

Assembly Bill No. 341

Passed the Assembly September 8, 2011

Chief Clerk of the Assembly

Passed the Senate September 8, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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 in conjunction with 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 a business, defined to include a commercial or public entity, that generates more than 4 cubic yards of commercial solid waste per week or is a multifamily residential dwelling of 5 units or more to 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 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.

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

SECTION 1. (a) The Legislature finds and declares both of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) A review and update of the information required pursuant to subparagraph (A) of paragraph (4) of subdivision (c) of Section

40507, with emphasis on new and emerging trends in resource management.

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

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

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

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

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

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

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

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

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

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

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

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

(b) (1) Within 120 days from the date of receipt of a city, county, or regional agency nondisposal facility element that the department has determined to be complete, the department shall determine whether the element that the department has determined

to be complete is in compliance with Chapter 4.5 (commencing with Section 41730) and Article 1 (commencing with Section 41780) of Chapter 6, and, based upon that determination, the department shall approve, conditionally approve, or disapprove the element within that time period.

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

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

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

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

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

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

CHAPTER 12.8. RECYCLING OF COMMERCIAL SOLID WASTE

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

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

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

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

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

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

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

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

42649.2. (a) On and after July 1, 2012, a business that generates more than four cubic yards of commercial solid waste per week or is a multifamily residential dwelling of five units or more shall arrange for recycling services, consistent with state or local laws or requirements, including a local ordinance or agreement, applicable to the collection, handling, or recycling of solid waste, to the extent that these services are offered and reasonably available from a local service provider.

(b) A commercial waste generator shall take at least one of the following actions:

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

(2) Subscribe to a recycling service that may include mixed waste processing that yields diversion results comparable to source separation.

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

42649.3. (a) On and after July 1, 2012, each jurisdiction shall implement a commercial solid waste recycling program appropriate for that jurisdiction designed to divert commercial solid waste from businesses subject to Section 42649.2, whether or not the jurisdiction has met the requirements of Section 41780.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) The availability of markets for collected recyclables.

(6) Budgetary constraints.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Calculations of annual disposal reduction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The enforcement agency may impose any reasonable conditions relating to the maintenance of the solid waste facility,

environmental monitoring, and periodic reporting during the period of temporary suspension. The department may also impose any reasonable conditions determined to be necessary to ensure compliance with applicable state standards.

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

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

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

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

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

(2) While formulating and adopting the regulations required pursuant to paragraph (1), the department shall consider recommendations of the Working Group on Environmental Justice

and the advisory group made pursuant to Sections 71113 and 71114 and the report required pursuant to Section 71115.

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

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

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

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

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

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

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

SEC. 16. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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.

Approved _____, 2011

Governor