

AMENDED IN SENATE MARCH 23, 2020

SENATE BILL

No. 1191

Introduced by Senator Dahle

February 20, 2020

An act to ~~add Section~~ *amend Sections 42652 and 42652.5 of, and to add Sections 42652.6 and 42652.7 to* the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 1191, as amended, Dahle. Organic waste: reduction goals: local ~~jurisdictions: noncompliance and penalties:~~ *jurisdictions.*

Existing law requires the State Air Resources Board to complete, approve, and implement a comprehensive strategy to reduce emissions of short-lived climate pollutants in the state to achieve, among other things, a reduction in the statewide emissions of methane by 40%. Existing law requires methane emissions reduction goals to include specified targets to reduce the landfill disposal of organics.

Existing law requires the Department of Resources Recycling and Recovery, in consultation with the state board, to adopt regulations that achieve those targets for reducing organic waste in landfills that may include, among other things, different levels of requirements for local jurisdictions and phased timelines based upon their progress in meeting the organic waste reduction goals, and penalties to be imposed by the department for noncompliance. Existing law requires, no later than July 1, 2020, the department, in consultation with the state board, to analyze the progress that the waste sector, state government, and local governments have made in achieving the specified targets for reducing organic waste in landfills.

This bill would require the department, upon request by a local jurisdiction, to issue a waiver from a requirement imposed pursuant to those regulations to separate and recover food waste and food-soiled paper for all or part of the local jurisdiction where there are or could be public safety issues associated with food waste collection as a result of nearby bear populations. The bill would establish an alternative organic waste management program that a local jurisdiction may comply with instead of those regulations until specified dates. The bill would require a local jurisdiction that chooses to implement an alternative organic waste management program to submit a notification to the department that contains specified information, including a statement by a representative, attested to under penalty of perjury, that all information contained in the notification is true and correct to the best of the representative's knowledge and belief. By expanding the existing crime of perjury, the bill would impose a state-mandated local program.

This bill would require the department, in determining whether or not to issue a compliance order or impose a penalty on a local jurisdiction pursuant to those ~~provisions~~, *regulations*, or in determining the amount of any penalties imposed pursuant to those ~~provisions~~, *regulations*, to consider specified information, including whether a local jurisdiction has made a good faith effort to implement its organic waste reduction program and whether any of specified factors affected the local jurisdiction's ability to implement its organic waste reduction program or otherwise comply with those ~~provisions~~, *regulations*, as provided.

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: ~~no~~-yes.

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

- 1 *SECTION 1. Section 42652 of the Public Resources Code is*
- 2 *amended to read:*
- 3 42652. The Legislature finds and declares all of the following:

1 (a) The organic disposal reduction targets are essential to
2 achieving the statewide recycling goal identified in Section
3 41780.01.

4 (b) Achieving organic waste disposal reduction targets requires
5 significant ~~investment~~ *investment, including state resources*, to
6 develop organics recycling capacity.

7 (c) More robust state and local funding mechanisms are needed
8 to support the expansion of organics recycling capacity.

9 *SEC. 2. Section 42652.5 of the Public Resources Code is*
10 *amended to read:*

11 42652.5. (a) The department, in consultation with the State
12 Air Resources Board, shall adopt regulations to achieve the organic
13 waste reduction goals for 2020 and 2025 established in Section
14 39730.6 of the Health and Safety Code. The regulations shall
15 comply with all of the following:

16 (1) May require local jurisdictions to impose requirements on
17 generators or other relevant entities within their jurisdiction and
18 may authorize local jurisdictions to impose penalties on generators
19 for noncompliance.

20 (2) Shall include requirements intended to meet the goal that
21 not less than 20 percent of edible food that is currently disposed
22 of is recovered for human consumption by 2025.

23 (3) Shall not establish a numeric organic waste disposal limit
24 for individual landfills.

25 (4) May include different levels of requirements for local
26 jurisdictions and phased timelines based upon their progress in
27 meeting the organic waste reduction goals for 2020 and 2025
28 established in Section 39730.6 of the Health and Safety Code. The
29 department shall base its determination of progress on relevant
30 factors, including, but not limited to, reviews conducted pursuant
31 to Section 41825, the amount of organic waste disposed compared
32 to the 2014 level, per capita disposal rates, the review required by
33 Section 42653, and other relevant information provided by a
34 jurisdiction.

