



AB-939 Solid waste management, source reduction, recycling, composting, and market development. (1989-1990)

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Assembly Bill No. 939

CHAPTER 1095

An act to amend Section 11553 of, and to repeal Chapter 1 (commencing with Section 66700) of, Chapter 2 (commencing with Section 66770) of, Article 1 (commencing with Section 66795), Article 2 (commencing with Section 66796.30), Article 3 (commencing with Section 66796.45), Article 4 (commencing with Section 66796.50), Article 5 (commencing with Section 66796.55), Article 6 (commencing with Section 66796.64), Article 7 (commencing with Section 66796.70), Article 8 (commencing with Section 66796.80), and Article 9 (commencing with Section 66798) of, Chapter 3 of, and Chapter 4 (commencing with Section 66799) of, Title 7.3 of, the Government Code, to repeal Chapter 1 (commencing with Section 4100), Chapter 1.5 (commencing with Section 4170), Chapter 2 (commencing with Section 4200), Chapter 2.5 (commencing with Section 4250), Chapter 2.6 (commencing with Section 4260), Chapter 2.7 (commencing with Section 4270), and Chapter 3 (commencing with Section 4300) of Part 2 of Division 5 of the Health and Safety Code, and to add Division 30 (commencing with Section 40000) to, and to repeal Section 46811 of, the Public Resources Code, and to amend Sections 45002, 45009, 45051, 45101, 45151, 45855, 45901, 45981, and 45982 of the Revenue and Taxation Code, relating to solid waste.

[Filed with Secretary of State September 30, 1989. Approved by Governor September 29, 1989.]

LEGISLATIVE COUNSEL'S DIGEST

AB 939, Sher. Solid waste management, source reduction, recycling, composting, and market development.

(1) Existing law, generally, regulates the disposal of solid waste.

This bill would enact the California Integrated Solid Waste Management Act of 1989, as discussed below.

(2) Existing law provides for the California Waste Management Board, consisting of 9 members.

This bill would repeal that provision and, instead, provide for the California Integrated Waste Management and Recycling Board, consisting of 6 full-time members. The bill would provide for transfer of the duties, staff, and funds to that board. The bill would provide for the appointment, salaries, terms, and duties of the board.

(3) Existing law requires counties and cities to prepare waste management plans and to permit, inspect, and regulate solid waste handling and disposal facilities.

This bill would repeal and recast those provisions of law and would revise the requirements for the solid waste management plans, among other things, designating them countywide integrated waste management plans, thereby imposing a state-mandated local program. The bill would revise the duties relating to permits, inspection, and

regulation of solid waste facilities, as specified and would specify the duties of the board. The bill would delete the exemption in existing law which exempts counties and cities from liability for failure to provide services or for actions and omissions of solid waste enterprises. The bill would impose a state-mandated local program by changing the definitions of crimes.

The bill would provide for permit fees, disposal fees, and other charges levied by the board and the State Board of Equalization, and the bill would require that revenue be deposited in the Solid Waste Management Fund, which would be created by the bill, to pay, upon appropriation by the Legislature, for the regulation of solid waste facilities, as defined.

The bill would authorize, upon appropriation therefor by the Legislature in the Budget Act, as specified, the use by the board of \$600,000 in the 1989–90 fiscal year and \$1,200,000 in the 1990–91 fiscal year, from the Solid Waste Disposal Site Cleanup and Maintenance Account in the General Fund for specified startup costs. The funds would be a loan, which would be required to be repaid with specified interest, as fee revenue becomes available.

The bill would make related changes.

(4) 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 specified reasons.

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

SECTION 1. Section 11553 of the Government Code is amended to read:

11553. Effective July 1, 1984, an annual salary of sixty-five thousand dollars (\$65,000) will be paid to each of the following:

- (a) Chairperson of the Unemployment Insurance Appeals Board.
- (b) Chairperson of the Agricultural Labor Relations Board.
- (c) President of the Public Utilities Commission.
- (d) Chairperson of the Fair Political Practices Commission.
- (e) Chairperson of the Energy Resources Conservation and Development Commission.
- (f) Chairperson of the Public Employment Relations Board.
- (g) Chairperson of the Workers' Compensation Appeals Board.
- (h) Administrative Director of the Division of Industrial Accidents.
- (i) Chairperson of the State Water Resources Control Board.
- (j) Member of the California Integrated Waste Management and Recycling Board.

On July 1, the annual compensation provided by this section shall be increased in any fiscal year in which a cost-of-living increase is provided for state employees. The amount of the increase provided by this section shall be determined by multiplying the then current compensation by the percentage of the general cost-of-living salary increases provided for state employees during that fiscal year.

SEC. 3. Chapter 1 (commencing with Section 66700) of Title 7.3 of the Government Code is repealed.

SEC. 4. Chapter 2 (commencing with Section 66770) of Title 7.3 of the Government Code is repealed.

SEC. 5. Article 1 (commencing with Section 66795) of Chapter 3 of Title 7.3 of the Government Code is repealed.

SEC. 6. Article 2 (commencing with Section 66796.30) of Chapter 3 of Title 7.3 of the Government Code is repealed.

SEC. 7. Article 3 (commencing with Section 66796.45) of Chapter 3 of Title 7.3 of the Government Code is repealed.

SEC. 8. Article 4 (commencing with Section 66796.50) of Chapter 3 of Title 7.3 of the Government Code is repealed.

SEC. 9. Article 5 (commencing with Section 66796.55) of Chapter 3 of Title 7.3 of the Government Code is repealed.

SEC. 10. Article 6 (commencing with Section 66796.64) of Chapter 3 of Title 7. 3 of the Government Code is repealed.

SEC. 11. Article 7 (commencing with Section 66796.70) of Chapter 3 of Title 7. 3 of the Government Code is repealed.

SEC. 12. Article 8 (commencing with Section 66796.80) of Chapter 3 of Title 7. 3 of the Government Code is repealed.

SEC. 13. Article 9 (commencing with Section 66798) of Chapter 3 of Title 7.3 of the Government Code is repealed.

SEC. 14. Chapter 4 (commencing with Section 66799) of Title 7.3 of the Government Code is repealed.

SEC. 15. Chapter 1 (commencing with Section 4100) of Part 2 of Division 5 of the Health and Safety Code is repealed.

SEC. 16. Chapter 1.5 (commencing with Section 4170) of Part 2 of Division 5 of the Health and Safety Code is repealed.

SEC. 17. Chapter 2 (commencing with Section 4200) of Part 2 of Division 5 of the Health and Safety Code is repealed.

SEC. 18. Chapter 2.5 (commencing with Section 4250) of Part 2 of Division 5 of the Health and Safety Code is repealed.

SEC. 19. Chapter 2.6 (commencing with Section 4260) of Part 2 of Division 5 of the Health and Safety Code is repealed.

SEC. 20. Chapter 2.7 (commencing with Section 4270) of Part 2 of Division 5 of the Health and Safety Code is repealed.

SEC. 21. Chapter 3 (commencing with Section 4300) of Part 2 of Division 5 of the Health and Safety Code is repealed.

SEC. 22. Division 30 (commencing with Section 40000) is added to the Public Resources Code, to read:

DIVISION 30. WASTE MANAGEMENT

PART 1. INTEGRATED WASTE MANAGEMENT

CHAPTER 1. General Provisions

Article 1. Findings and Declarations

40000. The Legislature hereby finds and declares, as follows:

(a) In 1988, Californians disposed of over 38 million tons of solid waste, an amount which is expected to grow if existing solid waste policies are continued. This amounts to more than 2,500 pounds of waste per person living in the state, more than any other state in the country and over twice the per-capita rate of most other industrialized counties.

(b) Over 90 percent of California's solid waste currently is disposed of in landfills, some of which pose a threat to groundwater, air quality, and public health.

(c) While California will exhaust most of its remaining landfill space by the mid-1990's, there presently is no coherent state policy to ensure that the state's solid waste is managed in an effective and environmentally sound manner for the remainder of the 20th century and beyond.

(d) The amount of solid waste generated in the state coupled with diminishing landfill space and potential adverse environmental impacts from landfilling constitutes an urgent need for state and local agencies to enact and implement an aggressive new integrated waste management program.

40001. The Legislature declares that the responsibility for solid waste management is a shared responsibility between the state and local governments. The state shall exercise its legal authority in a manner that ensures an effective and coordinated approach to the safe management of all solid waste generated within the state and shall oversee the design and implementation of local integrated waste management plans.

40002. As an essential part of the state's comprehensive program for solid waste management, and for the preservation of health and safety, and the well-being of the public, the Legislature declares that it is in the public interest for the state, as sovereign, to authorize and require local agencies, as subdivisions of the state, to make adequate provision for solid waste handling, both within their respective jurisdictions and in response to regional needs consistent with the policies, standards, and requirements of this division and all regulations adopted pursuant to this division. The provisions of this division which authorize and require local agencies to provide adequate solid waste handling and services, and the actions of local agencies taken pursuant thereto, are intended to implement this state policy.

40003. Nothing in this division abrogates, limits, or otherwise affects the duties of the Department of Conservation under the California Beverage Container Recycling and Litter Reduction Act, Division 12.1 (commencing with Section 14500).

Article 2. General Provisions

40050. This division shall be known and may be cited as the California Integrated Waste Management Act of 1989.

40051. In implementing this division, the board and local agencies shall do both of the following:

(a) Promote the following waste management practices in order of priority:

(1) Source reduction.

(2) Recycling and composting.

(3) Environmentally safe transformation and environmentally safe land disposal, at the discretion of the city or county.

(b) Maximize the use of all feasible source reduction, recycling, and composting options in order to reduce the amount of solid waste that must be disposed of by transformation and land disposal. For wastes that cannot feasibly be reduced at their source, recycled, or composted, the local agency may use environmentally safe transformation or environmentally safe land disposal, or both of those practices.

40052. The purpose of this division is to reduce, recycle, and reuse solid waste generated in the state to the maximum extent feasible, to improve regulation of existing solid waste landfills, to ensure that new solid waste landfills are environmentally sound, to streamline permitting procedures for solid waste management facilities, and to specify the responsibilities of local governments to develop and implement integrated waste management programs.

40053. This division, or any rules or regulations adopted pursuant thereto, is not a limitation on the power of a city, county, or district to impose and enforce reasonable land use conditions or restrictions on solid waste management facilities in order to prevent or mitigate potential nuisances, if the conditions or restrictions do not conflict with or impose lesser requirements than the policies, standards, and requirements of this division and all regulations adopted pursuant to this division.

40054. This division, or any rules or regulations adopted pursuant thereto, is not a limitation on the power of the Attorney General, on the request of the board, the state water board, a regional water board, or upon his or her own motion, to bring an action in the name of the people of the State of California to enjoin any health hazard, pollution, or nuisance.

40055. (a) This division, or any rules or regulations adopted pursuant thereto, is not a limitation on the power of any state agency in the enforcement or administration of any provision of law which it is specifically authorized or required to enforce or administer, including, but not limited to, the exercise by the state water board or the regional water boards of any of their powers and duties pursuant to Division 7 (commencing with Section 13000) of the Water Code, the exercise by the State Department of Health Services of any of its powers and duties pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, and the exercise by the State Air Resources Board or any air pollution control district or air quality management district of any of its powers and duties pursuant to Part 3 (commencing with Section 40000) of Division 26 of the Health and Safety Code.

(b) The exercise of authority under this division, including, but not limited to, the adoption of regulations, plans, permits, or standards or any enforcement actions shall not duplicate or be in conflict with any determination relating to water quality control made by the state water board or regional water boards.

(c) Any plans, permits, standards, or corrective action taken under this division shall incorporate, as a condition of the action, any applicable waste discharge requirements issued by the state water board or a regional water board, and shall be consistent with all applicable water quality control plans adopted pursuant to Section 13170, and

Article 3 (commencing with Section 13240) of Chapter 4 of Division 7, of the Water Code and the state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code existing at the time of the action or proposed action.

40056. This division, or any rules or regulations adopted pursuant thereto, is not a limitation on the right of any person to commence and maintain at any time any appropriate action for relief against a nuisance as defined in the Civil Code.

40057. Each county, city, district, or other local governmental agency which provides solid waste handling services shall provide for those services, including, but not limited to, source reduction, recycling, composting activities, and the collection, transfer, and disposal of solid waste within or without the territory subject to its solid waste handling jurisdiction.

40058. The solid waste handling services shall be provided for by one or any combination of the following:

- (a) The furnishing of the services by the local agency itself.
- (b) The furnishing of the services by another local agency.
- (c) The furnishing of the services by a solid waste enterprise.

40059. (a) Notwithstanding any other provision of law, each county, city, district, or other local governmental agency may determine all of the following:

(1) Aspects of solid waste handling which are of local concern, including, but not limited to, frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location, and extent of providing solid waste handling services.

(2) Whether the services are to be provided by means of nonexclusive franchise, contract, license, permit, or otherwise, either with or without competitive bidding, or if, in the opinion of its governing body, the public health, safety, and well-being so require, by partially exclusive or wholly exclusive franchise, contract, license, permit, or otherwise, either with or without competitive bidding. The authority to provide solid waste handling services may be granted under terms and conditions prescribed by the governing body of the local governmental agency by resolution or ordinance.

(b) Nothing in this division modifies or abrogates in any manner any franchise previously granted or extended by any county or other local governmental agency.

CHAPTER 2. Definitions

40100. Unless the context otherwise requires, the definitions in this article govern the construction of this division.

40105. "Authorized recycling agent" means a person that a local governing body or private commercial entity authorizes or contracts with to collect its recyclable waste material. An authorized recycling agency may be a municipal collection service, private refuse hauler, private recycling enterprise, or private nonprofit corporation or association.

40110. "Board" means the California Integrated Waste Management Board.

40115. "City" or "county" includes city and county.

40116. "Compost" means the product resulting from the controlled biological decomposition of organic wastes that are source separated from the municipal solid waste stream.

40120. "Designated recycling collection location" means the place where an authorized recycling agent has contracted with either the local governing body or a private entity to pick up recyclable material segregated from other waste material. "Designated recycling collection location" includes, but is not limited to, the curbside of a residential neighborhood or the service alley of a commercial enterprise.

40121. "Disposal facility" or "facility" means any facility or location where disposal of solid waste occurs.

40122. "Disposal site" or "site" includes the place, location, tract of land, area, or premises in use, intended to be used, or which has been used for the landfill disposal of solid wastes. "Disposal site" includes solid waste landfill, as defined in Section 46027.

40123. "Disposal site owner" means the person who holds title to the property used as a disposal site after January 1, 1977.

40130. "Enforcement agency" means the local agency designated pursuant to Article 1 (commencing with Section 43200) of Chapter 2 of Part 4 for the purpose of carrying out this division, or the board if no designation of a local agency has been approved by the board.

40131. "Enforcement program" means the regulations and procedures adopted by the board pursuant to Chapter 2 (commencing with Section 43200) of Part 4.

40140. "Hazard" includes any condition, practice, or procedure which is or may be dangerous, harmful, or perilous to employees, property, neighbors, or the general public.

40141. (a) "Hazardous waste" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may do either of the following:

- (1) Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.
- (2) Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed.
- (b) Unless expressly provided otherwise, "hazardous waste" includes extremely hazardous waste and acutely hazardous waste.

40150. "Local governing body" means the legislative body of the city, county, or special district which has authority to provide solid waste handling services.

40160. "Operator" means the person to whom the approval to operate a disposal site, transfer or processing station, or collection system is granted.

40170. "Person" includes an individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

40171. "Pollution" means the condition caused by the presence in or on a body of water, soil, or air of any solid waste or substance derived therefrom in such quantity, of such nature and duration, or under such condition that the quality, appearance, or usefulness of the water, soil, land, or air is significantly degraded or adversely altered.

40172. "Processing" means the reduction, separation, recovery, conversion, or recycling of solid waste.

40180. "Recycle" or "recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. "Recycling" does not include transformation, as defined in Section 40201.

