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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 341**

**Introduced by Assembly Member Chesbro**

(Principal coauthor: Senator Padilla)

**(Coauthors: Assembly Members Blumenfield and Williams)**

February 10, 2011

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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, to add Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and to add and repeal Section 41780.02 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. The department is required to file an annual progress report with the Legislature by March 1 that includes specified information regarding the act.

This bill would make a legislative declaration that it is the policy goal of the state that not less than 75% of solid waste generated be source reduced, recycled, or composted by the year 2020, and would require the department, by January 1, 2014, to provide a report to the Legislature that provides strategies to achieve that policy goal and also includes other specified information and recommendations. The bill would allow the department to provide the report required by the bill the annual progress report if the combined report is submitted by January 1, 2014. The bill would repeal the report requirement on January 1, 2017.

(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 commercial~~ solid waste per week or is a multifamily residential dwelling of 5 units or more to ~~take specified action~~ *arrange for recycling services, on and after July 1, 2012.*

*The bill would also require a commercial waste generator to take specified actions with regard to recyclable materials.*

The bill would require a jurisdiction, *on and after July 1, 2012*, 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 *and would authorize the department to review a jurisdiction's compliance pursuant to a specified procedure.*

(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  
14 be undertaken to divert more solid waste from disposal in order  
15 to conserve scarce natural resources.

16 (b) The Legislature further finds and declares all of the  
17 following:

18 (1) Approximately 64 percent of the state's solid waste disposal  
19 is from commercial sources, including commercial, industrial,  
20 construction, and demolition activities. In addition, 8 percent of  
21 the state's solid waste disposal is from multifamily residential  
22 housing that is often collected along with the commercial waste  
23 stream.

24 (2) The state's local governments have made significant progress  
25 in reducing the amount of solid waste disposal from single-family  
26 residential sources that make up 28 percent of the state's disposal,  
27 but have faced more challenges in reducing disposal from the  
28 commercial and multifamily sources.

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

34 (4) The state has long been a national and international leader  
35 in environmental stewardship efforts and mandating the diversion  
36 of solid waste away from disposal. Bold environmental leadership  
37 and a new approach are needed to divert commercial solid waste  
38 away from disposal.

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

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

9 SEC. 2. Section 40004 is added to the Public Resources Code,  
10 to read:

11 40004. (a) The Legislature finds and declares all of the  
12 following:

13 (1) Solid waste diversion and disposal reduction require the  
14 availability of adequate solid waste processing and composting  
15 capacity.

16 (2) The existing network of public and private solid waste  
17 processing and composting facilities provides a net environmental  
18 benefit to the communities served, and represents a valuable asset  
19 and resource of this state, one that must be sustained and expanded  
20 to provide the additional solid waste processing capacity that will  
21 be required to achieve the additional solid waste diversion targets  
22 expressed in Section 41780.01 and the commercial solid waste  
23 recycling requirement expressed in Section 42649.

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

30 (b) It is the intent of the Legislature to encourage the  
31 development of the additional solid waste processing and  
32 composting capacity that is needed to meet state objectives for  
33 decreasing solid waste disposal by identifying incentives for local  
34 governments to locate and approve new or expanded facilities that  
35 meet and exceed their capacity needs, and to recognize local  
36 agencies that make significant contributions to the state's overall  
37 solid waste reduction and recycling objectives through the siting  
38 of facilities for the processing and composting of materials diverted  
39 from the solid waste stream.

1 (c) By setting new commercial solid waste recycling  
2 requirements in Section 42649, the Legislature does not intend to  
3 limit a right afforded to local governments pursuant to Section  
4 40059, or to modify or abrogate in any manner the rights of a local  
5 government or solid waste enterprise with regard to a solid waste  
6 handling franchise or contract.

7 SEC. 3. Section 41730 of the Public Resources Code is  
8 amended to read:

9 41730. Except as provided in Section 41750.1, each city shall  
10 prepare, adopt, and, except for a city and county, transmit to the  
11 county in which the city is located a nondisposal facility element  
12 that includes all of the information required by this chapter and  
13 that is consistent with the implementation of a city source reduction  
14 and recycling element adopted pursuant to this part. The  
15 nondisposal facility element and any updates to the element shall  
16 not be subject to the approval of the county and the majority of  
17 cities with the majority of the population in the incorporated area.