35 (5) May include penalties to be imposed by the department for
36 noncompliance. If penalties are included, they shall not exceed
37 the amount authorized pursuant to Section 41850.

38 (6) Shall take effect on or after January 1, 2022, except the
39 imposition of penalties pursuant to paragraph (1) shall not take
40 effect until two years after the effective date of the regulations.

1 (b) A local jurisdiction may charge and collect fees to recover
2 the local jurisdiction's costs incurred in complying with the
3 regulations adopted pursuant to this section.

4 (c) (1) *Upon request by a local jurisdiction, the department*
5 *shall issue a waiver from a requirement imposed pursuant to this*
6 *section to separate and recover food waste and food-soiled paper*
7 *for all or part of the jurisdiction where there are or could be public*
8 *safety issues associated with food waste collection as a result of*
9 *nearby bear populations. Residential and small commercial*
10 *generators within an area granted a waiver pursuant to this*
11 *subdivision may deposit food waste and food-soiled paper in a*
12 *municipal solid waste disposal container.*

13 (2) *A local jurisdiction requesting a waiver shall provide to the*
14 *department information about nearby bear populations and the*
15 *number of generators that will be included in the waiver.*

16 (3) *Nothing in this subdivision exempts a local jurisdiction from*
17 *obligations to provide collection services for other types of organic*
18 *waste.*

19 SEC. 3. *Section 42652.6 is added to the Public Resources Code,*
20 *to read:*

21 42652.6. (a) *Recognizing the economic and logistical*
22 *challenges of organic waste recycling in rural counties with low*
23 *population densities and counties with low populations, it is the*
24 *intent of the Legislature in enacting this section to establish a*
25 *temporary alternative compliance pathway for rural and*
26 *low-population counties and rural jurisdictions to provide organic*
27 *waste management programs. The Legislature finds and declares*
28 *that this section is intended to incentivize rural communities and*
29 *low-population counties to implement robust organic waste*
30 *programs that minimize organic waste being landfilled while*
31 *providing additional flexibility to achieve organic waste diversion*
32 *objectives.*

33 (b) *A local jurisdiction that complies with the requirements of*
34 *this section is exempt from the requirements imposed by this*
35 *chapter and its implementing regulations. The authority for a local*
36 *jurisdiction to implement an alternative organic waste management*
37 *program under this section as an alternative to complying with*
38 *this chapter and its implementing regulations shall expire as*
39 *follows:*

1 (1) January 1, 2028, for counties with populations of at least
2 70,000 but less than 250,000.

3 (2) January 1, 2035, for rural counties and rural jurisdictions,
4 as those terms are defined in Section 42649.8.

5 (3) A local jurisdiction listed in paragraph (1) or (2) may obtain
6 a one-time three-year extension of the date specified in paragraph
7 (1) or (2), as applicable, by submitting a request to the department
8 with an explanation of efforts undertaken and of barriers that
9 require additional time for compliance and receiving approval
10 from the department.

11 (c) If a local jurisdiction elects to implement an alternative
12 organic waste management program pursuant to this section, it
13 shall do all of the following:

14 (1) Implement the CALGreen Building Standards (Part 11
15 (commencing with Section 101) of Title 24 of the California Code
16 of Regulations) and the Model Water Efficient Landscape
17 Ordinance (Chapter 2.7 (commencing with Section 490) of Division
18 2 of Title 23 of the California Code of Regulations).

19 (2) Form an edible food recovery task force, which may include
20 representatives from the county social services department, the
21 county environmental health department, food banks, businesses,
22 nongovernmental organizations, churches, and other organizations,
23 that develops a plan to meet a goal that not less than 20 percent
24 of edible food that is currently disposed of in the jurisdiction being
25 recovered for human consumption by 2025.

26 (3) At least two of the following:

27 (A) Form a feed recovery for animals collaboration to increase
28 the diversion of organic materials for animal feed. This
29 collaboration may include, but is not limited to, representatives
30 from various interest groups such as the Department of Food and
31 Agriculture, the University of California Cooperative Extension
32 farm advisors, a cattlemen's association, agricultural associations,
33 Future Farmers of America, and 4H. A collaboration shall report
34 its actions and progress to the jurisdiction.