40181. "Regional planning agency" means any of the following:

- (a) An agency organized pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.
- (b) A regional planning district formed pursuant to Chapter 2 (commencing with Section 65060) of Division 1 of Title 7 of the Government Code.
- (c) A joint area planning commission formed pursuant to Section 65101 of the Government Code.
- (d) Any agency established by a legislative act and recognized by the Office of Planning and Research as performing general environmental and resources planning for any region of the state.

40182. "Regional water board" means a California regional water quality control board.

40190. "Segregated from other waste material" means any of the following:

- (a) The placement of recyclable materials in separate containers.
- (b) The binding of recyclable material separately from the other waste material.
- (c) The physical separation of recyclable material from other waste material.

40191. (a) Except as provided in subdivision (b), "solid waste" means all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes.

(b) "Solid waste" does not include hazardous waste.

40192. "Solid waste disposal" or "disposal" means the final deposition of solid wastes onto land, into the atmosphere, or into the waters of the state.

40193. "Solid waste enterprise" means any individual, partnership, joint venture, unincorporated private organization, or private corporation, which is regularly engaged in the business of providing solid waste handling services.

40194. "Solid waste facility" includes a disposal facility, a disposal site, and a solid waste transfer or processing station.

40195. "Solid waste handling" or "handling" means the collection, transportation, storage, transfer, or processing of solid wastes.

40196. "Source reduction" means any action which causes a net reduction in the generation of solid waste. "Source reduction" includes, but is not limited to, reducing the use of nonrecyclable materials, replacing disposable materials and products with reusable materials and products, reducing packaging, reducing the amount of yard wastes generated, establishing garbage rate structures with incentives to reduce the amount of wastes that generators produce, and increasing the efficiency of the use of paper, cardboard, glass, metal, plastic, and other materials in the manufacturing process. "Source reduction" does not include steps taken after the material becomes solid waste or actions which would impact air or water resources in lieu of land, including, but not limited to, transformation.

40197. "State water board" means the State Water Resources Control Board.

40200. (a) "Transfer or processing station" or "station" includes those facilities utilized to receive solid wastes, temporarily store, separate, convert, or otherwise process the materials in the solid wastes, or to transfer the solid wastes directly from smaller to larger vehicles for transport, and those facilities utilized for transformation.

(b) "Transfer or processing station" or "station" does not include any of the following:

- (1) A facility, whose principal function is to receive, store, separate, convert, or otherwise process in accordance with state minimum standards, manure.
- (2) A facility, whose principal function is to receive, store, convert, or otherwise process wastes which have already been separated for reuse and are not intended for disposal.
- (3) The operations premises of a duly licensed solid waste handling operator who receives, stores, transfers, or otherwise processes wastes as an activity incidental to the conduct of a refuse collection and disposal business in accordance with regulations adopted pursuant to Section 43309.

40201. "Transformation" means incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. "Transformation" does not include composting.

CHAPTER 3. Integrated Waste Management and Recycling Board

Article 1. Membership, Terms, and Removal

40400. There is in the Resources Agency the California Integrated Waste Management Board. Any reference in any law or regulation to the State Solid Waste Management Board or the California Waste Management Board shall hereafter apply to the California Integrated Waste Management Board.

40401. The board shall consist of the following members:

- (a) One member appointed by the Governor who has private sector experience in the solid waste industry.
- (b) One member appointed by the Governor who has served as an elected or appointed official of a nonprofit environmental protection organization whose principal purpose is to promote recycling and the protection of air and water quality.
- (c) Two members appointed by the Governor who shall represent the public.
- (d) One member appointed by the Senate Committee on Rules who shall represent the public.
- (e) One member appointed by the Speaker of the Assembly who shall represent the public.

40402. Except the member appointed pursuant to subdivision (a) of Section 40401 or any person who formerly served as a member of a city council or as a county supervisor, no person shall be a member of the board if that person has received more than 10 percent of his or her income in the two years before the appointment to the board, directly or indirectly, from a person or entity subject to regulation by the board.

40403. No board member may derive any earned income directly or indirectly, from a person or from an entity subject to regulation by the board or from any organization which actively participates in matters before the board.

40404. (a) The members of the board shall represent the state at large and not any particular area of the state and shall serve full time.

(b) Except as provided in Section 40406 for specified members of the initial board and the member of the board who succeeds the initial member described in paragraph (3) of subdivision (b) of Section 40406, the appointments to the board made by the Governor shall be subject to confirmation by the Senate in accordance with Article 2 (commencing with Section 1770) of Chapter 4 of Division 4 of Title 1 of the Government Code.

40405. The chairperson of the board shall be elected by a majority of the board members. The member appointed pursuant to subdivision (a) or (b) of Section 40401 shall not serve as chairperson.

40406. (a) Except as provided for the initial board in subdivision (b), each member of the board shall be appointed for a term of four years. A vacancy shall be filled by the appointing power for the unexpired portion of the term in which it occurs.

(b) The term of the initial member of the board are as follows:

- (1) The term of the initial member appointed pursuant to subdivision (a) of Section 40401 ends on January 1, 1992.
- (2) The term of the initial member appointed pursuant to subdivision (b) of Section 40401 ends on January 1, 1993.
- (3) The term of one of the initial members appointed pursuant to subdivision (c) of Section 40401 ends on January 1, 1996.
- (4) The term of one of the initial members appointed pursuant to subdivision (c) of Section 40401 ends on January 1, 1997.
- (5) The term of the initial member appointed pursuant to subdivision (d) of Section 40401 ends on January 1, 1995.
- (6) The term of the initial members appointed pursuant to subdivision (e) of Section 40401 is January 1, 1994.

(c) Notwithstanding subdivision (b) of Section 40404, the initial members appointed by the Governor pursuant to subdivision (c) of Section 40401 are not subject to confirmation by the Senate.

(d) The Governor shall appoint the initial members appointed pursuant to subdivisions (a) and (b) of Section 40401 and transmit the appointment on or before July 1, 1990. The Senate shall confirm or refuse to confirm the appointments made pursuant to subdivision (a) or (b), or both, on or before a date which is 90 days after receipt of the notice of appointment.

(e) If the Senate refuses or fails to confirm the appointments pursuant to subdivision (d), the Governor, on or before a date which is within 20 days after that refusal or failure, shall appoint another person and transmit the appointment and the Senate shall confirm or refuse to confirm that appointment on or before a date which is 90 days after receipt of the notice of appointment.

(f) If the Senate takes no action to confirm or refuse to confirm an appointment pursuant to subdivision (d) or (e) on or before January 1, 1991, that appointment is deemed confirmed.

40407. The board shall elect a vice chairperson from its members.

40408. The annual salary of the members of the board is provided for by Chapter 6 (commencing at Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code. Each member of the board shall also receive necessary traveling and other expenses incurred in the performance of his or her official duties out of appropriations made for the support of the board.

40410. (a) Each member of the board shall have one vote. Except as provided in Section 40450, the affirmative vote of at least four members shall be required for the transaction of any business of the board.

(b) A vacancy in the board shall not impair the right of the remaining members to exercise all the powers of the board, and four members of the board shall at all times constitute a quorum.

40411. (a) No member of the board shall participate in any board action or attempt to influence any decision or recommendation by any employee of or consultant to the board which involves himself or herself or which involves any entity with which the member is connected as a director, officer, consultant, or full- or part-time employee, or in which the member has a direct personal financial interest within the meaning of Section 87100 of the Government Code.

(b) No board member shall participate in any proceeding before any agency as a consultant or in any other capacity on behalf of any solid waste handler or any organization which actively participates in matters before the board.

(c) For a period of 12 months after leaving office, a former board member shall not act as agent or attorney for, or otherwise represent, any other person before the board by making any formal or informal appearance or by making any oral or written communication to the board.

40412. (a) For the purposes of this section, "ex parte communication" means any oral or written communication concerning matters, other than purely procedural issues, about a matter under the board's jurisdiction which is subject to a rollcall vote pursuant to Section 40466.

(b) No board member or any person, excepting a staff member acting in his or her official capacity, who intends to influence the decision of a board member on a matter before the board, shall conduct an ex parte communication, except as follows:

(1) If an ex parte communication occurs, the board member shall notify the interested party that a full disclosure of the ex parte communication shall be entered in the board's record.

(2) Communications cease to be ex parte communications when the board member or the person who engaged in the communication with the board member fully discloses the communication and requests in writing that it be placed in the board's official record of the proceeding.

40413. Any person who violates Section 40411 or 40112 is punishable by a fine of not more than fifty thousand dollars (\$50,000) or by imprisonment for not more than one year in the county jail or in the state prison, or by both that fine and imprisonment.

40414. Upon request of any person or on his or her own initiative, the Attorney General may file a complaint in the superior court for the county in which the board has its principal office alleging that a board member has knowingly violated Section 40403, 40411, or 40412 and the facts upon which the allegation is based and asking that the member be removed from office. Further proceedings shall be in accordance, as near as may be, with rules governing civil actions. If, after trial, the court finds that the board member has knowingly violated any of those sections, it shall pronounce judgment that the member be removed from office.

Article 2. Staff

40430. The board shall appoint a chief executive officer exempt from civil service laws who shall administer the functions of the board. The board shall prescribe the duties and fix the salary of the chief executive officer.

40431. The board may appoint legal counsel, clerical and secretarial employees, technical personnel, and other staff, and acquire facilities, that it finds necessary for the performance of its functions. The staff of the board shall be subject to the relevant system and procedures of the state civil service. The State Civil Service Act (Part 2

(commencing with Section 18500) of Division 5 of Title 2 of the Government Code) applies to those personnel.

40432. The Attorney General shall represent the board and the state in litigation concerning affairs of the board, unless the Attorney General chooses to represent another state agency which is a party to the action. In that case, the legal counsel of the board shall represent the board. Sections 11041, 11042, and 11043 of the Government Code are not applicable to the board.

40433. The Governor shall appoint one adviser for each member of the board upon the request of the board member. Each adviser shall receive a salary as shall be fixed by the board with the approval of the Department of Personnel Administration.

40434. (a) The Legislature finds and declares that the responsibilities of the board are substantially greater and more complex than those of the former California Waste Management Board which it replaces, and that it is therefore necessary to establish a new organizational and management structure to implement this division.

(b) On or before April 1, 1991, the board shall establish a new organizational and management structure to implement this division. The board, in consultation with the State Personnel Board and the Department of Personnel Administration, shall establish new managerial classifications consistent with the board's new organizational and management structure. The board shall conduct an extensive recruitment effort to find the most qualified candidates for all new managerial positions.

(c) On or before April 1, 1991, the board shall conduct an extensive recruitment effort to fill the position of the chief executive officer. The board shall conduct competitive examinations for all qualified candidates and shall select the chief executive officer from among the best qualified candidates.

Article 3. Powers and Duties

40500. The board may appoint a committee of not less than four members of the board to carry on investigations, inquiries, or hearings which the board may undertake or hold. Every order made by a committee pursuant to an inquiry, investigation, or hearing, when approved or confirmed by the board and ordered filed in its office, shall be the order of the board.

40501. The board may hold any hearings and conduct any investigations in any part of the state necessary to carry out its powers and duties. The board shall have the same powers as are conferred upon heads of departments of the state by Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

40502. The board shall adopt rules and regulations, as necessary, to carry out this division in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The board shall make available to any person, upon request, copies of proposed regulations.

40503. The board shall maintain its headquarters in the County of Sacramento, and may establish regional offices in any part of the state that the board deems necessary.

40504. The board shall hold meetings at least monthly at the times and places determined by the board.

40505. In order to carry out its powers and duties under this chapter, the board may enter into any contracts that the board determines to be necessary.

40506. The board may accept grants, gifts and donations for the purposes specified in this division.

40507. The board shall file a biennial report with the Legislature commencing on or before January 1, 1991. The report shall summarize progress achieved by the board in implementing programs established pursuant to this division and shall include all of the following:

(a) Procedures for the timely review of county and city source reduction and recycling elements, countywide siting elements, and countywide integrated waste management plans.

(b) Recommendations concerning state actions needed to maintain an efficient and environmentally safe solid waste management infrastructure.

(c) Recommendations for state actions that are needed to improve the implementation of integrated waste management plans at the state and local levels.

(d) The identification of the geographical location of major existing and potential markets for recyclable materials diverted from solid waste landfills and transformation facilities.

(e) Specific market development strategies and a schedule of proposed market development activities to properly sequence market expansion to prevent an oversupply of recovered material.

(f) Recommendations for public education and information activities needed to promote the reduction and recycling of solid waste.

40508. The board is designated as the state solid waste management agency for all purposes stated in the Federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.) and any other federal act heretofore or hereafter enacted affecting solid waste.

40509. The board may render technical assistance and make recommendations concerning potential solid waste disposal sites upon the request of the board of supervisors of any county. The board may request any state agency to assist the board in rendering technical assistance and making recommendations pursuant to this section.

40510. The board shall use a rollcall vote for all official board decisions, including, but not limited to, approval, denial, or amendment of integrated waste management plans, exemptions, time extensions, approval, denial, and amendment of any permits issued pursuant to a vote of the board and other appropriate decisions. The rollcall votes shall be included in the minutes of the board's meetings.

Article 4. Disposal Cost Fees

40600. (a) The board, in consultation with the State Board of Equalization and the appropriate policy and fiscal committees of the Legislature, shall, on or before January 1, 1991, complete and submit to the Governor and the Legislature, a report and model legislation for introduction and sponsorship by the board during the 1991–92 Regular Session for the most effective means of enacting and implementing a disposal cost fee system on goods sold in California which are not subject to Division 12.1 (commencing with Section 14500) and which are normally disposed of in solid waste landfills or processed in transformation facilities.

(b) In evaluating any disposal cost fee, the board shall give highest priority to those disposable goods which comprise the greatest percentage of materials being disposed and the greatest potential for environmental degradation, and shall take into consideration disposable goods which are already effectively recycled, reduced, or reused.

PART 2. INTEGRATED WASTE MANAGEMENT PLANS

CHAPTER 1. Plan Preparation

Article 1. Legislative Findings

40900. (a) The Legislature finds that integrated waste management plans prepared and adopted by local agencies shall conform, to the maximum extent possible to the policies and goals established under Article 1 and Article 2 of this division.

(b) The Legislature finds that decisions involving the establishment or expansion of solid waste facilities should be guided by an effective planning process, including meaningful public and private solid waste industry participation.

(c) The Legislature declares that it is the policy of the state and the intent of the Legislature that each state, regional, and local agency concerned with the solid waste facility planning and siting process involve the public through public hearings and informative meetings and that, at those hearings and other public forums, the public be granted the opportunity to respond to clearly defined alternative objectives, policies, and actions.

(d) The Legislature further declares that it is the policy of the state and the intent of the Legislature to foster and encourage private solid waste enterprises. In furtherance of that policy, it is the intent of the Legislature that each state, regional, and local agency concerned with the solid waste facility planning and siting process involve the private solid waste industry.

Article 2. Local Task Forces

40950. (a) On or before March 1, 1990, and every five years thereafter, each county, which is not a city and county, shall convene a task force to assist in coordinating the development of city source reduction and recycling elements prepared pursuant to Article 1 (commencing with Section 41000) of Chapter 2 and to prepare the countywide siting element required pursuant to Chapter 4 (commencing with Section 41700).

(b) The membership of the task force shall be determined by the board of supervisors and a majority of the cities within the county which contain a majority of the population in the county and may include representatives of the solid waste industry, environmental organizations, general public, special districts, and affected governmental agencies.

(c) To ensure a coordinated and cost-effective regional recycling system, the task force shall do all of the following:

- (1) Identify solid waste management issues of countywide or regional concern.
- (2) Determine the need for solid waste collection systems, processing facilities, and marketing strategies that can serve more than one local jurisdiction within the region.
- (3) Facilitate the development of multijurisdictional arrangements for the marketing of recyclable materials.
- (4) To the extent possible, facilitate resolution of conflicts and inconsistencies between or among city source reduction and recycling elements.

(d) The task force shall develop goals, policies, and procedures which are consistent with guidelines and regulations adopted by the board, to guide the development of the siting element of the countywide integrated waste management plan.