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

20 41731. Except as provided in Section 41750.1, each county  
21 shall prepare, adopt, and, except for a city and county, transmit to  
22 the cities located in the county a nondisposal facility element that  
23 includes all of the information required by this chapter and that is  
24 consistent with the implementation of a county source reduction  
25 and recycling element adopted pursuant to this part. The  
26 nondisposal facility element and any updates to the element shall  
27 not be subject to the approval of the majority of cities with the  
28 majority of the population in the incorporated area.

29 SEC. 5. Section 41734 of the Public Resources Code is  
30 amended to read:

31 41734. (a) (1) Prior to adopting a nondisposal facility element,  
32 the city, county, or regional agency shall submit the element to  
33 the task force created pursuant to Section 40950 for review and  
34 comment.

35 (2) Prior to adopting a regional agency nondisposal facility  
36 element, if the jurisdiction of the regional agency extends beyond  
37 the boundaries of a single county, the regional agency shall submit  
38 the element for review and comment to each task force created  
39 pursuant to Section 40950 of each county within the jurisdiction  
40 of the regional agency.

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

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

8 41734.5. (a) Once a nondisposal facility element has been  
9 adopted, the city, county, or regional agency shall update all  
10 information required to be included in the nondisposal facility  
11 element, including, but not limited to, new information regarding  
12 existing and new, or proposed, nondisposal facilities.

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

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

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

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

22 SEC. 7. Section 41735 of the Public Resources Code is  
23 amended to read:

24 41735. (a) Notwithstanding Division 13 (commencing with  
25 Section 21000), the adoption or update of a nondisposal facility  
26 element shall not be subject to environmental review.

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

30 SEC. 8. Section 41736 of the Public Resources Code is  
31 amended to read:

32 41736. It is not the intent of the Legislature to require cities  
33 and counties to revise their source reduction and recycling elements  
34 to comply with the requirements of this chapter.

35 SEC. 9. Section 41780.01 is added to the Public Resources  
36 Code, to read:

37 41780.01. (a) The Legislature hereby declares that it is the  
38 policy goal of the state that not less than 75 percent of solid waste  
39 generated be source reduced, recycled, or composted by the year  
40 2020, and annually thereafter.

1 (b) Notwithstanding subdivision (a), the department shall not  
2 establish or enforce a diversion rate on a city or county that is  
3 greater than the 50 percent diversion rate established pursuant to  
4 Section 41780.

5 SEC. 10. Section 41780.02 is added to the Public Resources  
6 Code, to read:

7 41780.02. (a) On or before January 1, 2014, the department  
8 shall submit a report to the Legislature that provides strategies to  
9 achieve the state’s policy goal that not less than 75 percent of solid  
10 waste generated be source reduced, recycled, or composted by the  
11 year 2020, and annually thereafter, pursuant to Section 41780.01.

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

13 (1) A review and update of the information required pursuant  
14 to subparagraph (A) of paragraph (4) of subdivision (c) of Section  
15 40507, with emphasis on new and emerging trends in resource  
16 management.

17 (2) Identification of problematic waste streams and sources and  
18 recommendations on handling those waste streams.

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

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

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

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

27 (7) Any other information or recommendations the department  
28 deems pertinent.

29 (c) The department may provide the report required pursuant  
30 to this section in conjunction with the report required pursuant to  
31 Section 40507 if the combined report is submitted on or before  
32 January 1, 2014.

33 (d) The department may hold public workshops to gather input  
34 from stakeholders.

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

37 (2) The report shall be submitted in compliance with Section  
38 9795 of the Government Code.

39 SEC. 11. Section 41800 of the Public Resources Code is  
40 amended to read:



1 41800. (a) Except as provided in subdivision (b), within 120  
2 days from the date of receipt of a countywide or regional integrated  
3 waste management plan that the department has determined to be  
4 complete, or any element of the plan that the department has  
5 determined to be complete, the department shall determine whether  
6 the plan or element is in compliance with Article 2 (commencing  
7 with Section 40050) of Chapter 1 of Part 1, Chapter 2 (commencing  
8 with Section 41000), and Chapter 5 (commencing with Section  
9 41750), and, based upon that determination, the department shall  
10 approve, conditionally approve, or disapprove the plan or element.

