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AB-1857 Solid waste. (2021-2022)

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Date Published: 09/19/2022 02:00 PM

Assembly Bill No. 1857

CHAPTER 342

An act to amend Sections 41780, 41780.05, 41783.1, and 42510 of, to add Sections 42999.5 and 42999.7 to, and to repeal Sections 41783, 41784, and 41786 of, the Public Resources Code, relating to solid waste.

[Approved by Governor September 16, 2022. Filed with Secretary of State September 16, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1857, Cristina Garcia. Solid waste.

(1) The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally regulates the disposal, management, and recycling of solid waste. The act requires a city, county, or city and county, or regional agency formed under the act, to develop a source reduction and recycling element of an integrated waste management plan containing specified components. The act requires those jurisdictions to divert 50% of the solid waste subject to the element, except as specified, through source reduction, recycling, and composting activities. The act allows the 50% diversion requirement to include not more than 10% through transformation, as defined, if specified conditions are met.

This bill would repeal the provision authorizing the inclusion of not more than 10% of the diversion through transformation. Because the bill would require local agencies to revise the source reduction and recycling elements of their integrated waste management plans, this bill would impose a state-mandated local program.

(2) The act authorizes the department, under specified conditions, to reduce the diversion requirements for a city or county that, before January 1, 1990, disposed of 75% or more of its solid waste by transformation.

This bill would repeal that authorization.

(3) Existing law requires the department, upon appropriation by the Legislature, to administer a grant program to provide financial assistance to promote in-state development of infrastructure, food waste prevention, or other projects to reduce organic waste or process organic and other recyclable materials into new, value-added products. Existing law establishes certain methane emissions reductions goals, including a 75% reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025 to reduce the landfill disposal of organics.

This bill would require the department, upon appropriation by the Legislature, to establish and administer the Zero-Waste Equity Grant Program as a competitive grant program to support targeted strategies and investments in communities transitioning to a zero-waste circular economy. The bill would require the department to provide grants to eligible zero-waste projects, as described.

(4) This bill would also require the department, in consultation with the California Workforce Development Board and the Department of Industrial Relations to submit policy recommendations to the Legislature on how to increase job opportunities and improve labor standards and worker pay related to the zero-waste job sector.

(5) This bill would also make other conforming changes.

(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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 41780 of the Public Resources Code is amended to read:

41780. (a) Each jurisdiction's source reduction and recycling element shall include an implementation schedule that shows both of the following:

(1) For the initial element, the jurisdiction shall divert 25 percent of all solid waste by January 1, 1995, through source reduction, recycling, and composting activities.

(2) For the first and each subsequent revision of the element, the jurisdiction shall divert 50 percent of all solid waste on and after January 1, 2000, through source reduction, recycling, and composting activities.

(b) This section does not prohibit a jurisdiction from implementing source reduction, recycling, and composting activities designed to exceed the requirements of this division.

SEC. 2. Section 41780.05 of the Public Resources Code is amended to read:

41780.05. (a) After January 1, 2009, pursuant to the review authorized by Section 41825, the department shall determine each jurisdiction's compliance with Section 41780 for the years commencing with January 1, 2007, by comparing each jurisdiction's change in its per capita disposal rate in subsequent years with the equivalent per capita disposal rate that would have been necessary for the jurisdiction to meet the requirements of Section 41780 on January 1, 2007, as calculated pursuant to subdivisions (c) and (d).

(b) (1) For purposes of paragraph (5) of subdivision (e) of Section 41825, in making a determination whether a jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, the department shall consider, but is not limited to the consideration of, the jurisdiction's per capita disposal rate and whether the jurisdiction adequately implemented its diversion programs.

(2) When determining whether a jurisdiction has made a good faith effort pursuant to Section 41825 to implement its source reduction and recycling element or its household hazardous waste element, the department shall consider that an increase in the per capita disposal rate is the result of the amount of the jurisdiction's disposal increasing faster than the jurisdiction's growth. The department shall use this increase in the per capita disposal rate that is in excess of the equivalent per capita disposal rate as a factor in determining whether the department is required, pursuant to Section 41825, to more closely examine a jurisdiction's program implementation efforts. This examination may indicate that a jurisdiction is required to expand existing programs or implement new programs, in accordance with the procedures specified in Article 4 (commencing with Section 41825) and in Article 5 (commencing with Section 41850).

(3) When reviewing the level of program implementation pursuant to Sections 41825 and 41850, the department shall use, as a factor in determining compliance with Section 41780, the amount determined pursuant to subdivision (d) when comparing a jurisdiction's per capita disposal rate in subsequent years.