CHAPTER 2. City Source Reduction and Recycling Elements

Article 1. Requirements

41000. (a) On or before July 1, 1991, each city shall prepare, adopt, and, excepting a city and county, submit to the county in which the city is located a source reduction and recycling element which includes all of the components specified in this chapter and which complies with the requirements specified in Chapter 6 (commencing with Section 41780).

41001. The city source reduction and recycling element shall include a program for management of solid waste generated within the city, consistent with the waste management hierarchy provided in Section 40051.

41002. The city source reduction and recycling element shall place primary emphasis on implementation of all feasible source reduction, recycling, and composting programs while identifying the amount of landfill and transformation capacity that will be needed for solid waste which cannot be reduced at the source, recycled, or composted.

41003. Each city source reduction and recycling element shall include, but is not limited to, all of the following components for solid waste generated in the jurisdiction of the plan:

- (a) A waste characterization component.
- (b) A source reduction component.
- (c) A recycling component.
- (d) A composting component.
- (e) A solid waste facility capacity component.
- (f) An education and public information component.
- (g) A funding component.
- (h) A special waste component.
- (i) A household hazardous waste component.

Article 2. Waste Characterization Component

41030. The city waste characterization component shall identify the constituent materials which compose solid waste generated within the area affected by the city source reduction and recycling element. The information shall be statistically representative of the solid waste generated within the jurisdiction of the city and shall reflect seasonal variations. The constituent materials shall be identified by volume, percentage in weight or its volumetric equivalent, material type, and source of generation, which includes residential, commercial, industrial, governmental, or other sources.

Article 3. Source Reduction Component

41050. The city source reduction component shall include a program and implementation schedule which shows the methods by which the city will, in combination with the recycling and composting components, reduce a sufficient amount of solid waste generated within the jurisdiction of the city source reduction and recycling element to comply with the requirements of Section 41780.

41051. The city source reduction component shall describe the types of materials which will be reduced under the programs in Section 41050.

41052. The city source reduction component shall describe the methods the city will use to determine the amount and categories of solid wastes to be diverted from landfill disposal through source reduction.

41053. The city source reduction component shall describe new facilities, and of expansion of existing facilities, which will be needed to implement the source reduction, recycling and composting components.

41054. The city source reduction component shall evaluate rate structures to reduce the amount of wastes that generators produce, and other source reduction strategies, including, but not limited to, programs and economic incentives to reduce the use of nonrecyclable materials, replace disposable materials and products with reusable materials and products, reduce packaging, and increase the efficiency of the use of paper, cardboard, glass, metal, and other materials.

Article 4. Recycling Component

41070. The city recycling component shall include a program and implementation schedule which shows the methods by which the city will, in combination with the source reduction and composting components, reduce a sufficient amount of solid waste generated within the jurisdiction of the plan to comply with the requirements of Section 41780.

41071. The city recycling component shall describe the types of materials which will be recycled under the programs in Section 41070.

41072. The city recycling component shall describe the methods the city will use to determine the amount and categories of solid wastes to be diverted from landfill disposal through recycling.

41073. The city recycling component shall describe new facilities, and of expansion of existing facilities, which will be needed to implement the recycling component.

41074. The city recycling component shall describe methods which will be used to increase the markets for recycled materials, including, but not limited to, an evaluation of the feasibility of procurement preferences for the purchase of recycled products. Each city may grant a price preference to encourage the purchase of recycled products. The amount of the price preference shall be determined by the city.

41075. The city recycling component shall evaluate industrial, commercial, residential, governmental, and other curbside, mobile, dropoff, and buy-back recycling programs, manual and automated material recovery facilities, zoning and building code changes which encourage recycling of materials, and rate structures which encourage recycling of materials.

Article 5. Composting Component

41200. The city composting component shall include a program and implementation schedule which shows the methods by which the city will, in combination with the source reduction and recycling components, reduce a sufficient amount of solid waste generated within the jurisdiction of the plan to comply with the requirements of Section 41780.

41201. The city composting component shall describe the types of materials which will be composted under the programs in Section 41200.

41202. The city composting component shall describe the methods the city will use to determine the amount and categories of solid wastes to be diverted from landfill disposal through composting.

41203. The city composting component shall describe any new facilities, and expansion of existing facilities, which will be needed to implement the composting component.

41204. The city composting component shall describe the methods which will be used to increase the markets for composted materials, including, but not limited to, an evaluation of the feasibility of procurement preferences for the purchase of recycled products. Each city may grant a price preference to encourage the purchase of composted products. The amount of the price preference shall be determined by the city.

Article 6. Education and Public Information Component

41220. The city education and public information component shall describe to the board how the city will increase public awareness of, and participation in, recycling, source reduction, and composting programs.

Article 7. Funding Component

41230. The city funding component shall identify and specifically describe projected costs, revenues, and revenue sources to implement all components of the city source reduction and recycling element.

Article 8. Special Waste Component

41250. The city special waste component shall describe existing waste handling and disposal practices for special wastes, including, but not limited to, asbestos and sewage sludge which is not hazardous waste. The component shall identify current and proposed programs to ensure the proper handling, reuse, and long-term disposal of special wastes.

Article 9. Facility Capacity Component

41260. The city solid waste facility capacity component shall include, but is not limited to, a projection of the amount of disposal capacity which will be needed to accommodate the solid waste generated within the city preparing the element for a 15-year period, reduced by all of the following:

- (a) Implementation of source reduction, recycling, and composting programs required by this part or through implementation of other waste diversion programs.
- (b) Any permitted processing, destruction, or transformation capacity which will be available during the 15-year planning period.
- (c) All disposal or transformation capacity which has been secured through an agreement with another city or county or through an agreement with a solid waste enterprise.

Article 10. Household Hazardous Waste Component

41280. The city household hazardous waste component shall include a program and implementation schedule for the collection, treatment, and disposal of hazardous waste generated by residences within the jurisdiction of the plan.

CHAPTER 3. County Source Reduction and Recycling Elements

Article 1. Requirements

41300. On or before January 1, 1991, each county shall prepare and adopt for the unincorporated area a county source reduction and recycling element which includes all of the components specified in this chapter and which complies with the requirements specified in Chapter 6 (commencing with Section 41780).

41301. The county source reduction and recycling element shall set forth a program for management of solid waste generated with the unincorporated area of the county, consistent with the waste management hierarchy provided in Section 40051.

41302. The county source reduction and recycling element shall place primary emphasis on implementation of all feasible source reduction, recycling, and composting programs while identifying the amount of landfill and transformation capacity that will be needed for solid waste which cannot be reduced at the source, recycled, or composted.

41303. Each county source reduction and recycling element shall include, but is not limited to, all of the following components for solid waste generated in the jurisdiction of the plan:

- (a) A waste characterization component.
- (b) A source reduction component.
- (c) A recycling component.
- (d) A composting component.
- (e) A solid waste facility capacity component.
- (f) An education and public information component.
- (g) A funding component.
- (h) A special waste component.
- (i) A household hazardous waste component.

Article 2. Waste Characterization Component

41330. The county waste characterization component shall identify the constituent materials which compose solid waste generated within the area affected by the county source reduction and recycling element. The information shall be statistically representative of the solid waste generated within the jurisdiction of the county and shall reflect seasonal variations. The constituent materials shall be identified by volume, percentage in weight or its volumetric equivalent, material type, and source of generation which includes residential, commercial, industrial, governmental, or other sources.

Article 3. Source Reduction Component

41350. The county source reduction component shall include a program and implementation schedule which shows the methods by which the city will, in combination with the recycling and composting components, reduce a sufficient amount of solid waste generated within the jurisdiction of the plan to comply with the requirements of Section 41780.

41351. The county source reduction component shall describe the types of materials which will be reduced under the programs in Section 41350.

41352. The county source reduction component shall describe the methods the city will use to determine the amount and categories of solid wastes to be diverted from landfill disposal through source reduction.

41353. The county source reduction component shall describe new facilities, and of expansion of existing facilities, which will be needed to implement the source reduction, recycling, and composting components.

41354. The county source reduction component shall evaluate rate structures to reduce the amount of wastes that generators produce, and other source reduction strategies, including, but not limited to, programs and economic incentives to reduce the use of nonrecyclable materials, replace disposable materials and products with reusable materials and products, reduce packaging, and increase the efficiency of the use of paper, cardboard, glass, metal, and other materials.

Article 4. Recycling Component

41370. The county recycling component shall include a program and implementation schedule which shows the methods by which the city will, in combination with the source reduction and composting components, reduce a sufficient amount of solid waste generated within the jurisdiction of the plan to comply with the requirements of Section 41780.

41371. The county recycling component shall describe the types of materials which will be recycled under the programs in Section 41370.

41372. The county recycling component shall describe the methods the city will use to determine the amount and categories of solid wastes to be diverted from landfill disposal through recycling.

41373. The county recycling component shall describe new facilities, and expansion of existing facilities, which will be needed to implement the recycling component.

41374. The county recycling component shall describe methods which will be used to increase markets for recycled materials, including, but not limited to, an evaluation of the feasibility of procurement preferences for the purchase of recycled products. Each county may grant a price preference to encourage the purchase of recycled products. The amount of the price preference shall be determined by the county.

41375. The county recycling component shall evaluate industrial, commercial, residential, governmental, and other curbside, mobile, dropoff, and buy-back recycling programs, manual and automated material recovery facilities, zoning, and building code changes which encourage recycling of materials, and rate structures which encourage recycling of materials.

Article 5. Composting Component

41400. The county composting component shall include a program and implementation schedule which shows the methods by which the city will, in combination with the source reduction and recycling components, reduce a sufficient amount of solid waste generated within the jurisdiction of the plan to comply with the requirements of Section 41780.

41401. The county composting component shall describe the types of materials which will be composted under the programs in Section 41400.

41402. The county composting component shall describe the methods the city will use to determine the amount and categories of solid wastes to be diverted from landfill disposal through composting.

41403. The county composting component shall describe new facilities, and expansion of existing facilities, which will be needed to implement the composting component.

41404. The county composting component shall describe methods which will be used to increase the markets for composted materials, including, but not limited to, an evaluation of the feasibility of procurement preferences for the purchase of recycled products. Each county may grant a price preference to encourage the purchase of composted products. The amount of the price preference shall be determined by the county.

Article 6. Education and Public Information Component

41420. The county education and public information component shall describe to the board how the county will educate and inform its citizens about the recycling and composting programs.

Article 7. Funding Component

41430. The county funding component shall identify and specifically describe projected costs, revenues, and revenue sources to implement all components of the county source reduction and recycling element.

Article 8. Special Waste Component

41450. The county special waste component shall describe existing waste handling and disposal practices for special wastes, including, but not limited to, asbestos and sewage sludge which is not hazardous waste. The component shall identify current and proposed programs to ensure the proper handling, reuse, and long-term disposal of special wastes.

Article 9. Facility Capacity Component

41460. The county solid waste facility capacity component shall include, but is not limited to, a projection of the amount of disposal capacity which will be needed to accommodate the solid waste generated within the unincorporated area of the county preparing the element for a 15-year period, reduced by all of the following:

- (a) Implementation of source reduction, recycling, and composting programs required by this part or through implementation of other waste diversion programs.
- (b) Any permitted disposal or transformation capacity which will be available during the 15-year planning period.

(c) All disposal or transformation capacity which has been secured through an agreement with another city, county, or through an agreement with a solid waste enterprise.

Article 10. Household Hazardous Waste Component

41480. The county household hazardous waste component shall include a program and implementation schedule for the collection, treatment, and disposal of hazardous wastes generated by residences within the jurisdiction of the plan.

CHAPTER 4. Countywide Siting Elements

Article 1. Element Preparation

41700. Each county shall prepare a countywide siting element which provides a description of the areas to be used for development of adequate transformation or disposal capacity concurrent and consistent with the development and implementation of the county and city source reduction and recycling elements adopted pursuant to this part.

41701. Each countywide siting element and revision thereto, shall include, but is not limited to, all of the following:

- (a) A statement of goals and policies for the environmentally safe transformation or disposal of solid waste which cannot be reduced, recycled, or composted.
- (b) An estimate of the total transformation or disposal capacity in cubic yards and years that will be needed for a 15-year period to safely handle solid wastes generated with the county which cannot be reduced or recycled.
- (c) The remaining combined capacity of existing solid waste transformation or disposal facilities existing at the time of the preparation of the siting element, or revision thereto, in cubic yards and years.
- (d) The identification of an area or areas for the location of new solid waste transformation or disposal facilities or the expansion of existing facilities which are consistent with the applicable city or county general plan if the county determines that existing capacity will be exhausted within 15 years or additional capacity is desired.

41702. An area is consistent with the city or county general plan if all of the following requirements are met:

- (a) The city or county adopted a general plan which complies with the requirements of Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 of the Government Code.
- (b) The area reserved for a new solid waste facility or the expansion of an existing solid waste facility is located in, or coextensive with, a land use area designated or authorized for solid waste facilities in the applicable city or county general plan.
- (c) The land use authorized in the applicable city or county general plan adjacent to or near the area reserved for the establishment of new solid waste transformation or disposal of solid waste or expansion of existing facilities is compatible with the establishment or expansion of the solid waste facility.

41703. If the county determines that existing capacity will be exhausted within 15 years or additional capacity is desired and that there is no area available for the location of a new solid waste transformation or disposal facility or the expansion of an existing solid waste transformation or disposal facility which is consistent with any applicable city or county general plan, the siting element shall include a specific strategy for the transformation or disposal of solid waste in excess of remaining capacity.

41704. Except as provided in subdivision (a) of Section 41710, any area or areas identified for the location of a new solid waste transformation or disposal facility shall be located in, coextensive with, or adjacent to, a land use area authorized for a solid waste transformation or disposal facility in the applicable city or county general plan.

Article 2. Tentative Reservations

41710. (a) A county may tentatively reserve an area or areas for the location of a new solid waste transformation or disposal facility or the expansion of an existing transformation or disposal facility even though that reservation of the area or areas is not consistent with the applicable city or county general plan. A reserved area in a countywide siting element is tentative until it is made consistent with the applicable city or county general plan.

(b) If a county has tentatively identified a site expansion or a potential site for a new solid waste transformation or disposal facility in its countywide siting element, that tentative site identification may be deemed a tentative area for the purposes of Sections 41711 and 41712.

41711. An area tentatively reserved for the establishment or expansion of a solid waste transformation or disposal facility shall be removed from the countywide siting element if a city or county fails or has failed to make the finding that the area is consistent with the general plan or has made a finding that the area should not be used for the location of a solid waste transformation or disposal facility.

41712. The removal of a tentatively reserved area from the countywide siting element, pursuant to Section 41711, shall be accomplished by either one of the following methods:

- (a) The county shall remove the area at the time of the next revision of the siting element.
- (b) The local agency having jurisdiction over the area shall request the county to remove the designation at the time of the next revision of the siting element.

Article 3. General Plan Consistency

41720. The countywide siting element submitted to the board, shall include a resolution from each affected city or the county stating that any areas identified for the location of a new or expanded solid waste transformation or disposal facility pursuant to Section 41701 is consistent with the applicable general plan.

Article 4. Local Agency Approval

41721. The countywide siting element, and any amendments thereto, shall be approved by the county and by a majority of the cities within the county which contain a majority of the population of the incorporated area of the county except in those counties which have only two cities, in which case the plan is subject to approval of the city which contains the majority of the population of the incorporated area of the county. Each city shall act upon the countywide siting element or any proposed amendment within 90 days after receipt of the siting element or proposed amendment. If a city fails to act upon the siting element or the proposed amendment within 90 days after receiving the siting element or the amendment, the city shall be deemed to have approved the siting element or proposed amendment as submitted.

CHAPTER 5. Countywide Integrated Waste Management Plans

Article 1. Plan Preparation

41750. Each county and city and county shall prepare and submit to the board in accordance with the schedule set forth in Chapter 6 (commencing with Section 41780), a countywide integrated waste management plan, which includes all of the following:

- (a) All city source reduction and recycling elements prepared pursuant to Chapter 2 (commencing with Section 41000) and submitted to the county.
- (b) The county's source reduction and recycling element for the unincorporated area of the county prepared pursuant to Chapter 3 (commencing with Section 41300).
- (c) The countywide siting element prepared pursuant to Chapter 4 (commencing with Section 41700).