11 (b) (1) Within 120 days from the date of receipt of a city,  
12 county, or regional agency nondisposal facility element that the  
13 department has determined to be complete, the department shall  
14 determine whether the element that the department has determined  
15 to be complete is in compliance with Chapter 4.5 (commencing  
16 with Section 41730) and Article 1 (commencing with Section  
17 41780) of Chapter 6, and, based upon that determination, the  
18 department shall approve, conditionally approve, or disapprove  
19 the element within that time period.

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

21 (A) Not consider the estimated capacity of the facility or  
22 facilities in the element unless the department determines that this  
23 information is needed to determine whether the element meets the  
24 requirements of Article 1 (commencing with Section 41780) of  
25 Chapter 6.

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

30 (C) Not disapprove an element that includes a transfer station  
31 or other facility solely because the facility does not contribute  
32 toward the jurisdiction's efforts to comply with Section 41780.

33 (c) If the department does not act to approve, conditionally  
34 approve, or disapprove an element that the department has  
35 determined to be complete within 120 days, the department shall  
36 be deemed to have approved the element.

37 SEC. 12. Chapter 12.8 (commencing with Section 42649) is  
38 added to Part 3 of Division 30 of the Public Resources Code, to  
39 read:

1 CHAPTER 12.8. RECYCLING OF COMMERCIAL SOLID WASTE

2  
3 42649. (a) It is the intent of the Legislature to require  
4 businesses to recycle solid waste that they generate.

5 (b) It is the intent of the Legislature to allow jurisdictions  
6 flexibility in developing and maintaining commercial solid waste  
7 recycling programs.

8 (c) *It is the intent of the Legislature to reduce greenhouse gas*  
9 *emissions by diverting commercial solid waste to recycling efforts*  
10 *and to expand the opportunity for additional recycling services*  
11 *and recycling manufacturing facilities in California.*

12 42649.1. For purposes of this chapter, the following terms  
13 mean the following:

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

18 (b) “Commercial solid waste” has the same meaning as defined  
19 in Section 17225.12 of Title 14 of the California Code of  
20 Regulations.

21 ~~(b)~~

22 (c) “Commercial waste generator” means a business subject to  
23 subdivision (a) of Section 42649.2.

24 ~~(e)~~

25 (d) “Self-hauler” means a business that hauls its own waste  
26 rather than contracting for that service.

27 42649.2. (a) ~~The owner or operator of~~ *On and after July 1,*  
28 *2012, a business that contracts for solid waste services and*  
29 *generates more than four cubic yards of total commercial solid*  
30 *waste per week or is a multifamily residential dwelling of five*  
31 *units or more shall arrange for recycling services, consistent with*  
32 *state or local laws or requirements, including a local ordinance or*  
33 *agreement, applicable to the collection, handling, or recycling of*  
34 *solid waste, to the extent that these services are offered and*  
35 *reasonably available from a local service provider.*

36 (b) A commercial waste generator shall take ~~either~~ *at least one*  
37 *of the following actions:*

38 ~~(1) Source separate specified recyclable materials from solid~~  
39 ~~waste and subscribe to a basic level of recycling service that~~

1 ~~includes the collection of those recyclable materials or specific~~  
2 ~~provisions for authorized self-hauling.~~

3 (1) *Source separate recyclable materials from solid waste and*  
4 *subscribe to a basic level of recycling service that includes*  
5 *collection, self-hauling, or other arrangements for the pickup of*  
6 *the recyclable materials.*

7 (2) ~~Subscribe to an alternative type of a recycling service that~~  
8 ~~may include mixed waste processing that yields diversion results~~  
9 ~~comparable to source separation.~~

10 (c) *A property owner of a multifamily residential dwelling may*  
11 *require tenants to source separate their recyclable materials to*  
12 *aid in compliance with this section.*

13 42649.3. (a) ~~Each~~ *On and after July 1, 2012, each jurisdiction*  
14 *shall implement a commercial solid waste recycling program*  
15 *appropriate for that jurisdiction designed to divert commercial*  
16 *solid waste from businesses subject to Section 426492, whether*  
17 *or not the jurisdiction has met the requirements of Section 41780.*

