agency in a county with a population of less
30 than 200,000 to require commercial solid waste recycling.
- 31 (b) This chapter does not modify, limit, or abrogate in any
32 manner any of the following:
 - 33 (1) A franchise granted or extended by a city, county, or other
34 local government agency.
 - 35 (2) A contract, license, or permit to collect solid waste
36 previously granted or extended by a city, county, or other local
37 government agency.
 - 38 (3) The existing right of a business to sell or donate its recyclable
39 materials.

1 42649.6. A local agency may charge and collect a fee from a
2 commercial waste generator in order to recover the local agency's
3 estimated costs incurred in complying with this chapter.

4 SEC. 12. Section 42926 of the Public Resources Code is
5 amended to read:

6 42926. (a) In addition to the information provided to the
7 department pursuant to Section 12167.1 of the Public Contract
8 Code, each state agency shall submit an annual report to the
9 department summarizing its progress in reducing solid waste as
10 required by Section 42921. The annual report shall be due on or
11 before May 1, 2012, and on or before May 1 in each subsequent
12 year. The information in this report shall encompass the previous
13 calendar year.

14 (b) Each state agency's annual report to the department shall,
15 at a minimum, include all of the following:

16 (1) Calculations of annual disposal reduction.

17 (2) Information on the changes in waste generated or disposed
18 of due to increases or decreases in employees, economics, or other
19 factors.

20 (3) A summary of progress made in implementing the integrated
21 waste management plan.

22 (4) The extent to which the state agency intends to utilize
23 programs or facilities established by the local agency for the
24 handling, diversion, and disposal of solid waste. If the state agency
25 does not intend to utilize those established programs or facilities,
26 the state agency shall identify sufficient disposal capacity for solid
27 waste that is not source reduced, recycled, or composted.

28 (5) Other information relevant to compliance with Section
29 42921.

30 (c) The department shall use, but is not limited to the use of,
31 the annual report in the determination of whether the agency's
32 integrated waste management plan needs to be revised.

33 SEC. 13. Section 44004 of the Public Resources Code is
34 amended to read:

35 44004. (a) An operator of a solid waste facility shall not make
36 a significant change in the design or operation of the solid waste
37 facility that is not authorized by the existing permit, unless the
38 change is approved by the enforcement agency, the change
39 conforms with this division and all regulations adopted pursuant

1 to this division, and the terms and conditions of the solid waste
2 facilities permit are revised to reflect the change.

3 (b) If the operator wishes to change the design or operation of
4 the solid waste facility in a manner that is not authorized by the
5 existing permit, the operator shall file an application for revision
6 of the existing solid waste facilities permit with the enforcement
7 agency. The application shall be filed at least 180 days in advance
8 of the date when the proposed modification is to take place unless
9 the 180-day time period is waived by the enforcement agency.

10 (c) The enforcement agency shall review the application to
11 determine all of the following:

12 (1) Whether the change conforms with this division and all
13 regulations adopted pursuant to this division.

14 (2) Whether the change requires review pursuant to Division
15 13 (commencing with Section 21000).

16 (d) Within 60 days from the date of the receipt of the application
17 for a revised permit, the enforcement agency shall inform the
18 operator, and if the enforcement agency is a local enforcement
19 agency, also inform the department, of its determination to do any
20 of the following:

21 (1) Allow the change without a revision to the permit.

22 (2) Allow the following changes without a revision to the permit
23 through a modification to the permit allowed pursuant to
24 regulations developed by the department:

25 (A) The proposed change is to allow a nondisposal facility to
26 increase the amount of solid waste that it may handle and that
27 increased amount is within the existing design capacity as described
28 in the facility's transfer processing report and review pursuant to
29 Division 13 (commencing with Section 21000).

30 (B) The proposed change is to allow a disposal facility to add
31 a nondisposal activity to the facility that will increase the amount
32 of solid waste that may be handled as described in the facility's
33 report of facility information and review pursuant to Division 13
34 (commencing with Section 21000).

35 (3) Disallow the change because it does not conform with the
36 requirements of this division or the regulations adopted pursuant
37 to this division.

38 (4) Require a revision of the solid waste facilities permit to
39 allow the change.

1 (5) Require review under Division 13 (commencing with Section
2 21000) before a decision is made.

3 (e) The operator has 30 days within which to appeal the decision
4 of the enforcement agency to the hearing panel, as authorized
5 pursuant to Article 2 (commencing with Section 44305) of Chapter
6 4. The enforcement agency shall provide notice of a hearing held
7 pursuant to this subdivision in the same manner as notice is
8 provided pursuant to subdivision (h).

9 (f) Under circumstances that present an immediate danger to
10 the public health and safety or to the environment, as determined
11 by the enforcement agency, the 180-day filing period may be
12 waived.