41751. The countywide integrated waste management plan shall include a summary of significant waste management problems facing the county or city and county. The plan shall provide an overview of the specific steps that will be taken by local agencies, acting independently and in concert, to achieve the purposes of this division. The plan shall contain a statement of the goals and objectives set forth by the countywide task force created pursuant to Chapter 1 (commencing with Section 40900).

Article 2. Plan Approval

41760. The countywide integrated waste management plan and any amendments thereto, excepting a source reduction and recycling element prepared by a city and county, shall be approved by the county and by a majority of the cities within the county which contain a majority of the population of the incorporated areas of the county, except in those counties which have only two cities, in which case the plan is subject to the approval of the city which contains a majority of the population of the incorporated areas of the county. Each city shall act upon the plan and any proposed amendment within 90 days after receipt of the amendment. If a city fails to act upon the plan or the proposed amendment within 90 days after receiving the plan or the amendment, the city shall be deemed to have approved the plan or the amendment as submitted.

Article 3. Plan Revision

41770. Each countywide integrated waste management plan and the elements thereof shall be reviewed, revised, if necessary, and submitted to the board every five years in accordance with the schedule set forth under Chapter 7 (commencing with Section 41800).

CHAPTER 6. Additional Planning Requirements
Article 1. Waste Diversion

41780. (a) Each city or county source reduction and recycling element shall include an implementation schedule which shows both of the following:

- (1) For the initial element, the city or county will divert 25 percent of all solid waste from landfill or transformation facilities by January 1, 1995, through source reduction, recycling, and composting activities.
- (2) Except as provided in Sections 41783, 41784, and 41785, for the first revision of the element, the city or county shall divert 50 percent by January 1, 2000, through source reduction, recycling, and composting activities.

(b) Nothing in this part prohibits a city or county from implementing source reduction, recycling, and composting activities designed to exceed these goals.

41781. (a) For the purpose of determining the base rate of solid waste from which recycling levels shall be calculated, "solid waste" includes only the following:

- (1) Materials in the waste stream generated within a local agency's jurisdiction which are normally disposed of at a landfill or transformation facility.
 - (2) The amount of solid waste diverted from a landfill or transformation facility through source reduction, recycling, or composting.
- (b) For the purposes of this section, "solid waste" does not include agricultural wastes, inert solids, or other waste products which would not normally be disposed of at a landfill or transformation facility.
- (c) For the purposes of this chapter, the amount of solid waste from which the required reductions are measured shall be the amount of solid waste existing on the date of the approval of the county or city source reduction and recycling element by the board with adjustments for increases or decreases in the quantity of waste caused only by changes in population or changes in the number or size of governmental, industrial, or commercial operations in the jurisdiction.
- (d) For the purpose of determining recycling levels required pursuant to this article, counties and cities shall include all existing residential, commercial, and industrial source reduction, recycling, and composting activities that divert solid waste from solid waste landfills and transformation facilities.

41782. The board may provide an exemption or reduction in the goals specified in Section 41780 if the city or county demonstrates, and the board concurs, that preparation of a city or a county source reduction and recycling element is not feasible due to the small geographic size of the city or county and the small quantity of waste generated within the city or county. The board may establish alternative, but less comprehensive, requirements for those counties or cities to ensure compliance with this division.

41783. For any city or county source reduction and recycling element submitted to the board after January 1, 1995, the 50 percent source reduction and recycling requirement established under Section 41780 may include not more than 10 percent through transformation, as defined in Section 40201, only if all of the following conditions are met:

- (a) The transformation project has complied with Sections 21151.1 and 41150 of this code and Section 42315 of the Health and Safety Code.
- (b) The transformation project uses front-end methods or programs to remove all recyclable materials from the waste stream prior to transformation to the maximum extent feasible.
- (c) The ash or other residue generated from the transformation project is routinely tested at least once a month, and, notwithstanding Section 25143.7 of the Health and Safety Code, if hazardous wastes are present, the ash or residue is sent to a class 1 hazardous waste disposal facility.
- (d) The board holds a public hearing in the city or county within which a transformation project is proposed, and, after the public hearing, the board makes both of the following findings, based upon substantial evidence on the record:
 - (1) The city or county is, and will continue to be, effectively implementing all feasible source reduction, recycling, and composting measures.
 - (2) The transformation project will not adversely affect public health and the environment.

41784. If the board determines that a city or county source reduction and recycling element submitted after January 1, 1995, will not achieve the 50 percent requirement established under Section 41780, and the city or county chooses not to use a transformation project to achieve the 50 percent requirement, the board shall not require the

city or county to achieve the 50 percent diversion requirement through transformation, or impose any penalty on the city or county to compel the city or county to achieve the 50 percent requirement through transformation.

41785. On and after January 1, 1995, and upon the request of a city or county, or city and county, the board may establish an alternative source reduction, recycling, and composting requirement to the 50 percent requirement established under Section 41780 if all of the following conditions are met:

(a) The board holds a public hearing and makes both of the following findings based upon substantial evidence on the record:

(1) That the local agency is effectively implementing all feasible source reduction, recycling, and composting measures.

(2) That the alternative source reduction, recycling, and composting requirement represents the greatest feasible amount the city, county, or city and county may achieve.

41786. (a) Notwithstanding Section 41780, the board may reduce the recycling goals specified in Section 41780 for any city or county which, on or before January 1, 1989, disposed of 75 percent or more of its solid waste by transformation if both of the following conditions exist:

(1) The attainment of the 25 percent or 50 percent goal specified in Section 41780 would result in substantial impairment of the obligations of one or more contracts in existence on January 1, 1989, for the city or county to furnish solid waste for fuel.

(2) The attainment of the 25 percent or 50 percent goal specified in Section 41780 would substantially interfere with the repayment of debt incurred to finance the transformation project.

(b) For any city or county described in subdivision (a), the board shall establish new goals which require the maximum feasible amount of source reduction, recycling, and composting and which would not meet the conditions in paragraphs (1) and (2) of subdivision (a).

Article 2. Board Review

41790. In order to coordinate solid waste management activities throughout the state and to ensure that Article 2 (commencing with Section 40050) of Chapter 1 of Part 1 is implemented, the board shall review each county and city source reduction and recycling element and each countywide integrated waste management plan adopted pursuant to this part to determine if it complies with Article 2 (commencing with Section 40050) of Chapter 1 of Part 1.

41791. (a) Any county which has less than five years of remaining landfill capacity shall submit its countywide integrated waste management plan to the board on or before January 1, 1992.

(b) Any county which has between five and eight years of landfill capacity shall submit its countywide integrated waste management plan to the board on or before January 1, 1993.

(c) Any city or county which has more than eight years of landfill capacity shall submit its countywide integrated waste management plan to the board on or before January 1, 1994.

41792. It is the intent of the Legislature, in enacting this part, that cities and counties shall commence efforts to implement source reduction, recycling, or composting activities immediately upon enactment of this part, in order to achieve the deadlines specified under this chapter.

41793. Each county or city shall hold at least one public hearing before approving its source reduction and recycling element and the countywide integrated waste management plan.

41794. Any city may submit its city source reduction and recycling element to the board for review before the dates in the schedule in Section 40791.

CHAPTER 7. Approval of Local Planning

Article 1. Board Approval

41800. Within 120 days of receiving a city source reduction and recycling element or a countywide integrated waste management plan, the board shall determine whether the element or plan complies with Article 2 (commencing with Section 40050) of Chapter 1 of Part 1 and Chapter 2 (commencing with Section 41000) and Chapter 5 (commencing with Section 41750) and, based upon this determination, the board shall approve or disapprove the element or plan.

41801. Before approving an element or plan pursuant to Section 41800, the board shall adopt written findings based on substantial evidence in the record that implementing the element will achieve the requirements established pursuant to this part, including the requirements of Section 41780.

Article 2. Deficiencies

41810. If the board disapproves a city source reduction and recycling element or a countywide integrated waste management plan, the board shall issue a notice of deficiency to the city or county which identifies the specific reasons for the disapproval. The notice of deficiency shall include specific recommendations on how to correct the deficiencies in the element or plan.

41811. Within 120 days of receipt of the notice of deficiency issued pursuant to Section 41810, the city or county shall correct the deficiencies, readopt, and resubmit the city source reduction and recycling element or the countywide integrated waste management plan to the board.

41812. If the board determines that the revised city source reduction and recycling element or the countywide integrated waste management plan submitted pursuant to Section 41811 still fails to meet the requirements of this part, the board shall conduct a public hearing for the purpose of hearing testimony on the plan or element and the deficiencies identified by the board.

41813. After conducting a public hearing pursuant to Section 41812, the board may impose administrative civil penalties of not more than ten thousand dollars (\$10,000) per day on any city or county which fails to submit an adequate plan in accordance with the requirements of this chapter.

Article 3. Other Provisions

41820. The board may grant a one-year time extension from the requirements of Section 41780 to any city or county if the following conditions are met:

(a) The board adopts written findings, based upon substantial evidence in the record, that unfavorable, unforeseen, and severely adverse market conditions beyond the control of city or county prevent the city or county from meeting the requirements of Section 41780.

(b) The city or county submits a plan of correction which demonstrates how the city or county will meet the requirements of Section 41780 before the time extension expires, which includes the source reduction, recycling, or composting steps the city or county will implement, and which states how these programs will be funded.

(c) The city or county demonstrates that it is achieving the maximum feasible amount of source reduction, recycling, and composting of solid waste within its jurisdiction.

41821. Each year following the board's approval of a city source reduction and recycling element or the countywide integrated waste management plan, the city or county shall submit a report to the board summarizing its progress in reducing solid waste as required by Section 41780. The report shall include information on increases or reductions in waste generated due to increases or decreases in the quantity of waste caused only by changes in population or changes in the number or the size of governmental, industrial, or commercial operations in the jurisdiction so that the board may determine if the source reduction and recycling requirements established under Section 41780 need to be revised.

41822. Each city or county shall review its city source reduction and recycling element or the countywide integrated waste management plan at least once every five years to correct any deficiencies in the element or plan, to comply with the source reduction and recycling requirements established under Section 41780, and to revise the documents, as necessary, in order to comply with this part. Any revision made to an element or plan pursuant to this section shall be submitted to the board for review and approval or disapproval pursuant to the schedule established under this chapter.

41823. A city or county may enter into a memorandum of understanding with another city, county, regional planning agency, agency formed under a joint exercise of powers agreement, or district established to manage solid waste for the purpose of preparing and implementing source reduction and recycling elements or a countywide integrated waste management plan.

41824. On or before January 1, 1990, the board shall prepare, and adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for use by cities and counties in the preparation of source reduction and recycling elements and countywide integrated waste management plans. The regulations and guidelines shall include specific recommendations on how local agencies can achieve diversion of solid waste from landfills through source reduction, recycling, and composting in accordance with this chapter.

Article 3. Review and Enforcement

41825. Not less frequently than every two years, the board shall review each city or county source reduction and recycling element to determine whether a city or county is implementing its source reduction and recycling element. If, after a public hearing, which to the extent possible is held in the local agency's jurisdiction, the board finds that the city or county has failed to implement its source reduction and recycling element, the board shall issue an order of compliance with a specific schedule for achieving compliance.

Article 4. Enforcement

41850. If, after holding the public hearing and issuing an order of compliance pursuant to Section 41825, the board finds that the county or city and county has failed to implement its element, the board may impose administrative civil penalties of up to ten thousand dollars (\$10,000) per day until the city or county implements the element.

41851. Nothing in this chapter shall infringe on the existing authority of counties and cities to control land use or to make land use decisions, and nothing in this chapter provides or transfers new authority over that land use to the board.

CHAPTER 8. Local Fee Authority

41900. Each city and county shall demonstrate a funding source, or sources, available to pay for preparing, adopting, and implementing the element or plan, as required by Sections 41003, 41230, 41303, and 41430.

41901. A city, county, or city and county may impose fees in amounts sufficient to pay the costs of preparing, adopting, and implementing an integrated waste management plan prepared pursuant to this chapter. The fees shall be based on the types or amounts of the solid waste, and shall be used to pay the actual costs incurred by the city or county in preparing, adopting, and implementing the plan, as well as in setting and collecting the local fees. In determining the amounts of the fees, a city or county shall include only those costs directly related to the preparation, adoption, and implementation of the plan and the setting and collection of the local fees.

41902. A local agency may directly collect the fees authorized by this chapter or may, by agreement, arrange for the fees to be collected by a solid waste hauler providing solid waste collection for the city or county.

41903. A city or county may assess special fees of a reasonable amount on the importation of waste from outside of the county to publicly owned or privately owned facilities. No city or county shall export solid waste to any other jurisdiction unless the exporting city or county has, within one year following the date specified in Section 41791 or a later date established or permitted by the board, an approved city source reduction and recycling element or countywide integrated waste management plan and is in compliance with it, provided, however, that, until one year following the date specified in Section 41791 or a later date established by the board, nothing herein shall be construed as prohibiting the export of solid waste. The board may waive the requirements of this section if the board determines that all additional reasonable source reduction and recycling programs are being implemented in the city or county or if the board determines that the system to export waste supports or enhances the city or county source recovery and recycling element.

CHAPTER 9. Unlawful Acts

41950. No person, other than the authorized recycling agent of the city or county, shall remove paper, glass, cardboard, plastic, used motor oil, ferrous metal, aluminum, or other recyclable materials which have been segregated from solid waste materials and placed at a designated collection location for the purposes of collection and recycling. No person shall be subject to an action for a violation of this section, unless the person knows, or reasonably should know, that the materials would otherwise be collected by the authorized recycling agent for the purpose of recycling the materials.

41951. Unless otherwise provided by contract, paper, glass, cardboard, plastics, used motor oil, ferrous metal, aluminum, and other waste materials, which have been segregated from other waste materials, and placed at the designated collection location, shall not be removed by anyone other than the authorized recycling agent.

41952. Nothing in this chapter limits the right of any person to donate, sell, or otherwise dispose of his or her recyclable materials.

41953. In any civil action by a recycling agent against a person alleged to have violated Section 41950, the court may allow treble damages, as measured by the value of the material removed, against the unauthorized person removing the recyclable material.

41954. Nothing in this article limits the authority of a local agency to adopt or enforce regulations or ordinances on the same matters of this article.

41955. A violation of this part is a misdemeanor punishable pursuant to Section 19 of the Penal Code.

PART 4. SOLID WASTE FACILITIES

CHAPTER 1. Solid Waste Facility Standards

Article 1. Landfill Facility Requirements

43000. The following definitions govern the construction of this chapter:

(a) "Waste management unit" means the area of a solid waste landfill facility in or on which solid wastes are placed for disposal.

(b) "New waste management unit" means a waste management unit which is not authorized on or before January 1, 1990, under waste discharge provisions adopted on or before that date pursuant to Division 7 (commencing with Section 13000) of the Water Code and for which a solid waste facility permit was not issued on or before that date pursuant to Title 7.3 (commencing with Section 66700) of the Government Code as it read before January 1, 1990.

Article 2. Handling and Disposal Standards

43020. The board shall adopt and revise minimum standards for solid waste handling and disposal for the protection of air, water, and land from pollution, in accordance with this division, and Section 4520 and Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code. The board shall consider any recommendations of the State Air Resources Board for the prevention of air pollution and any recommendations of the state water board for the prevention of water pollution.

43021. Standards shall include the design, operation, maintenance, and ultimate reuse of solid waste processing or disposal facilities, but shall not include aspects of solid waste handling or disposal which are solely of local concern.

Article 3. Financial Responsibility

43040. The board shall adopt standards and regulations on or before January 1, 1991, requiring that, as a condition for the issuance, modification, revision, or review of a solid waste facilities permit for a disposal facility, the operator of the disposal facility shall provide assurance of adequate financial ability to respond to personal injury claims and public or private property damage claims resulting from the operations of the disposal facility which occur before closure.