(c) (1) (A) Except as otherwise provided in this subdivision, for purposes of this section, "per capita disposal" or "per capita disposal rate" means the total annual disposal, in pounds, from a jurisdiction divided by the total population in a jurisdiction, as reported by the Department of Finance, divided by 365 days.

(B) "Per capita disposal" does not include used tires or waste tires, as defined in Article 1 (commencing with Section 42800) of Chapter 16 of Part 3, that are converted at an EMSW conversion facility.

(C) "Per capita disposal" does not include biomass material, as defined in subdivision (a) of Section 40106, that is converted at an EMSW conversion facility.

(2) (A) If a jurisdiction is predominated by commercial or industrial activities and by solid waste generation from those sources, the department may alternatively calculate per capita disposal to reflect those differing conditions.

(B) When making a calculation for a jurisdiction subject to this paragraph, "per capita disposal" or "per capita disposal rate" means the total annual disposal, in pounds, from a jurisdiction divided by total industry employment in a jurisdiction, as reported by the Employment Development Department, divided by 365 days.

(C) The department shall calculate the per capita disposal rate for a jurisdiction subject to this paragraph using the level of industry employment in a jurisdiction instead of the level of population in a jurisdiction.

(3) If the department determines that the method for calculating the per capita disposal rate for a jurisdiction provided by paragraph (1) or (2) does not accurately reflect that jurisdiction's disposal reduction, the department may use an alternative per capita factor, other than population or industry employment, to calculate the per capita disposal rate that more accurately reflects the jurisdiction's efforts to divert solid waste.

(d) The department shall calculate the equivalent per capita disposal rate for each jurisdiction as follows:

(1) Except as otherwise provided in this subdivision, the equivalent per capita disposal rate for a jurisdiction shall be determined using the method specified in this paragraph.

(A) The calculated generation tonnage for each year from 2003 to 2006, inclusive, shall be multiplied by 0.5 to yield the 50 percent equivalent disposal total for each year.

(B) The 50 percent equivalent disposal total for each year shall be multiplied by 2,000, divided by the population of the jurisdiction in that year, and then divided by 365 to yield the 50 percent equivalent per capita disposal for each year.

(C) The four 50 percent equivalent per capita disposal amounts from the years 2003 to 2006, inclusive, shall be averaged to yield the equivalent per capita disposal rate.

(2) If a jurisdiction is predominated by commercial or industrial activities and by solid waste generation from those sources, the department may alternatively calculate the equivalent per capita disposal rate to reflect those conditions by using the level of industry employment in a jurisdiction instead of the level of population in that jurisdiction.

(3) If the department determines that the method for calculating the equivalent per capita disposal rate for a jurisdiction pursuant to this subdivision does not accurately reflect a jurisdiction's per capita disposal rate that would be equivalent to the amount required to meet the 50 percent diversion requirements of Section 41780, the department may use an alternative per capita factor, other than population or industry employment, to calculate the equivalent per capita disposal rate that more accurately reflects the jurisdiction's diversion efforts.

(4) The department shall modify the percentage used in paragraph (1) to maintain the diversion requirements approved by the department for a rural jurisdiction pursuant to Section 41787.

(5) The department may modify the years included in making a calculation pursuant to this subdivision for an individual jurisdiction to eliminate years in which the calculated generation amount is shown not to be representative or accurate, based upon a generation study completed in one of the five years 2003 to 2007, inclusive. In these cases, the department shall not allow the use of an additional year other than 2003, 2004, 2005, 2006, or 2007.

(6) The department may modify the method of calculating the equivalent per capita disposal rate for an individual jurisdiction to accommodate the incorporation of a new city, the formation of a new regional agency, or changes in membership of an existing regional agency. These modifications shall ensure that a new entity has a new equivalent per capita disposal rate and that the existing per capita disposal rate of an existing entity is adjusted to take into account the disposal amounts lost by the creation of the new entity.

(7) The department shall not incorporate generation studies or new base year calculations for a year commencing after 2006 into the equivalent per capita disposal rate, unless a generation study that included the year 2007 was commenced on or before June 30, 2008.

(8) If the department determines that the equivalent per capita disposal rate cannot accurately be determined for a jurisdiction, or that the rate is no longer representative of a jurisdiction's waste stream, the department shall evaluate trends in the jurisdiction's per capita disposal to establish a revised equivalent per capita disposal rate for that jurisdiction.

SEC. 3. Section 41783 of the Public Resources Code is repealed.