13 (g) (1) A permit revision is not required for the temporary
14 suspension of activities at a solid waste facility if the suspension
15 meets either of the following criteria:

16 (A) The suspension is for the maintenance or minor
17 modifications to a solid waste unit or to solid waste management
18 equipment.

19 (B) The suspension is for temporarily ceasing the receipt of
20 solid waste at a solid waste management facility and the owner or
21 operator is in compliance with all other applicable terms and
22 conditions of the solid waste facilities permit and minimum
23 standards adopted by the department.

24 (2) An owner or operator of a solid waste facility who
25 temporarily suspends operations shall remain subject to the closure
26 and postclosure maintenance requirements of this division and to
27 all other requirements imposed by federal law pertaining to the
28 operation of a solid waste facility.

29 (3) The enforcement agency may impose any reasonable
30 conditions relating to the maintenance of the solid waste facility,
31 environmental monitoring, and periodic reporting during the period
32 of temporary suspension. The department may also impose any
33 reasonable conditions determined to be necessary to ensure
34 compliance with applicable state standards.

35 (h) (1) (A) Before making its determination pursuant to
36 subdivision (d), the enforcement agency shall submit the proposed
37 determination to the department for comment and hold at least one
38 public hearing on the proposed determination. The enforcement
39 agency shall give notice of the hearing pursuant to Section 65091
40 of the Government Code, except that the notice shall be provided

1 to all owners of real property within a distance other than 300 feet
2 of the real property that is the subject of the hearing, if specified
3 in the regulations adopted by the department pursuant to
4 subdivision (i). The enforcement agency shall also provide notice
5 of the hearing to the department when it submits the proposed
6 determination to the department.

7 (B) The enforcement agency shall mail or deliver the notice
8 required pursuant to subparagraph (A) at least 10 days prior to the
9 date of the hearing to any person who has filed a written request
10 for the notice with a person designated by the enforcement agency
11 to receive these requests. The enforcement agency may charge a
12 fee to the requester in an amount that is reasonably related to the
13 costs of providing this service and the enforcement agency may
14 require each request to be annually renewed.

15 (C) The enforcement agency shall consider environmental justice
16 issues when preparing and distributing the notice to ensure that
17 the notice is concise and understandable for
18 limited-English-speaking populations.

19 (2) If the department comments pursuant to paragraph (1), the
20 department shall specify whether the proposed determination is
21 consistent with the regulation adopted pursuant to subdivision (i).

22 (i) (1) The department shall, to the extent resources are
23 available, adopt regulations that implement subdivision (h) and
24 define the term “significant change in the design or operation of
25 the solid waste facility that is not authorized by the existing
26 permit.”

27 (2) While formulating and adopting the regulations required
28 pursuant to paragraph (1), the department shall consider
29 recommendations of the Working Group on Environmental Justice
30 and the advisory group made pursuant to Sections 71113 and 71114
31 and the report required pursuant to Section 71115.

32 SEC. 14. Section 50001 of the Public Resources Code is
33 amended to read:

34 50001. (a) Except as provided by subdivision (b), after a
35 countywide or regional agency integrated waste management plan
36 has been approved by the Department of Resources Recycling and
37 Recovery pursuant to Division 30 (commencing with Section
38 40000), a person shall not establish or expand a solid waste facility,
39 as defined in Section 40194, in the county unless the solid waste
40 facility meets one of the following criteria:

1 (1) The solid waste facility is a disposal facility or a
2 transformation facility, the location of which is identified in the
3 countywide siting element or amendment to that element, which
4 has been approved pursuant to Section 41721.

5 (2) The solid waste facility is a facility that is designed to
6 recover for reuse or recycling at least 5 percent of the total volume
7 of material received by the facility, and that is ~~described~~ *identified*
8 in the nondisposal facility element that has been approved pursuant
9 to Section 41800 or is included in an update to that element.

10 (b) Solid waste facilities other than those specified in paragraphs
11 (1) and (2) of subdivision (a) shall not be required to comply with
12 the requirements of this section.

13 (c) The person or agency proposing to establish a solid waste
14 facility shall prepare and submit a site identification and description
15 of the proposed facility to the task force established pursuant to
16 Section 40950. Within 90 days after the site identification and
17 description is submitted to the task force, the task force shall meet
18 and comment on the proposed solid waste facility in writing. These
19 comments shall include, but are not limited to, the relationship
20 between the proposed solid waste facility and the implementation
21 schedule requirements of Section 41780 and the regional impact
22 of the facility. The task force shall transmit these comments to the
23 person or public agency proposing establishment of the solid waste
24 facility, to the county, and to all cities within the county. The
25 comments shall become part of the official record of the proposed
26 solid waste facility.

27 (d) The review and comment by the local task force shall not
28 be required for an update to a nondisposal facility element.

29 SEC. 15. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 a local agency or school district has the authority to levy service
32 charges, fees, or assessments sufficient to pay for the program or
33 level of service mandated by this act, within the meaning of Section
34 17556 of the Government Code.

O