CHAPTER 2. Solid Waste Handling and Disposal

Article 1. Local Enforcement Agencies

43200. (a) On or before August 1, 1991, the board shall prepare and adopt certification regulations for local enforcement agencies. The regulations shall specify requirements that a local agency shall meet before being designated as an enforcement agency. The regulations shall include, but are not limited to, all of the following:

- (1) Technical expertise.
- (2) Adequacy of staff resources.
- (3) Adequacy of budget resources.
- (4) Training requirements.
- (5) The existence of at least one permitted solid waste facility within the jurisdiction of the local agency.

(b) The regulations adopted pursuant to subdivision (a) shall specify four separate types of certifications for which an enforcement agency may be designated, as follows:

- (1) Permitting, inspection, and enforcement of regulations at solid waste landfills.
- (2) Permitting, inspection, and enforcement of solid waste incinerators.
- (3) Permitting, inspection, and enforcement of transfer and processing stations.

(4) Inspection and enforcement of litter, odor, and nuisance regulations at solid waste landfills.

43201. After August 1, 1992, no enforcement agency shall be designated pursuant to this article unless the board determines that the agency fully complies with one or more of the certification types specified in Section 43200. No enforcement agency shall, after August 1, 1992, exercise the powers of an enforcement agency pursuant to this chapter unless the agency has been certified by the board.

43202. There may be designated within each county an enforcement agency to carry out this chapter. If an agency is not designated and certified, the board, in addition to its other powers, shall be the enforcement agency within the county.

43203. The designation of the enforcement agency shall be made by any one of the following procedures:

(a) The board of supervisors of the county may designate the enforcement agency subject to the approval by a majority of the cities within the county which contain a majority of the population of the incorporated areas of the county.

(b) The county and the cities within the county may enter into a joint exercise of powers agreement pursuant to Section 6500 of the Government Code for the purpose of establishing an enforcement agency.

(c) A city council may designate an enforcement agency to carry out this chapter.

43204. No enforcement agency may exercise the powers and duties of an enforcement agency until the designation is approved by the board. The board shall not approve a designation unless it finds that the designated enforcement agency is capable of fulfilling its responsibilities under the enforcement program and meets the certification requirements adopted by the board pursuant to Section 43200.

43205. If no enforcement agency is designated, the board shall become the enforcement agency, and shall assume all powers and authorities established pursuant to this chapter. Nothing in this chapter prevents a designation of an enforcement agency under Section 43202 at a later date.

43206. A designation made pursuant to this article may be withdrawn in the same manner in which it was made.

43207. No local governmental department or agency which is the operating unit for a solid waste handling or disposal operation shall be the enforcement agency for the types of solid waste handling or disposal operation it conducts.

43208. Notwithstanding any other provision of law, except as provided in Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, and Section 731 of the Code of Civil Procedure, no local governing body may enact, issue, enforce, suspend, revoke, or modify any ordinance, regulation, law, license, or permit relating to a facility that accepts both hazardous wastes and other solid wastes and which meets any of the criteria enumerated in subdivision (a) of Section 25148 of the Health and Safety Code, and was operating as of May 1, 1981, pursuant to a valid solid waste facility permit, so as to prohibit or unreasonably regulate the operation of, or the disposal, treatment, or recovery of resources from solid wastes at any such facility. However, nothing in this section authorizes an operator of such a facility to violate any term or condition of a local land use or facility permit or any other provision of law not in conflict with this section.

43209. The enforcement agency, within its jurisdiction and consistent with its certification by the board, shall do all of the following:

(a) Enforce applicable provisions of this chapter and the regulations adopted thereunder, and under Section 43020, pertaining to the minimum standards for solid waste handling and disposal for the protection of air, water, and land from pollution and nuisance, and for the protection of the public health.

(b) Request enforcement by appropriate federal, state, and local agencies of their respective laws governing solid waste storage, handling, and disposal.

(c) File with the board, upon its request, information the board determines to be necessary.

(d) Develop, implement, and maintain inspection, enforcement, and training programs.

(e) Adopt an enforcement program consisting of regulations necessary to implement this chapter and the standards adopted pursuant thereto, and to establish specific local standards for solid waste handling and disposal subject to approval by a majority vote of its local governing body. However, any such regulation shall be consistent with this

title and all regulations adopted by the board. The enforcement program shall also include a description of the locally adopted procedures for carrying out the permit and inspection program pursuant to Chapter 3 (commencing with Section 44001).

(f) Keep and maintain records of its inspection, enforcement, training, and regulatory programs, and of any other official action in accordance with regulations adopted by the board.

(g) Consult, as appropriate, with the appropriate local health agency concerning all actions which involve health standards. The consultation shall include affording the health agency adequate notice and opportunity to conduct and report the evaluation as it reasonably determines is appropriate.

43210. For those facilities which accept only hazardous wastes and to which the provisions of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code apply, the board and the enforcement agency have no enforcement or regulatory authority. All enforcement activities for the facilities relative to the control of hazardous wastes shall be performed by the State Department of Health Services pursuant to Article 8 (commencing with Section 25180) of Chapter 6.5 of Division 20 of the Health and Safety Code.

43211. For those facilities which accept both hazardous wastes and other solid wastes, the State Department of Health Services shall exercise enforcement and regulatory powers relating to the control of the hazardous wastes at the facility pursuant to Article 8 (commencing with Section 25180) of Chapter 6.5 of Division 20 of the Health and Safety Code. The board shall, at mixed waste disposal facilities, exercise enforcement and regulatory powers relating to the control of solid wastes other than hazardous wastes at the facility pursuant to this chapter.

43212. If the board becomes the enforcement agency, it may charge reasonable fees to the local governing body to recover operation costs.

43213. The enforcement agency may, upon a majority vote of its local governing body, prescribe, revise, and collect fees or other charges from each operator of a solid waste facility or from any person who conducts solid waste handling if the local governing body having ratesetting authority has approved rate adjustments to compensate the solid waste hauler or solid waste facility operator for the amount of the surcharge imposed pursuant to this section. The fee or other charge shall be based on the weight, volume, or type of solid waste which is received or handled by any such operator or person or on any other appropriate basis or any combination of the foregoing. In no case shall the fee or other charge imposed by the enforcement agency under this section exceed the actual cost of the solid waste enforcement authorized under this title.

43214. The board shall develop performance standards for evaluating local enforcement agencies and shall periodically review each enforcement agency and its implementation of the permit, inspection, and enforcement program. The board's review shall include periodic inspections of solid waste facilities to assess compliance with state standards.

43215. If the board finds that an enforcement agency is not fulfilling its responsibilities, the board shall notify the enforcement agency of the particular reasons for finding that the enforcement agency is not fulfilling its responsibilities and of the board's intention to withdraw its approval of the designation if, within a time to be specified in that notification, but in no event less than 30 days, the enforcement agency does not take the corrective action specified by the board.

43216. If the board withdraws its approval of the designation of an enforcement agency, another enforcement agency shall be designated pursuant to Section 43203 within 90 days and approved by the board. If no designation is made within 90 days, the board shall become the enforcement agency within the jurisdiction of the former enforcement agency.

43217. The board shall provide ongoing training, technical assistance, and guidance to enforcement agencies to assist in their decisionmaking processes. This assistance shall include, but is not limited to, providing all of the following:

- (a) Technical studies and reports.
- (b) Copies of innovative facility operation plans.
- (c) Investigative findings and analyses of new waste management practices and procedures.

43218. Each enforcement agency shall inspect each solid waste facility within its jurisdiction at least one time each month and shall file, within 30 days of the inspection, a written report in a format prescribed by the board.

43219. (a) The board, in conjunction with an inspection conducted by the enforcement agency, shall conduct each year at least one inspection of each solid waste facility in the state. A written inspection report shall be prepared and submitted within 30 days of the inspection to the enforcement agency.

(b) If the board identifies significant violations of state minimum requirements that were not identified and resolved through previous inspections by the enforcement agency, the board shall conduct a performance review of the enforcement agency within 120 days, prepare a written performance report within 60 days of the review, and require the submission of a plan of correction by the enforcement agency within 90 days of the report.

(c) The board shall withdraw an enforcement agency's designation pursuant to Section 43215 if it determines the enforcement agency has failed to submit an adequate plan of correction or has failed to implement the plan.

Article 2. Powers and Duties of the Board

43300. The board, when acting in its capacity as an enforcement agency, may enforce all provisions of this division, and the regulations adopted thereto, for the protection of air, water, and land from pollution and nuisance, and for the protection of the public health.

43301. The board shall coordinate action in solid waste handling and disposal with other federal, state, and local agencies and private persons.

43302. The board may request enforcement by appropriate federal, state, and local agencies of their respective laws governing solid waste storage, handling, and disposal.

43303. The board shall develop, implement, and maintain inspection, enforcement, and training programs.

43304. The board shall adopt an enforcement program consisting of regulations necessary to implement this division and the standards adopted pursuant thereto. The enforcement program shall include a description for carrying out the permit and inspection program pursuant to Chapter 3 (commencing with Section 44001).

43305. The board may, as it deems necessary, establish specific local standards for solid waste handling and disposal after consultation with the local governing body. However, the standards shall be consistent with this division and all regulations adopted by the board.

43306. The board shall keep and maintain records of its inspection, enforcement, training, and regulatory programs and of any other official action in accordance with regulations adopted by the board.

43307. The board shall consult with the appropriate local health agency concerning all actions which involve health standards. The consultation shall include granting the health agency adequate notice and opportunity to conduct and report any evaluation that it reasonably deems appropriate.

43308. For those facilities which accept only hazardous wastes and to which Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code applies, the board shall have no enforcement or regulatory authority. Except as otherwise provided in Section 40052, all enforcement activities for those facilities relative to the control of hazardous wastes shall be performed by the State Department of Health Services pursuant to Article 8 (commencing with Section 25180) of Chapter 6.5 of Division 20 of the Health and Safety Code.

43309. The board may adopt regulations specifying the operations subject to the exception in paragraph (3) of subdivision (b) of Section 40200. The regulations shall prohibit the storing of more than 90 cubic yards of waste in covered containers during any 72-hour period and the transfer of uncontainerized refuse from smaller refuse hauling motor vehicles to larger refuse transfer motor vehicles for transport to the point of ultimate disposal.

43310. If the board becomes the enforcement agency, it may charge reasonable fees to the local governing body to recover operation costs.

Article 3. Closure Plans

43500. (a) The Legislature hereby finds and declares that the long-term protection of air, water, and land from pollution due to the disposal of solid waste is best achieved by requiring financial assurances of the closure and postclosure maintenance of solid waste landfills.

43501. Any person owning or operating a solid waste landfill, as defined in Section 46027, shall do both of the following:

(a) On or before January 31, 1990, or upon application to become an operator of a solid waste facility pursuant to Section 44001, certify to the board and the enforcement agency that all of the following have been accomplished:

(1) The owner or operator has prepared an initial estimate of closure and postclosure maintenance costs.

(2) The owner or operator has established a trust fund or equivalent financial arrangement acceptable to the board, as specified in subdivision (f).

(3) The amounts that the owner or operator will deposit annually in the trust fund or equivalent financial arrangement acceptable to the board will ensure adequate resources for closure and postclosure maintenance.

(b) Submit to the regional water board and the board a plan for the closure of the landfill and a plan for the postclosure maintenance of the landfill.

43502. All documentation relating to the preparation of the closure and postclosure maintenance costs shall be retained by the owner or operator and shall be available for inspection by the board or the enforcement agency at reasonable times.

43503. The closure plan and the postclosure maintenance plan shall be submitted not later than the first date after July 1, 1990, that the solid waste facilities permit is required to be reviewed, pursuant to subdivision (d) of Section 66796.33 of the Government Code, as it read on December 31, 1989, or Section 44001. The closure and postclosure maintenance plans shall be included in that review. If the owner or operator intends to close the solid waste landfill on or before September 28, 1992, or if the solid waste landfill does not have sufficient permitted capacity to operate after September 28, 1992, the owner or operator shall submit the plans on or before July 1, 1990, or upon application to become an operator of a solid waste facility pursuant to Section 44001.

43504. Pursuant to the procedural requirements in Chapter 3 (commencing with Section 44001), the enforcement agency or the board may suspend or revoke a permit if the applicant fails within a reasonable period of time to submit an acceptable plan for the closure of the landfill and an acceptable plan for postclosure maintenance of the landfill.

43505. The closure plan and the postclosure maintenance plan may be revised only upon the filing of a written application therefor by the owner or operator, and the approval, or amendment and approval, by the board.

43506. After receiving a complete closure plan and postclosure maintenance plan, the regional water board shall approve or disapprove the plans pursuant to the authority and time schedules specified in Division 7 (commencing with Section 13000) of the Water Code. The action by the regional water board shall include a review and approval of the estimates of the funds necessary to implement those portions of the plans approved by the regional water board. The board shall incorporate the action of the regional water board and shall only approve plans that include an acceptable mechanism for providing the necessary funds to implement the plans.

43507. The owner and operator shall, regardless of any changes occurring during the continued operation of the landfill, close and maintain the landfill during postclosure in accordance with the most recent closure plan and the most recent postclosure maintenance plan approved by the board pursuant to this article.

43508. The board may recover any costs incurred in meeting the requirements of this article by charging a fee pursuant to Chapter 8 (commencing with Section 41900) of Part 2.

43509. (a) The board shall adopt and amend regulations specifying closure plan and postclosure maintenance plan adoption procedures and uniform closure and postclosure standards. The regulations shall also require solid waste landfill owners or operators to calculate, and periodically revise, cost estimates for closure and postclosure maintenance for a period of not less than 30 years after closure.

(b) The board may adopt regulations that authorize the adoption of both preliminary and final closure and postclosure maintenance plans. Regulations for preliminary closure and postclosure maintenance plans may require less specificity and engineering detail than final closure and postclosure maintenance plans, and these regulations shall apply only in those cases in which there is reasonable certainty that the solid waste landfill will not close for at least one year following approval of the plans. Preliminary closure and postclosure maintenance plans shall provide sufficient detail to enable the owner or operator and the board to accurately estimate the costs for closure and postclosure maintenance.

43510. The regulations adopted by the board pursuant to Section 43509 shall not duplicate or conflict with the regulations imposing the closure and postclosure maintenance requirements adopted by the state water board which are found in Subchapter 15 (commencing with Section 2510) of Chapter 3 of Title 23 of the California Code of Regulations.

Article 4. Financial Ability

43600. Any person owning or operating a solid waste landfill shall, with the closure plan and postclosure maintenance plan submitted pursuant to subdivision (b) of Section 43501, submit to the board evidence of financial ability to provide for the cost of closure and postclosure maintenance, in an amount equal to the estimated cost of closure and 15 years of postclosure maintenance, contained in the closure plan and the postclosure maintenance plan submitted.

43601. The evidence of financial ability shall be in the form of a trust fund into which funds shall be deposited on an annual basis in amounts sufficient to meet closure and postclosure costs when needed, or an equivalent financial arrangement acceptable to the board, and shall be reviewed and approved by the board in conjunction with the required plans.

43602. The evidence of financial ability required of an owner or operator shall be adjusted to equal the estimated costs of closure and 15 years of postclosure maintenance in the approved plans. Revisions in the plans prior to closure shall be accompanied by corresponding revisions in cost estimates and financial assurances.

43603. The board shall not require an owner or operator of a solid waste landfill to revise or amend a closure plan submitted pursuant to this section or former Section 66796.22 of the Government Code after closure of the landfill in order to reflect subsequent changes in any standards and regulations adopted by the board.

43604. After closure, and during the postclosure maintenance period, a solid waste landfill owner or operator shall maintain evidence of financial ability for postclosure maintenance at all times equal to the estimated cost of 15 years of postclosure maintenance, except that, 15 years before the end of the postclosure maintenance period specified in a postclosure maintenance plan approved by the board, an owner or operator may request approval of the board to provide evidence of financial ability in a lesser amount.

43605. Nothing in this division affects the authority of the State Water Resources Control Board to impose closure and postclosure maintenance requirements on solid waste landfills.

43606. (a) Except for financial arrangements approved by the board pursuant to this article, no indemnification, hold harmless, or similar agreement or conveyance is effective to transfer from the owner or operator of a solid waste landfill to any other person any obligations imposed on the owner or operator under this article.