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

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

26 (1) *Implementing a mandatory commercial solid waste recycling*  
27 *policy or ordinance.*

28 (2) *Requiring a mandatory commercial solid waste recycling*  
29 *program through a franchise contract or agreement.*

30 (3) *Requiring all commercial solid waste to go through a either*  
31 *a source separated or mixed processing system that diverts*  
32 *material from disposal.*

33 (d) ~~The commercial solid waste recycling program shall include~~  
34 ~~education and outreach to, outreach to, and monitoring of,~~  
35 ~~businesses. A jurisdiction shall notify a business if the business is~~  
36 ~~not in compliance with Section 42649.2.~~

37 (e) ~~The commercial solid waste recycling program may include~~  
38 ~~enforcement and monitoring provisions. enforcement provisions~~  
39 ~~that are consistent with a jurisdiction's authority, including a~~  
40 ~~structure for fines and penalties.~~

1 (f) The commercial solid waste recycling program may include  
2 certification requirements for self-haulers.

3 (g) The department shall review a jurisdiction's compliance  
4 with this section as part of the department's review required by  
5 Section 41825. *Each jurisdiction shall report the progress achieved*  
6 *in implementing its commercial recycling program, including*  
7 *education, outreach, identification, and monitoring, and if*  
8 *applicable, enforcement efforts, by providing updates in the annual*  
9 *report required by Section 41821.*

10 (h) *The department may also review whether a jurisdiction is*  
11 *in compliance with this section at any time that the department*  
12 *receives information that a jurisdiction has not implemented, or*  
13 *is not making a good faith effort to implement, a commercial*  
14 *recycling program.*

15 (i) *During its review pursuant to subdivision (g) or (h), the*  
16 *department shall determine whether each jurisdiction has made*  
17 *a good faith effort to implement its selected commercial recycling*  
18 *program. For purposes of this section, "good faith effort" means*  
19 *all reasonable and feasible efforts by a jurisdiction to implement*  
20 *its commercial recycling program. During its review, the*  
21 *department may include, but is not limited to, the following factors*  
22 *in its evaluation of a jurisdiction's good faith effort:*

23 (1) *The extent to which businesses have complied with Section*  
24 *42649.2, including information on the amount of disposal that is*  
25 *being diverted from the businesses, if available, and on the number*  
26 *of businesses that are subscribing to service.*

27 (2) *The recovery rate of the commercial waste from the material*  
28 *recovery facilities that are utilized by the businesses, all*  
29 *information, methods, and calculations, and any additional*  
30 *performance data, as requested by the department from the*  
31 *material recovery facilities pursuant to Section 18809.4 of Title*  
32 *14 of the California Code of Regulations.*

33 (3) *The extent to which the jurisdiction is conducting education*  
34 *and outreach to businesses.*

35 (4) *The extent to which the jurisdiction is monitoring businesses,*  
36 *and notifying those businesses that are out of compliance.*

37 (5) *The availability of markets for collected recyclables.*

38 (6) *Budgetary constraints.*

39 (7) *In the case of a rural jurisdiction, the effects of small*  
40 *geographic size, low population density, or distance to markets.*

1 42649.4. (a) If a jurisdiction adds or expands a commercial  
2 solid waste recycling program to meet the requirements of Section  
3 42649.3, the jurisdiction shall not be required to revise its source  
4 reduction and recycling element, or obtain the department's  
5 approval pursuant to Article 1 (commencing with Section 41800)  
6 of Chapter 7 of Part 1.

7 (b) If an addition or expansion of a jurisdiction's commercial  
8 solid waste recycling program is necessary, the jurisdiction shall  
9 update in its annual report required pursuant to Section 41821.

10 42649.5. (a) This chapter does not limit the authority of a local  
11 agency to adopt, implement, or enforce a local commercial solid  
12 waste recycling requirement that is more stringent or  
13 comprehensive than the requirements of this section or limit the  
14 authority of a local agency in a county with a population of less  
15 than 200,000 to require commercial solid waste recycling.