35 (B) Form a backyard and community composting collaboration
36 to increase the use of small-scale composting in order to reduce
37 organic waste, including food waste. This collaboration may
38 include, but is not limited to, representatives from solid waste
39 management organizations, the Department of Food and
40 Agriculture, the University of California Cooperative Extension

1 *farm advisors, Master Gardener programs, Future Farmers of*
2 *America, and schools. A collaboration shall report its actions and*
3 *progress to the jurisdiction.*

4 *(C) Form a regional collaboration with other local jurisdictions*
5 *to explore shared opportunities for new regional organic waste*
6 *facilities and markets. The collaboration shall report its actions*
7 *and progress to the participating jurisdictions.*

8 *(4) Develop and provide green waste collection opportunities*
9 *commensurate with the jurisdiction's needs and capabilities.*

10 *(5) Conduct public education and outreach for the adopted*
11 *program, which may include any of the following:*

12 *(A) Methods for the prevention of organic waste generation,*
13 *recycling organic waste onsite, sending organic waste to*
14 *community composting, and any other available organic waste*
15 *programs.*

16 *(B) Information regarding the methane reduction benefits of*
17 *reducing the disposal of organic waste.*

18 *(C) Information related to the public health and safety and*
19 *environmental impacts associated with the disposal of organic*
20 *waste.*

21 *(D) Information regarding programs for the donation of edible*
22 *food.*

23 *(d) A local jurisdiction that chooses to implement an alternative*
24 *organic waste management program under this section shall notify*
25 *the department of that decision by January 1, 2022. The notification*
26 *shall include all of the following information:*

27 *(1) The name of the jurisdiction.*

28 *(2) The date the jurisdiction will implement the alternative*
29 *organic waste management program.*

30 *(3) Contact information for the jurisdiction, including the name,*
31 *address, and telephone number of the representative of the*
32 *jurisdiction with primary responsibility for ensuring compliance*
33 *with this chapter.*

34 *(4) The location within the jurisdiction where all records*
35 *required by this chapter are maintained.*

36 *(5) A statement by the representative specified in paragraph*
37 *(3), attested to under penalty of perjury, that all information*
38 *contained in the notification is true and correct to the best of the*
39 *representative's knowledge and belief.*

1 SECTION 1.

2 SEC. 4. Section 42652.7 is added to the Public Resources Code,
3 to read:

4 42652.7. In determining whether or not to issue a compliance
5 order or impose a penalty on a local jurisdiction pursuant to this
6 chapter, or in determining the amount of any penalties imposed
7 pursuant to this chapter, the department shall consider both of the
8 following:

9 (a) (1) Whether a local jurisdiction has made a good faith effort
10 to implement its organic waste reduction program, which shall
11 include consideration of all of the following:

12 (A) Natural disasters.

13 (B) Budgetary constraints.

14 (C) Work stoppages.

15 (D) Failure of federal, state, or other local agencies located
16 within the local jurisdiction to implement organic waste reduction
17 and recycling programs.

18 (E) The availability of markets for collected organic waste
19 recyclables.

20 (F) The extent to which the local jurisdiction has taken steps
21 that are under its control to remove barriers to siting and expanding
22 organic waste recycling facilities.

23 (G) The extent to which the local jurisdiction has implemented
24 additional organic waste reduction, recycling, and composting
25 activities.

26 (H) The median household income of households within the
27 local jurisdiction.

28 (2) For purposes of this subdivision, “good faith effort” means
29 all reasonable and feasible efforts by a local jurisdiction to
30 implement this chapter.

31 (b) Whether any of the following factors affected the local
32 jurisdiction’s ability to implement its organic waste reduction
33 program or otherwise comply with the requirements of this chapter:

34 (1) Whether an exceptional growth rate may have affected
35 compliance.

36 (2) Whether the local jurisdiction has a large tourist or seasonal
37 population.

38 (3) Whether an emergency, disaster, or loss of electricity
39 affected the local jurisdiction.

1 (4) Other information presented by the local jurisdiction that
2 may provide reasonable justification.

3 *SEC. 5. No reimbursement is required by this act pursuant to*
4 *Section 6 of Article XIII B of the California Constitution because*
5 *the only costs that may be incurred by a local agency or school*
6 *district will be incurred because this act creates a new crime or*
7 *infraction, eliminates a crime or infraction, or changes the penalty*
8 *for a crime or infraction, within the meaning of Section 17556 of*
9 *the Government Code, or changes the definition of a crime within*
10 *the meaning of Section 6 of Article XIII B of the California*
11 *Constitution.*