(b) Notwithstanding subdivision (a), nothing in this section prohibits any agreement between the owner and the operator regarding their respective obligations for closure and postclosure maintenance of a solid waste landfill, and nothing in this section prohibits a cause of action that an owner or operator has or would have against the other party by reason of that agreement.

CHAPTER 3. Permit and Inspection Program**Article 1. Solid Waste Facility Permits**

44001. Any person who proposes to become an operator of a solid waste facility shall file with the enforcement agency having jurisdiction over the facility, or the board if there is no designated and certified enforcement agency, an application for a solid waste facilities permit at least 120 days in advance of the date on which it is desired to commence operation.

44002. The operation of a solid waste facility by any person, except as authorized pursuant to a solid waste facilities permit issued by the enforcement agency, is prohibited.

44003. When the operator of the disposal site is not the disposal site owner, the disposal site operator's application for a solid waste facilities permit shall contain any information that the enforcement agency may require regarding the disposal site owner's interest in the real property utilized as the disposal site.

44004. (a) No operator of a solid waste facility shall make a significant change in the design or operation of any solid waste facility except in conformance with the terms and conditions in a solid waste facilities permit or revised permit issued by the enforcement agency to that operator.

(b) If the operator wishes to modify the operation of a solid waste facility, 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 120 days in advance of the date when the proposed modification is to take place.

(c) Under circumstances which present an immediate danger to public health, as determined by the enforcement agency, the 120-day filing period may be waived.

44005. Any person, who is the owner of a disposal site, shall file with the enforcement agency or the board a report specifying the date when he or she encumbered, sold, transferred, or conveyed, or permitted to be encumbered, sold, transferred, or conveyed, by agreement for sale or in any other manner, his or her interest or any portion thereof in the real property utilized as the disposal site. The report shall be filed within 30 days after any sale, transfer, or conveyance of the real property.

44006. (a) Each report or application filed under this article shall be submitted under oath or under penalty of perjury.

(b) Each report, notice, or application filed under this article shall be submitted on a form approved by the board.

(c) Each application required to be filed under this article shall be accompanied by a filing fee according to a fee schedule established by the enforcement agency to reflect the cost of processing the application. Any filing fee established by the enforcement agency shall not exceed five hundred dollars (\$500), except as necessary to recover costs incurred in meeting the requirements of Article 3 (commencing with Section 43500) and Article 4 (commencing with Section 43600) of Chapter 2. This fee is in addition to the fee authorized by Section 41900.

44007. The enforcement agency shall not issue or revise a solid waste facilities permit unless it has, at least 65 days in advance, provided the board and the applicant with a copy of the proposed permit, which shall contain the terms and conditions the enforcement agency proposes to establish.

44008. A decision to issue or not issue the permit shall be made by the enforcement agency within 120 days of the time the application is filed unless waived by the applicant.

44009. The board shall, in writing, concur or object to the issuance, modification, or revision of any solid waste facilities permit within 60 days of the board's receipt of any proposed solid waste facilities permit submitted under Section 44007. If the board determines that the permit is not consistent with state standards, it shall object to provisions of the permit, and shall submit such objections to the enforcement agency for its consideration. If the board fails to concur or object in writing within 60 days, it shall be deemed to have concurred in the issuance of the permit as submitted to it.

44010. The enforcement agency shall issue the permit only if it finds that the proposed solid waste facilities permit is consistent with the standards adopted by the board.

44011. A decision to issue or not issue the permit shall be made by the enforcement agency within 120 days of the time the application is filed unless waived by the applicant.

44012. When issuing or revising any solid waste facilities permit, the enforcement agency shall ensure that primary consideration is given to preventing environmental damage and that the long-term protection of the environment is the guiding criterion. To achieve these purposes, the enforcement agency may prohibit or condition the handling or disposal of solid waste to protect, rehabilitate, or enhance the environmental quality of the state or to mitigate adverse environmental impacts.

44013. The enforcement agency may suspend, revise, or revoke any permit pursuant to Chapter 4 (commencing with Section 44300).

44014. (a) Upon compliance with Sections 44007, 44008, 44009, and 44011, and after any necessary hearing, the enforcement agency may issue, modify, or revise a solid waste facilities permit if the board has concurred in the permit.

(b) The permit shall contain all terms and conditions which the enforcement agency determines to be appropriate for the operation of the solid waste facility. The operator shall comply with all terms and conditions of the permit.

(c) Within 15 days of issuing, modifying, or revising a solid waste facilities permit, the enforcement agency shall transmit to the disposal site owner and the person who is or proposes to become an operator of a transfer or processing station or a disposal site, or both, a copy of the solid waste facilities permit.

44015. Any solid waste facilities permit issued or revised under this chapter shall be reviewed and, if necessary, revised at least once every five years.

44016. (a) The enforcement agency or the board may suspend or revoke the permit of any solid waste facility designed to convert solid waste from offsite sources into energy or synthetic fuels if the facility utilizes recyclable materials for conversion to energy and if the local agency in whose jurisdiction the materials are collected requires, by ordinance, contract, or otherwise, that recyclable materials within the jurisdiction of that local agency be converted into energy at that facility. This subdivision does not otherwise restrict the ability of a solid waste facility to purchase, collect, transport, or process recyclable materials.

(b) As used in this section, "local agency" means any county, city, or district authorized to collect, dispose, or collect and dispose of solid waste, or any joint powers authority formed pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code which is authorized to construct and operate a facility for the

conversion of solid waste into energy, synthetic fuel, or reusable materials.

(c) As used in this section, "recyclable materials" means discarded paper, glass, cardboard, plastic, ferrous metal, or aluminum which has been segregated from other solid waste materials for the purpose of reuse or recycling, except that recyclable materials do not include materials which a local agency, having jurisdiction over the locations where these materials exist, determines could be potentially harmful to the public health, or materials which create a public nuisance, as defined in Section 3480 of the Civil Code.

44017. The enforcement agency shall include, in the permit of any solid waste facility designed to convert solid waste into energy or synthetic fuels, a provision which requires the use of operating procedures at the facility to prevent significant quantities of hazardous waste from entering the conversion process and to ensure that the ash which is produced is nonhazardous.

Article 2. Facility Inspections

44100. (a) The enforcement agency, in issuing or reviewing any solid waste facilities permit or in connection with any action relating thereto or authorized by this division, may investigate the operation by any person of a transfer or processing station, or disposal site, collection or handling equipment, or storage area for solid wastes.

(b) In the investigation, the enforcement agency may require any person, who is or proposes to become an operator of a transfer or processing station, disposal site, collection or handling equipment, or storage area for solid wastes, to furnish, under penalty of perjury, any technical or monitoring program reports or other reports that the enforcement agency may specify.

44101. In the investigation, the enforcement agency may inspect the facility, equipment, or vehicle used for storage, collection, transportation, processing, or disposal of solid waste, as necessary to ensure compliance with this division and to determine that the terms and conditions of solid waste facilities permits are being complied with.

The inspection shall be made with the consent of the owner or possessor of the facilities or, if consent is refused, with a warrant duly issued pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. However, in the event of an emergency affecting the public health or safety, an inspection may be made without consent or the issuance of a warrant.

44102. Upon the request of any person furnishing any report, notice, application, or other document required by this chapter, the enforcement agency or the board shall not make available for inspection by the public those portions of the report, notice, application, or other document which contain trade secrets as defined in subdivision (3) of Section 499c of the Penal Code.

However, the portions of a report, notice, application, or other document shall be made available to governmental agencies for the use in making reports and to the state or any state agency in judicial review for enforcement proceedings involving the person furnishing the report.

Nothing in this section prohibits the disclosure of information pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1.

44103. (a) For those facilities which accept only hazardous wastes, a solid waste facilities permit issued by the enforcement agency is not required. A single hazardous waste facilities permit issued by the State Department of Health Services pursuant to Article 9 (commencing with Section 25200) of Chapter 6.5 of Division 20 of the Health and Safety Code shall be the only waste facilities permit necessary for the use and operation of hazardous waste disposal facilities.

(b) For those facilities which accept both hazardous wastes and other solid wastes, two permits shall be required, as follows:

(1) The hazardous waste facilities permit issued by the State Department of Health Services pursuant to Article 9 (commencing with Section 25200) of Division 20 of the Health and Safety Code.

(2) The solid waste facilities permit issued by the enforcement agency pursuant to this article.

(c) Nothing in this section limits or supersedes any other permit or licensing requirements imposed by other provisions of law.

44104. (a) The board shall maintain an inventory of solid waste facilities which violate state minimum standards. To the extent it is practicable to do so, the board shall incorporate in this inventory existing information collected in the course of previous surveys of this type and similar information made available to the board by state and local agencies.

(b) Whenever a solid waste facility is proposed to be included in the inventory, the board shall give notice thereof by certified mail to the disposal site owner and the operator of the solid waste facility. If, within 90 days of that notice, the violation has not been corrected, the solid waste facility shall be included in the inventory. The board shall update and publish the inventory twice annually.

44105. (a) The board shall maintain an inventory of all permitted solid waste facilities and shall conduct regular inspections.

(b) The board shall establish a special unit to investigate illegal, abandoned, or closed solid waste disposal sites to ensure that public health and safety and the environment are adequately protected.

44106. (a) The enforcement agency shall develop a compliance schedule for a solid waste facility included in the inventory prepared pursuant to Section 44014. The compliance schedule shall ensure that diligent progress will be made to bring the solid waste facility into compliance with state minimum standards within one year of the date on which actual notice is received that the solid waste facility was included in the inventory.

(b) If the solid waste facility is not in compliance within that period, the enforcement agency shall revoke the operating permit of the solid waste facility until the violations of state minimum standards are remedied. If a closed or abandoned disposal site is not in compliance within the one-year period, the unremedied condition is prima facie evidence of negligence; and, in any action for damages against the owner of the property for injury caused by the unremedied condition, the burden of proving that the injury was not caused by the unremedied condition shall be on the owner of the property.

(c) The enforcement agency may recover any costs incurred pursuant to this section by charging the fee authorized by Section 41900.

Article 3. Other Requirements

44150. (a) The enforcement agency shall not issue, revise, or reissue a solid waste facilities permit for any project which proposes to use transformation, as defined in Section 40201, unless the project complies with all of the following conditions:

(1) The proposed project meets all of the requirements specified in Section 44007.

(2) The proposed project is consistent with state solid waste management policy as set forth in Section 40051.

(3) The proposed project has a defined source of waste, including waste available from existing solid waste transfer and processing stations.

(4) The proposed project is guaranteed, by contract or other commitments, more than sufficient quantities of waste to maintain the project's economic feasibility for the life of the bonded indebtedness of the project. This guarantee shall not include any materials which will be recycled pursuant to paragraph (5).

(5) The proposed project, and any contracts or commitments the project has entered into for the provision of waste, uses front-end recycling methods or programs to remove all recyclable materials from the waste stream prior to transformation to the maximum extent feasible.

(6) If the proposed project is a thermal powerplant, the thermal powerplant has been specifically included in an adopted and approved revision of the plan prepared pursuant to Chapter 4 (commencing with Section 40500).

(7) The ash or other residue generated from the transformation project is routinely tested at least once a month, and, notwithstanding Section 25143.7 of the Health and Safety Code, if hazardous wastes are present, the ash or residue is sent to a Class 1 hazardous waste disposal facility.

(b) Facilities for the recovery of methane gas are not subject to this section.

44151. Any solid waste facility, located outside of any city, shall be maintained in compliance with the flammable clearance provisions of Chapter 5 (commencing with Section 4371) of Part 2 of Division 4 of the Government Code.

44152. No enforcement agency shall issue or revise a permit for a solid waste disposal facility or a solid waste incineration facility until the board has concluded in writing that the proposed permit is consistent with the state's minimum standards for solid waste facilities.

CHAPTER 4. Denial, Suspension, or Revocation of Permits

Article 1. Denial of Permits

44300. If the enforcement agency denies a permit, or if the applicant deems the terms and conditions of the proposed permit inappropriate, the applicant may request a hearing. The hearing shall be held in accordance with Article 4 (commencing with Section 44800).

44301. (a) A hearing to determine whether a permit should be issued shall be initiated by the filing of a statement of issues by the enforcement agency. The enforcement agency shall file the statement within 15 days after receiving a written request from an applicant for a hearing. The statement of issues shall be a written statement specifying the statutes and regulations with which the applicant shall show compliance by producing proof at the hearing and any particular matters which come to the attention of the enforcement agency which would authorize a denial of the permit.

(b) The statement of issues and a notice of defense shall be served personally on the applicant or by registered mail at least 20 days prior to the hearing.

Article 2. Suspension, Revocation, or Modification of Permits

44500. After a hearing, any permit may be suspended, amended, or revoked by the enforcement agency for cause, including, but not limited to, any or all of the following:

(a) A violation of any term or condition contained in the permit.

(b) Having obtained the permit by misrepresentation or failing to disclose fully all relevant facts.

(c) A change in any condition that requires either a temporary or permanent modification, reduction, or elimination of the permitted operation to bring it into compliance with the requirements of this chapter.

(d) A finding that the facility poses a substantial threat to public health or the environment.

44501. A hearing to determine whether a permit should be revoked, suspended, or modified shall be initiated by the filing of an accusation by the enforcement agency. The accusation shall be a written statement of charges which sets forth, in ordinary and concise language, the acts or omissions with which the permittee is charged. It shall specify the statutes and regulations which the permittee is alleged to have violated, but shall not consist merely of charges phrased in the language of those statutes and regulations.

44502. The accusation and all accompanying documents shall be served personally on the permittee or by registered mail.

44503. (a) The enforcement agency shall include with the accusation a form entitled "Notice of Defense" which, when signed by, or on behalf of, the permittee and returned to the enforcement agency, will acknowledge service of the accusation and constitute a notice of defense under Section 44504.

(b) The accusation shall also be accompanied by a statement that the permittee may request a hearing by filing a notice of defense within 20 days after service of the accusation, that failure to file a notice of defense constitutes a waiver of the right to a hearing, and that the permittee has the right to inspect and copy documents relative to the accusation.

44504. Within 20 days after service of an accusation, the permittee may file with the enforcement agency a notice of defense in which the permittee may do one or more of the following:

(a) Request a hearing.

(b) Object to the accusation upon the ground that it does not state acts or omissions upon which the enforcement agency may proceed.

(c) Object to the form of the accusation on the ground that it is so indefinite or uncertain that the permittee cannot identify the transaction or prepare his or her defense.

44505. A copy of the accusation or statement of issues shall be sent to the board by the enforcement agency when the accusation or statement is filed.

44506. The permittee shall be entitled to a hearing on the merits if he or she files a notice of defense, and a notice of defense is a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense is a waiver of the right to a hearing, except the enforcement agency may consent to a hearing.

44507. The notice of defense shall be in writing signed by, or on behalf of, the permittee and shall state his or her mailing address.

Article 3. Hearings

44800. All hearings required to be conducted under this chapter or Chapter 10 (commencing with Section 41100) shall be conducted by a hearing panel of three persons appointed by the chairperson of the local governing body of the enforcement agency under either of the following alternatives:

- (a) The local governing body may appoint itself as the hearing panel.
- (b) The local governing body may appoint an independent hearing panel.

44801. (a) If an independent hearing panel is appointed, not more than one member of the local governing body shall serve on the hearing panel. Members of the panel shall be selected for their legal, administrative, or technical abilities in areas relating to solid waste management. At least one member of the hearing panel shall be a technical expert with knowledge of solid waste management methods and technology. At least one member shall be a representative of the public at large. Panel members shall serve for a term of two years, and may serve more than one term but not more than two consecutive terms. If a member does not complete his or her term, the local governing body may appoint a replacement to serve out the remainder of the unexpired term.

- (b) Members of the hearing panel may receive per diem and necessary expenses while conducting the hearing.

44802. The panel shall conduct the hearing, determine the facts, and issue a decision which shall be binding on the parties unless appealed as provided in Section 44815.