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

18 (1) A franchise granted or extended by a city, county, or other  
19 local government agency.

20 (2) A contract, license, or permit to collect solid waste  
21 previously granted or extended by a city, county, or other local  
22 government agency.

23 (3) The existing right of a business to sell or donate its recyclable  
24 materials.

25 42649.6. A local agency may charge and collect a fee from a  
26 commercial waste generator in order to recover the local agency's  
27 ~~estimated~~ costs incurred in complying with this chapter.

28 42649.7. *If the State Air Resources Board adopts regulations*  
29 *for commercial recycling prior to the effective date of the act of*  
30 *the 2011–12 Regular Session of the Legislature adding this section,*  
31 *those regulations shall be deemed to have been adopted by the*  
32 *department, and they shall be added to the department's*  
33 *regulations and deleted from the board's regulations as if it were*  
34 *a change without regulatory effect.*

35 SEC. 13. Section 42926 of the Public Resources Code is  
36 amended to read:

37 42926. (a) In addition to the information provided to the  
38 department pursuant to Section 12167.1 of the Public Contract  
39 Code, each state agency shall submit an annual report to the  
40 department summarizing its progress in reducing solid waste as

1 required by Section 42921. The annual report shall be due on or  
2 before May 1, 2012, and on or before May 1 in each subsequent  
3 year. The information in this report shall encompass the previous  
4 calendar year.

5 (b) Each state agency’s annual report to the department shall,  
6 at a minimum, include all of the following:

7 (1) Calculations of annual disposal reduction.

8 (2) Information on the changes in waste generated or disposed  
9 of due to increases or decreases in employees, economics, or other  
10 factors.

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

13 (4) The extent to which the state agency intends to utilize  
14 programs or facilities established by the local agency for the  
15 handling, diversion, and disposal of solid waste. If the state agency  
16 does not intend to utilize those established programs or facilities,  
17 the state agency shall identify sufficient disposal capacity for solid  
18 waste that is not source reduced, recycled, or composted.

19 (5) Other information relevant to compliance with Section  
20 42921.

21 (c) The department shall use, but is not limited to the use of,  
22 the annual report in the determination of whether the agency’s  
23 integrated waste management plan needs to be revised.

24 SEC. 14. Section 44004 of the Public Resources Code is  
25 amended to read:

26 44004. (a) An operator of a solid waste facility shall not make  
27 a significant change in the design or operation of the solid waste  
28 facility that is not authorized by the existing permit, unless the  
29 change is approved by the enforcement agency, the change  
30 conforms with this division and all regulations adopted pursuant  
31 to this division, and the terms and conditions of the solid waste  
32 facilities permit are revised to reflect the change.

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

- 1 (c) The enforcement agency shall review the application to  
2 determine all of the following:
- 3 (1) Whether the change conforms with this division and all  
4 regulations adopted pursuant to this division.
- 5 (2) Whether the change requires review pursuant to Division  
6 13 (commencing with Section 21000).
- 7 (d) Within 60 days from the date of the receipt of the application  
8 for a revised permit, the enforcement agency shall inform the  
9 operator, and if the enforcement agency is a local enforcement  
10 agency, also inform the department, of its determination to do any  
11 of the following:
- 12 (1) Allow the change without a revision to the permit.
- 13 (2) Allow the following changes without a revision to the permit  
14 through a modification to the permit allowed pursuant to  
15 regulations developed by the department:
- 16 (A) The proposed change is to allow a nondisposal facility to  
17 increase the amount of solid waste that it may handle and that  
18 increased amount is within the existing design capacity as described  
19 in the facility's transfer processing report and review pursuant to  
20 Division 13 (commencing with Section 21000).
- 21 (B) The proposed change is to allow a disposal facility to add  
22 a nondisposal activity to the facility that will increase the amount  
23 of solid waste that may be handled as described in the facility's  
24 report of facility information and review pursuant to Division 13  
25 (commencing with Section 21000).
- 26 (3) Disallow the change because it does not conform with the  
27 requirements of this division or the regulations adopted pursuant  
28 to this division.
- 29 (4) Require a revision of the solid waste facilities permit to  
30 allow the change.
- 31 (5) Require review under Division 13 (commencing with Section  
32 21000) before a decision is made.
- 33 (e) The operator has 30 days within which to appeal the decision  
34 of the enforcement agency to the hearing panel, as authorized  
35 pursuant to Article 2 (commencing with Section 44305) of Chapter  
36 4. The enforcement agency shall provide notice of a hearing held  
37 pursuant to this subdivision in the same manner as notice is  
38 provided pursuant to subdivision (h).
- 39 (f) Under circumstances that present an immediate danger to  
40 the public health and safety or to the environment, as determined

1 by the enforcement agency, the 180-day filing period may be  
2 waived.