SEC. 4. Section 41783.1 of the Public Resources Code is amended to read:

41783.1. For any city, county, or regional agency source reduction and recycling element submitted to the department after January 1, 1995, the 50 percent diversion requirement specified in paragraph (2) of subdivision (a) of Section 41780 may include not more than 10 percent through biomass conversion if all of the following conditions are met:

- (a) The biomass conversion project exclusively processes biomass.
- (b) The biomass conversion project is in compliance with all applicable air quality laws, rules, and regulations.
- (c) The ash or other residue from the biomass conversion project is regularly tested to determine if it is hazardous waste and, if it is determined to be hazardous waste, the ash or other residue is sent to a class 1 hazardous waste disposal facility.
- (d) The department determines, at a public hearing, based upon substantial evidence in the record, that the city, county, or regional agency is, and will continue to be, effectively implementing all feasible source reduction, recycling, and composting measures.
- (e) The city, county, or regional agency does not include transformation in its source reduction and recycling element.

SEC. 5. Section 41784 of the Public Resources Code is repealed.

SEC. 6. Section 41786 of the Public Resources Code is repealed.

SEC. 7. Section 42510 of the Public Resources Code is amended to read:

42510. It is the intent of the Legislature that actions taken by the department and cities and counties pursuant to this article serve in the best interests of cities and counties by preserving existing disposal site capacity and providing a source of revenue from the stabilization and expansion of markets for processed wood waste materials. Actions taken pursuant to this article shall be separate from, and not be counted toward, the diversion requirements established pursuant to paragraphs (1) and (2) of subdivision (a) of Section 41780.

SEC. 8. Section 42999.5 is added to the Public Resources Code, to read:

42999.5. (a) The department shall, upon appropriation by the Legislature, establish and administer the Zero-Waste Equity Grant Program as a competitive grant program to support targeted strategies and investments in communities transitioning to a zero-waste circular economy.

(b) Within a year of the appropriation, the department shall conduct at least two public workshops. After conducting the two public workshops, the department shall prepare and adopt guidelines and procedures for evaluating competitive grant applications. The department shall provide an online virtual option for participation in the public workshops. The department shall provide a 30-day notice for each public workshop and consult with interested parties, including affected residents, cities, counties, solid waste haulers, and nonprofit organizations in developing guidelines and procedures.

(c) Entities eligible for grants include any combination of the following:

- (1) Local public agencies.
- (2) Cities or counties.
- (3) Nonprofit organizations.
- (4) Qualifying tribal entities.

(d) In evaluating a grant application, the department shall prioritize communities most impacted by transformation or that contribute to significant amounts of transformation. In doing so, the department shall consider the following:

- (1) A community's proximity to a transformation facility that was in operation on January 1, 2018.
- (2) The potential amount of solid waste that is expected to be diverted from transformation facilities through the proposed project.
- (3) A community's proximity to an EMSW facility.

(e) The funding appropriated for the Zero-Waste Equity Grant Program shall be used to fund programs that result in the reuse, repair, and sharing of goods and materials, including, but not limited to, the following:

- (1) Projects that promote the recovery and exchange of household goods, food, clothing, and building materials, such as resource recovery parks.
- (2) Projects that repair and extend the life of products, such as electronics, textiles, and furniture.
- (3) Projects that facilitate the use and sharing of infrequently used items, such as tools, equipment, books, and other household items.

(4) Projects that promote reusable containers and package-free products and stores.

(f) Grants shall not be provided pursuant to this section for a project that will result in combustion, incineration, energy generation, and fuel production, or any other form of disposal, as defined in subdivision (b) of Section 40192.

(g) (1) No later than six months after the conclusion of the funding cycle, the department shall post on its internet website and submit to the Legislature a report on all eligible zero-waste projects funded, including the amount awarded to each project and estimated amount of waste diverted from transformation facilities and landfills by each project, and opportunities for further investments in local zero-waste strategies in communities seeking to reduce their reliance on transformation facilities and landfills.

(2) A report submitted to the Legislature pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(h) The department shall not expend more than 5 percent for administrative costs annually related to the Zero-Waste Equity Grant Program.

SEC. 9. Section 42999.7 is added to the Public Resources Code, to read:

42999.7. Within two years of the appropriation by the Legislature for the Zero-Waste Equity Grant Program, the department, in consultation with the California Workforce Development Board and the Department of Industrial Relations shall submit policy recommendations to the Legislature on how to increase job opportunities and improve labor standards and worker pay related to the zero-waste job sector, including apprenticeship and job training programs that promote industry-recognized skills and credentials, and career technical education, and identify occupational hazards.

SEC. 10. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.