44803. (a) After initiation of a proceeding in which an applicant for a permit or a permittee is entitled to a hearing on the merits, a party, upon written request made to any other party prior to the hearing, is entitled to both of the following:

- (1) Obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing.
- (2) Inspect and make a copy of any relevant documents in the possession or custody or under the control of the other party, including statements made by any person pertaining to the subject matter of the proceeding, all writings pertaining to the subject matter of the proceeding, and investigative reports made by or on behalf of the board or other party pertaining to the subject matter of the proceeding.

- (b) Nothing in this section authorizes the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as an attorney's work product.

44804. Any party claiming his or her request for discovery pursuant to Section 44803 has not been complied with may serve and file a verified petition to compel discovery in the superior court for the county in which the hearing will be held, naming as respondent the party refusing or failing to comply with Section 44803. The petition shall be served upon the respondent and filed within 15 days after the respondent first failed or refused to comply with Section 44803.

44805. If, from a reading of the petition for discovery, the court is satisfied that the petition sets forth good cause for relief, the court shall issue an order to show cause directed to the respondent; otherwise, the court shall enter an order denying the petition. The order to show cause shall be served upon the respondent and his or her attorney of record in the administrative proceeding by personal service or registered mail and shall be returnable not later than 10 days from its issuance. The respondent party may serve and file a written answer to the petition and order to show cause.

44806. The administrative proceedings shall be stayed during the pendency of the proceeding before the superior court on the petition for discovery only if the court issues an order to show cause.

44807. The court shall decide the issues on the petition for discovery on the matters examined by the court in camera, the papers filed by the parties, and any oral argument and additional evidence that the court allows.

44808. The court shall, not later than 30 days after the filing of the petition for discovery, file its order denying or granting the petition. The order of the court shall be in writing setting forth the matters the petitioner is entitled to discover. A copy of the order shall be mailed immediately by the clerk to the parties.

44809. The order of the superior court on a petition for discovery is final and not subject to review by appeal. However, a party aggrieved by the superior court's order may, within 15 days after the service of the order, file in the appropriate court of appeal and serve a petition for a writ of mandamus to compel the superior court to set aside or otherwise modify its order.

44810. (a) Before the hearing has commenced, the hearing panel shall issue subpoenas and subpoenas duces tecum at the request of any party for attendance of witnesses or production of documents at the hearing. Compliance with Section 1985 of the Code of Civil Procedure shall be a condition precedent to the issuance of a subpoena duces tecum.

(b) The subpoena process shall be extended to all parts of the state and shall be served in accordance with Sections 1987 and 1988 of the Code of Civil Procedure. No witness shall be obliged to attend at a place out of the county in which he or she resides, unless the distance is less than 150 miles from his or her place of residence. However, the hearing panel, upon affidavit of any party showing that the testimony of that witness is material and necessary, may endorse on the subpoena an order requiring the attendance of that witness.

(c) All witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the enforcement agency, shall receive fees, and all witnesses appearing pursuant to subpoena, except the parties, shall receive mileage, in the same amount and under the same circumstances as prescribed by law for witnesses in civil actions in a superior court. Fees and mileage shall be paid by the party at whose request the witness is subpoenaed.

44811. Oral evidence shall be taken only on oath or affirmation. Each party may call and examine witnesses, introduce exhibits, cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination, impeach any witness regardless of which party first called the witness to testify, and rebut the evidence against him or her. If the permittee does not testify in his or her own behalf, the permittee may be called and examined as if under cross-examination.

44812. (a) The hearing need not be conducted according to the technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of that evidence over objection in civil actions.

(b) Hearsay evidence may be used solely for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

(c) The rules of privilege shall be affected to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

44813. (a) In reaching a decision, official notice may be taken, prior to submission of the case for decision, of any generally accepted technical or scientific matter pertaining to solid waste management, and of any fact which may be judicially noticed by the courts of this state.

(b) Parties present at the hearing shall be informed of the matters to be officially noticed, and those matters shall be noted in the record. On request, any party shall be given a reasonable opportunity to refute the officially noticed matters by evidence or by written or oral presentation of authority.

44814. (a) Within 30 days after the case is submitted for decision, the hearing panel shall issue its decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented and the penalty, if any.

(b) Copies of the decision shall be sent to all parties and to the board.

44815. The decision shall become effective 30 days after it is mailed or personally served upon the permittee unless the permittee files an appeal to the board of a decision by a hearing panel appointed by the local governing body of the enforcement agency. If an appeal to the board is filed, the decision of the hearing panel is stayed pending determination by the board.

44816. (a) If the permittee fails to file a notice of defense or to appear at the hearing, the hearing panel may take action based upon information supplied by the permittee to the enforcement agency in writing, including, but not limited to, the permit application.

(b) If the burden of proof is on the permittee to establish that he or she is entitled to the action of the enforcement agency sought, the hearing panel may act without taking further evidence.

(c) Nothing in this article deprives the permittee of the right to make any showing by way of mitigation.

44817. A person whose permit has been revoked or suspended may petition the enforcement agency for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. If the enforcement agency declines to take the action requested, the petitioner, if he or she so requests, shall be granted a hearing pursuant to this article.

PART 5. ENFORCEMENT

CHAPTER 10. Administrative Enforcement

Article 1. Permit Violations

45000. Any person who is operating or proposes to operate a transfer or processing station or a disposal site, or both, in violation of a solid waste facilities permit, or who is operating or proposes to operate any solid waste facility without a solid waste facilities permit, or who owns a disposal site and causes or permits the operator of the disposal site to violate the terms and conditions of a solid waste facilities permit or to operate the disposal site without a solid waste facilities permit, shall, upon order of the enforcement agency, cease and desist any improper action, clean up any solid waste, abate the effects thereof, or take any other necessary remedial action. If the enforcement agency fails to issue the order, the board, after notification of the enforcement agency, may do so.

45001. If any of the circumstances set forth in Section 45000 pose an imminent threat to life or health, the board may expend any available money to perform any cleanup and abatement or remedial work required.

45002. (a) If the circumstances set forth in Section 45000 do not pose an imminent threat to life or health, but the chief executive officer of the board determines that it is necessary for the public health to perform cleanup and abatement work or remedial work, the chief executive officer shall request the authorization to perform the work from the board.

45003. After receiving a request pursuant to subdivision (a), the board may hold a hearing pursuant to Article 3 (commencing with Section 44800) of Chapter 4 of Part 4 on the matter and thereafter deny, grant, or grant in part the request.

45004. If the board grants a request submitted under Section 45002, the board shall, in a written decision, specify the nature of actions that may be taken and the maximum amount of moneys to be expended for the work.

45005. (a) Any work performed pursuant to Section 45001 or 45004 is in default of, or in addition to, remedial work by the operator or other persons, and the work may be performed regardless of whether injunctive relief is being sought.

(b) The board may perform the work itself, or have the work performed by, or in cooperation with, any other governmental agency or private contractor, and may use rented tools or equipment, either with or without operators furnished.

45006. Notwithstanding any other provisions of law, the board may enter into oral or written contracts for cleanup and abatement work or remedial work pursuant to Section 45001 or 45004, and the contracts, whether written or oral, may include provisions for equipment rental or the furnishing of labor and materials necessary to accomplish the work. Those contracts by the board are exempt from approval by the Department of General Services pursuant to Section 14780 of the Government Code.

44007. (a) If the solid waste is cleaned up, the effects thereof abated, or other necessary remedial action is taken by any governmental agency pursuant to Section 45001 or 45004, any person to whom an order pursuant to Section 45000 was issued is liable to that governmental agency to the extent of the reasonable costs actually incurred in cleaning up the operation, abating the effects thereof, or taking other remedial action.

(b) The amount of those costs is recoverable in a civil action by, and shall be paid to, that governmental agency together with the costs of suit incurred. From any available money, the governmental agency shall reimburse the board to the extent of the board's contribution.

Article 2. Civil Penalties

45200. Any person who operates a solid waste facility except as permitted by a solid waste facility permit, or who owns a disposal site and intentionally or negligently causes or permits the operator of the disposal site to violate the terms and conditions of a solid waste facilities permit or to operate the disposal site without a solid waste facilities permit, or who intentionally or negligently violates any standard adopted by the board for the storage or removal of solid wastes, is subject to a civil penalty not to exceed ten thousand dollars (\$10,000) for each day the violation or operation occurs.

45201. Any attorney authorized to act on behalf of the board shall petition the superior court to impose, assess, and recover the civil penalties authorized by Section 41130. Funds collected shall be paid to the Solid Waste Management Fund.

45202. Remedies under this article are in addition to, and do not supersede or limit, any other remedies, civil or criminal.

Article 3. Hazard, Pollution, or Nuisances

45300. (a) Whenever the enforcement agency finds that any person is operating a solid waste facility or proposes to operate a solid waste facility which causes or threatens to cause a condition of hazard, pollution, or nuisance constituting an emergency requiring immediate action to protect the public health, welfare, or safety, the enforcement agency may issue a cease and desist or cleanup order under this article. If the enforcement agency fails to issue an order the board, after notification of the enforcement agency, may do so.

(b) The enforcement agency may, whenever it determines that the operation of a disposal site is causing or threatening to cause a condition of hazard, pollution, or nuisance due to the migration of methane gas or any solid waste, require the owner or operator of the disposal site to take corrective action as necessary to abate a nuisance or protect human health and the environment.

45301. At least 10 days before issuing an enforcement order which is not for an emergency, within five days after issuing an enforcement order for an emergency, or within 15 days after discovering a violation of a state law, regulation, or term or condition of a permit, for a solid waste disposal site which is likely to result in an enforcement action, the following agencies shall provide a written statement providing an explanation of, and justification for, the enforcement order or a description of the violation in the following manner:

(a) The enforcement agency shall provide the statement to the regional water board, to the air pollution control district or air quality management district, and to the State Department of Health Services.

(b) A regional water board shall provide the statement to the enforcement agency, the air pollution control district or air quality management district, and the State Department of Health Services.

(c) An air pollution control district or an air quality management district shall provide the statement to the enforcement agency, the regional water board, and the State Department of Health Services.

(d) The State Department of Health Services shall provide the statement to the enforcement agency, the regional water board, and the air pollution control district or air quality management district.

45302. Within 10 days after receiving a notice of the issuance of, or the proposal to issue, an enforcement order pursuant to Section 45301, the regional water board, the enforcement agency, the air pollution control district or the air quality management district, and the State Department of Health Services shall inspect the solid waste disposal site to determine whether any state law, regulation, or term or condition of a permit, which that board or agency is authorized to enforce, is being violated.

45303. If any board or agency specified in Section 41151 receives a complaint concerning a solid waste disposal site and the board or agency determines that it is not authorized to take action concerning the complaint, the board or agency shall refer the complaint within 10 days of receipt to another state agency which it determines is authorized to take action.

45304. If any agency or board specified in Section 45301 receives a complaint concerning a solid waste disposal site which the agency or board does not refer to another state agency pursuant to Section 45303, or if the agency or board receives a complaint referred to it by another agency or board pursuant to Section 45303, the agency or board shall either take enforcement action concerning that facility or, within 10 days, provide the person who filed the complaint with a written statement explaining why an enforcement action would not be appropriate.

Article 4. Corrective Actions

45400. Upon the request of the enforcement agency, or upon its own initiative, the board may, after notification of the enforcement agency, enforce this division. In taking any action, the board is vested, in addition to its other powers, with all the powers of the enforcement agency under this division.

45401. (a) Upon the request of the enforcement agency, or upon its own initiative, the board may, after notification of the enforcement agency, require the owner or operator of a solid waste landfill to do either of the following:

(1) Take corrective action as necessary to abate a nuisance or protect human health and the environment.

(2) Prepare and implement a closure plan and postclosure maintenance plan.

(b) The board may expend funds available to it from the Solid Waste Disposal Site Cleanup and Maintenance Account in the Solid Waste Management Fund in preparing and issuing an order under this subdivision.

45402. (a) Upon the request of the enforcement agency or a regional water board, or upon its own initiative, the board may, after notification of the enforcement agency, contract for the preparation and, if necessary, the implementation of any closure plan or postclosure maintenance plan required by Article 3 (commencing with Section 43500) of Chapter 2 of Part 4 after issuance of an order pursuant to Section 45401 and the failure of the owner or operator to comply on or before the date specified in the order.

(b) The board may expend funds allocated from the Solid Waste Disposal Site Cleanup and Maintenance Account in the Solid Waste Management Fund to carry out this section.

45403. (a) Upon the request of the enforcement agency, or upon its own initiative, the board may, after notification of the enforcement agency, contract for corrective action after the issuance of an order pursuant to Section 45401 and failure of the owner and operator to comply on or before the date specified in the order.

(b) The board may expend funds allocated from the Solid Waste Disposal Site Cleanup and Maintenance Account in the Solid Waste Management Fund to carry out this section.

45404. (a) If the board expends any funds pursuant to Section 45402 or 45403, the owner and the operator of the solid waste landfill shall pay the board an amount equal to the amount expended, a reasonable amount for the board's cost of contract administration, and an amount equal to the interest that would have been earned on the expended funds.

(b) The amount of any cost incurred by the board pursuant to this section shall be recoverable in a civil action by the board or, upon request of the board pursuant to Section 40432, by the Attorney General.

(c) Any amounts recovered, except amounts payable to the board for contract administration, shall be deposited in the Solid Waste Disposal Site Cleanup and Maintenance Account in the Solid Waste Management Fund.

45405. Any contract entered into by the board, pursuant to this article, is exempt from approval by the Department of General Services pursuant to Section 14780 of the Government Code.

45406. Nothing in this division affects the authority of the state water board or a regional water board to issue enforcement orders or take corrective actions on solid waste facilities.

45407. Any corrective action taken under this division shall incorporate, as a condition of the action, any applicable waste discharge requirements issued by the state water board or a regional water board, and shall be consistent with all applicable water quality control plans adopted pursuant to Section 13170, and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7, of the Water Code and state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code existing at the time of the action or proposed action.

Article 5. Administrative Appeals

45500. Within 30 days of issuance of a written decision by a hearing panel under Chapter 3 (commencing with Section 44001) or Chapter 4 (commencing with Section 44300) of Part 4, any aggrieved person may appeal to the board to review the written decision of the hearing panel. The board may, on its own motion, review at any time a written decision of the hearing panel.

45501. Within 30 days after an appeal has been filed with the board, the board may do any of the following:

- (a) Determine not to hear the appeal if the appellant fails to raise substantial issues.
- (b) Determine not to hear the appeal if the appellant failed to participate in the administrative hearing before the hearing panel, except that the board shall hear the appeal if the appellant shows good and excusable cause for his or her failure to appear.
- (c) Determine to accept the appeal and to decide the matter without a hearing on the basis of the record before the hearing panel and on written arguments submitted by the parties.
- (d) Determine to accept the appeal and hold a hearing, within 60 days, unless all parties stipulate to extending the hearing date.

45502. (a) If the board declines to hear the appeal, it shall notify all parties, and the decision of the hearing panel shall become effective 30 days after the date of the board's notification to the parties unless judicial review is sought.

(b) If the board accepts the appeal, the evidence before the board shall consist of the record before the hearing panel and any other relevant evidence which, in the judgment of the board, should be considered to effectuate and implement the policies of this division.

45503. In reviewing any decision of a hearing panel, the board's review shall be limited to those issues that relate to the enforcement of the state minimum standards for solid waste handling and disposal.

45504. The board may find the decision of the hearing panel inconsistent with the provisions of this division and the standards adopted by the board. Upon a finding that the decision of the hearing panel was inconsistent, the board may do any of the following:

- (a) Direct that the appropriate action be taken by the enforcement agency.
- (b) Refer the matter to any other state agency having jurisdiction.
- (c) Take the appropriate action itself.
- (d) Any combination of the above.

45505. Any attorney authorized to act on behalf of the board, at the board's request, shall petition the superior court for injunctive relief to enforce Article 1 (commencing with Section 44001) of Chapter 3 of Part 4 or Article 1 (commencing with Section 45000) or Article 3 (commencing with Section 45300) of this chapter, any term or condition in any solid waste facilities permit, or any standard adopted by the board for the storage of solid waste or for the operation of collection and transportation equipment.