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

6 (A) The suspension is for the maintenance or minor  
7 modifications to a solid waste unit or to solid waste management  
8 equipment.

9 (B) The suspension is for temporarily ceasing the receipt of  
10 solid waste at a solid waste management facility and the owner or  
11 operator is in compliance with all other applicable terms and  
12 conditions of the solid waste facilities permit and minimum  
13 standards adopted by the department.

14 (2) An owner or operator of a solid waste facility who  
15 temporarily suspends operations shall remain subject to the closure  
16 and postclosure maintenance requirements of this division and to  
17 all other requirements imposed by federal law pertaining to the  
18 operation of a solid waste facility.

19 (3) The enforcement agency may impose any reasonable  
20 conditions relating to the maintenance of the solid waste facility,  
21 environmental monitoring, and periodic reporting during the period  
22 of temporary suspension. The department may also impose any  
23 reasonable conditions determined to be necessary to ensure  
24 compliance with applicable state standards.

25 (h) (1) (A) Before making its determination pursuant to  
26 subdivision (d), the enforcement agency shall submit the proposed  
27 determination to the department for comment and hold at least one  
28 public hearing on the proposed determination. The enforcement  
29 agency shall give notice of the hearing pursuant to Section 65091  
30 of the Government Code, except that the notice shall be provided  
31 to all owners of real property within a distance other than 300 feet  
32 of the real property that is the subject of the hearing, if specified  
33 in the regulations adopted by the department pursuant to  
34 subdivision (i). The enforcement agency shall also provide notice  
35 of the hearing to the department when it submits the proposed  
36 determination to the department.

37 (B) The enforcement agency shall mail or deliver the notice  
38 required pursuant to subparagraph (A) at least 10 days prior to the  
39 date of the hearing to any person who has filed a written request  
40 for the notice with a person designated by the enforcement agency



1 to receive these requests. The enforcement agency may charge a  
2 fee to the requester in an amount that is reasonably related to the  
3 costs of providing this service and the enforcement agency may  
4 require each request to be annually renewed.

5 (C) The enforcement agency shall consider environmental justice  
6 issues when preparing and distributing the notice to ensure that  
7 the notice is concise and understandable for  
8 limited-English-speaking populations.

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

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

17 (2) While formulating and adopting the regulations required  
18 pursuant to paragraph (1), the department shall consider  
19 recommendations of the Working Group on Environmental Justice  
20 and the advisory group made pursuant to Sections 71113 and 71114  
21 and the report required pursuant to Section 71115.

22 SEC. 15. Section 50001 of the Public Resources Code is  
23 amended to read:

24 50001. (a) Except as provided by subdivision (b), after a  
25 countywide or regional agency integrated waste management plan  
26 has been approved by the Department of Resources Recycling and  
27 Recovery pursuant to Division 30 (commencing with Section  
28 40000), a person shall not establish or expand a solid waste facility,  
29 as defined in Section 40194, in the county unless the solid waste  
30 facility meets one of the following criteria:

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

35 (2) The solid waste facility is a facility that is designed to  
36 recover for reuse or recycling at least 5 percent of the total volume  
37 of material received by the facility, and that is identified in the  
38 nondisposal facility element that has been approved pursuant to  
39 Section 41800 or is included in an update to that element.

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

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

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

20 SEC. 16. No reimbursement is required by this act pursuant to  
21 Section 6 of Article XIII B of the California Constitution because  
22 a local agency or school district has the authority to levy service  
23 charges, fees, or assessments sufficient to pay for the program or  
24 level of service mandated by this act, within the meaning of Section  
25 17556 of the Government Code.