45506. If the enforcement agency fails to enforce the provision, term, condition, or standard specified in Section 45505, the Attorney General shall, at the request of the board, petition the superior court for injunctive relief to enforce it.

45507. The board shall, by regulation, require the appropriate administrative procedures, including notice to the permittee, to be followed by the board prior to taking action against any person under Section 45200 or 45506.

45508. Failure to appeal to the board for review as provided in this chapter does not preclude a person from filing an action in the superior court to contest the action of an enforcement agency brought under this chapter.

Article 6. Jurisdictional Disputes

45600. If an operation of a transfer or processing station or disposal site, or both, is carried on within the jurisdiction of more than one enforcement agency and there is disagreement between the enforcement agencies involved as to the conditions in the solid waste facilities permit which should be established or the enforcement thereof, either enforcement agency may submit the disagreement to the board for resolution.

45601. Upon the request of the enforcement agency, or upon its own initiative, the board may, after notification of the enforcement agency, enforce this division. In taking any action under this section, the board is vested, in addition to its other powers, with all of the powers of the enforcement agency under this division.

Article 7. Reports to Legislature

45700. (a) On or before January 1, 1991, the state water board shall submit a report to the Legislature. The report shall summarize the extent of hazardous waste in solid waste disposal sites and the potential effects these hazardous wastes may have upon the quality of waters of the state and recommend actions needed to protect the quality of water.

(b) The report shall summarize the data from those solid waste water quality assessment test reports which have been submitted during the preceding year to regional water boards pursuant to Section 13273 of the Water Code, and shall evaluate the accuracy of the solid waste water quality assessment tests conducted.

CHAPTER 2. Judicial Review

45800. Within 30 days after service of a copy of a decision and order issued by the board under Article 5 (commencing with Section 45500) of Chapter 1, any aggrieved party may file with the superior court a petition for a writ of mandate for review thereof.

45801. The evidence before the court shall consist of the records before the board, including the enforcement agency's records, and any other relevant evidence which, in the judgment of the court, should be considered to effectuate and implement the policies of this division.

45802. Except as otherwise provided in this chapter, subdivisions (e) and (f) of Section 1094.5 of the Code of Civil Procedure govern proceedings pursuant to this article.

PART 6. SOLID WASTE DISPOSAL SITE CLEANUP AND MAINTENANCE

CHAPTER 1. General Provisions and Definitions

Article 1. Short Title and Findings

46000. This part shall be known and may be cited as the Solid Waste Disposal Site Hazard Reduction Act of 1989.

46001. (a) The Legislature finds and declares as follows:

(1) There are approximately 1,300 closed and active solid waste landfills in California.

(2) Recent studies have indicated that there may be future leachate and gas migration problems at California solid waste landfills.

(3) A state solid waste cleanup and maintenance fund should be financed through fees collected from solid waste landfill operators. In addition to providing resources to respond to potential health and environmental problems at onsite and offsite solid waste landfills, the fund should be used to support state and local landfill permit enforcement programs and to provide grants to local agencies to initiate and implement waste separation programs to prevent the disposal of household hazardous waste in solid waste landfills, and to preserve remaining solid waste disposal capacity.

(b) It is, therefore, the intent of the Legislature, in enacting this chapter, to provide a means for addressing and funding these urgent problems.

Article 2. Definitions

46020. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

46021. "Account" means the Solid Waste Disposal Site Cleanup and Maintenance Account in the Solid Waste Management Fund.

46022. "Closure plan" means a plan prepared by the owner or operator of a solid waste landfill to close the landfill in accordance with permit conditions and standards as may be required by a regional water board, an enforcement agency, and the board.

46023. "Committee" means the Solid Waste Cleanup and Advisory Committee.

46024. "Corrective action" means any action, required or approved by the board, a regional water board, or an air quality management district or air pollution control district, to abate a nuisance or prevent the migration of methane gas or contaminated ground or surface water as necessary to protect human health and the environment.

46025. "Inert waste" means a nonliquid waste including, but not limited to, soil and concrete, that does not contain hazardous waste or soluble pollutants at concentrations in excess of water quality objectives established by a regional water board pursuant to Division 7 (commencing with Section 13000) of the Water Code and does not contain

significant quantities of decomposable waste.

46026. "Postclosure plan" means a plan prepared by the owner or operator of a solid waste landfill to maintain the landfill for at least 30 years after closure in accordance with any permit conditions and standards which may be required by a regional water board or the board.

46027. "Solid waste landfill" means a disposal facility that accepts solid waste and which meets the requirements of a class III landfill pursuant to Sections 2533 and 2541 of Title 23 of the California Code of Regulations. "Solid waste landfill" does not include a facility which receives only wastes generated by the landfill owner or operator in the extraction, beneficiation, or processing of ores and minerals or a facility which receives only nonhazardous wood waste derived from timber production or wood product manufacturing.

46028. "State board" means the State Board of Equalization.

Article 2. The Solid Waste Cleanup and Maintenance Advisory Committee

46100. The committee is hereby established within the board.

46101. (a) The committee is composed of seven members, as follows:

- (1) The State Director of Health Services, or a designee of the director.
- (2) The Chairperson of the State Water Resources Control Board, or a designee of the chairperson.
- (3) The Chairperson of the State Air Resources Board, or a designee of the chairperson.
- (4) The chairperson of the board, or a designee of the chairperson.
- (5) A member appointed by the Senate Committee on Rules.
- (6) A member appointed by the Speaker of the Assembly.
- (7) A member, who shall be a county health officer, appointed by the Governor.

46102. The Secretary of Environmental Affairs shall serve, ex officio, as chairperson of the committee.

46103. The committee shall submit an annual report to the Legislature in 1990, 1991, and 1992 on all of the following:

- (a) The status of regulatory activities by state agencies relating to closure and postclosure maintenance of solid waste facilities.
- (b) The progress on coordinating these activities among the state agencies with regulatory authority over closure and postclosure maintenance of solid waste facilities.

46104. All members of the committee shall serve without compensation, except the members appointed pursuant to subdivisions (e), (f), and (g) of Section 46101, are entitled to receive from the account one hundred dollars (\$100) for each day attending meetings of the committee and necessary traveling and other expenses incurred by him or her in the performance of official duties.

46105. The committee shall meet at those times and places which are determined by the board. Five members of the committee constitute a quorum.

46106. No member of the committee shall participate in any board or committee action involving a grant or loan guarantee which involves the member or any recipient of a grant or loan guarantee with which the member is connected as a director, officer, or employee, or in which the member otherwise has a financial interest within the meaning of Section 87100 of the Government Code.

46107. The committee shall establish detailed criteria for selecting grant recipients and for making loan guarantees pursuant to this chapter and shall make recommendations to the board thereon.

CHAPTER 3. Duties and Functions of the Board

46200. The board shall administer this chapter and may exercise all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed upon the board pursuant to this chapter.

46201. The board may enter into loan guarantee agreements with owners or operators of solid waste landfills operating solid waste disposal facilities on or after January 1, 1990, pursuant to a solid waste facilities permit issued by the board.

46202. The board may enter into contracts which the board deems necessary to carry out its powers and duties pursuant to this part.

46203. The board may provide grants, pursuant to Chapter 5 (commencing with Section 46400), to counties and cities for local programs to help prevent the disposal of hazardous wastes at solid waste disposal sites, including, but not limited to, programs to manage household hazardous waste. These grants shall not exceed, in any one fiscal year, more than 20 percent of the total revenues deposited, or anticipated to be deposited, in the account during the fiscal year.

46204. The board may fix reasonable fees and charges for loan guarantees and revise, from time-to-time, these fees and charges.

46205. The board shall adopt criteria for selecting grant recipients and for making loan guarantees pursuant to this part.

46206. All expenses incurred by the board in carrying out this part are payable solely from the account. No liability or obligation is imposed upon the state pursuant to this part, and the board shall not incur a liability or obligation beyond the extent to which money is provided in the account.

46207. On or before March 1, the board shall submit to the Legislature an annual report of its activities for the preceding calendar year.

46208. The board shall adopt regulations to carry out this part, including, but not limited to, regulations for the issuing of loan guarantees and grants from the account. The board shall reserve 25 percent of the total revenues deposited, or anticipated to be deposited, in the account each fiscal year for the purpose of guaranteeing loans.

46209. This part does not grant any local or state agency any power in addition to any other power which may be authorized under any other provision of law.

CHAPTER 4. Loan Guarantees**Article 1. Loan Guarantee Requirements**

46300. The board may make loan guarantees to the owner and operator of a solid waste landfill to implement a corrective action. The board may also make loan guarantees to the operator of a solid waste landfill for corrective action taken pursuant to Section 41805.5 of the Health and Safety Code or Section 13273 of the Water Code, if the operator has paid an annual fee to the state board pursuant to Section 46801.

46301. Loan guarantees approved by the board may apply to loans made by banks, savings and loan institutions, or state or federal agencies authorized to make loans or provide other forms of financial assistance for the purposes described in Section 46300, including, but not limited to, the California Pollution Control Financing Authority.

46302. The board shall not make a loan guarantee pursuant to this chapter unless the board finds both of the following:

(a) That the owner or the operator of a solid waste landfill requires financial assistance to complete a corrective action.

(b) That loan guarantee funds will not be used to fund routine closure and postclosure maintenance activities that could be paid or financed out of trust funds or equivalent arrangements established pursuant to Article 4 (commencing with Section 43600) of Chapter 2 of Part 5.

46303. The board shall adopt uniform criteria for guaranteeing loans pursuant to this article. The criteria shall include a test for demonstrating financial need, ability to repay, and collateral requirements, if any. The board shall not accept as collateral any land upon which solid waste has been disposed.

46304. The board shall not make a loan guarantee to a solid waste landfill owner or operator who cannot demonstrate compliance, or at least a good faith attempt to comply, with applicable laws, regulations, and solid waste facilities permit requirements.

46305. The board shall not make a loan guarantee to any solid waste landfill owner or operator, unless the board receives determinations from all state and local agencies authorized to approve the closure plan or postclosure plan, or issue the corrective action order, that the loan guarantee, if made, will further compliance with the permit, plan, or order.

46306. The board shall establish a method of determining priority in the allocation of loan guarantee funds available for corrective actions.

46307. The board shall base the priority for allocation of funds on all of the following factors:

- (a) The financial need of the operator and owner of the solid waste landfill.
- (b) The need for the loan guarantee to prevent potential hazards to public health or the environment.
- (c) The increase in the cost of closure, postclosure, or corrective action which is likely to occur if the action is deferred.
- (d) The record of compliance by the operator, or if applicable the owner, with the solid waste facilities permit for the solid waste landfill and with corrective action orders.

46308. Applicants for loan guarantees shall submit a nonrefundable application fee of one hundred dollars (\$100) payable to the board, for deposit in the account, to defray the board's expenses in reviewing the application, including a check on the applicant's credit rating.

46309. The board shall not, on or after January 1, 1990, guarantee a loan to a person who is not the owner or operator of a solid waste landfill operating pursuant to a solid waste facilities permit issued by the board pursuant to Chapter 3 (commencing with Section 44001) and accepting solid wastes.

Article 2. Defaults

46350. The board shall adopt procedures to be followed if there is a default in payment of a loan guaranteed pursuant to this article.

46351. The default procedures may vary, depending on whether the loan guarantee was secured by real property, secured by personal property, or unsecured.

46352. The board may take legal action to secure repayments from loan guarantee recipients defaulting on loan guarantees made pursuant to this article and may call on the assistance of other state agencies in securing repayment, including, but not limited to, a levy against any tax refunds owed to the borrower by any state agency.

46353. The repeal of this article shall not extinguish a loan guarantee obligation and shall not impair any loan security taken by the board or the authority of the state to pursue appropriate action for collection.

CHAPTER 5. Grants

46400. The board may make grants of funds in the account to a city or county for any of the following purposes related to the safe operation, closure, and maintenance of solid waste landfills operating on or after January 1, 1990.

- (a) Support for establishing collection systems to ensure that hazardous waste, including, but not limited to, household hazardous waste, is not improperly disposed of in a solid waste landfill.
- (b) Payment of the local costs of waste control and enforcement programs that help prevent the disposal of hazardous wastes in solid waste landfills.

46401. If a city or county has already funded the type of program described in Section 46400 locally, the board shall award a minimum grant of funds from the account to reimburse that city or county for the actual cost of the local program in that fiscal year or 20 percent of the fees generated or anticipated to be generated in the city or county into the account during that fiscal year, whichever is less. This subdivision does not limit the authority of the board to award grants of funds from the account in excess of, or in addition to, the minimum grant amounts set forth in this subdivision, in accordance with the grant criteria adopted pursuant to Section 46205.

46402. Grants made pursuant to Sections 46400 and 46401 during a fiscal year shall equal 20 percent of the total revenues deposited or anticipated to be deposited in the account during that fiscal year.

CHAPTER 6. Inspections and Emergency Actions

46500. (a) The board shall annually grant or allocate funds from the account to the state water board, as determined necessary by the board and consistent with legislative direction, to assist in the support of solid waste landfill permit inspection and enforcement programs carried out by regional water boards pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(b) The board shall apportion the funds generally to reflect population, number of solid waste landfills, and the weight of solid waste disposed of within a regional water board's jurisdiction.

46501. The state water board shall expend its annual apportionment made pursuant to Section 46500 exclusively for the inspection of solid waste landfills, enforcement of the solid waste landfill's solid waste facilities permits, and enforcement of waste discharge requirements by the regional water boards.

46502. The funds apportioned pursuant to Section 46500 are in addition to any other funds available for the purposes of Section 46501.

46503. The board shall grant or allocate funds pursuant to Section 46500 in an amount which equals, in any fiscal year, 5 percent of the total revenues deposited, or anticipated to be deposited, in the account during the fiscal year.

46504. The board may allocate not more than 10 percent of the total revenues deposited, or anticipated to be deposited, in the account during the fiscal year to carry out the solid waste landfill permit and inspection program pursuant to Chapter 3 (commencing with Section 44001) of Part 4.

46505. Upon application by the state water board or at the discretion of the board, the board may allocate funds from the account to the state water board to prepare or implement a closure plan, or a postclosure maintenance plan for a solid waste landfill, if the owner and the operator of the solid waste landfill have failed to comply with an order issued by a regional water board requiring the preparation or implementation of a closure plan or postclosure maintenance plan.

46506. Upon application by the state water board or at the discretion of the board, the board may allocate funds from the account to the state water board to take emergency corrective action if the solid waste landfill owner and operator have failed to comply with a corrective action order issued by a regional board.

46507. (a) If the regional water board expends any funds pursuant to Sections 46505 or 46506, the owner and operator of the solid waste landfill shall pay the board an amount equal to the amount expended, a reasonable amount for interest, and the costs of contract administration.

(b) Costs incurred by the state water board pursuant to this article shall be recoverable in a civil action by the board or, upon the request of the board pursuant to Section 40432, by the Attorney General. Any amounts recovered shall be deposited in the account.

CHAPTER 7. The Solid Waste Disposal Site Cleanup and Maintenance Account

46800. The Solid Waste Disposal Site Cleanup and Maintenance Account in the General Fund is continued in existence as the Solid Waste Disposal Site Cleanup and Maintenance Account in the Solid Waste Management Fund.

46801. (a) Every operator of a solid waste landfill required to have a solid waste facilities permit pursuant to Chapter 3 (commencing with Section 44001) of part 4 shall pay an annual fee to the state board pursuant to Part 23 (commencing with Section 45001) of Division 2 of the Revenue and Taxation Code on all solid waste disposed at each disposal site. The fee shall be established by the state board and shall be based on the amount, by weight or by a volumetric equivalent, as determined by the state board, of solid waste disposed at each disposal site so that total receipts of approximately twenty million dollars (\$20,000,000), are collected each calendar year.

(b) Notwithstanding subdivision (a), the state board shall, as necessary, adjust the rate of the fees annually so that the balance in the account each July 1 does not exceed one hundred million dollars (\$100,000,000).

46802. The state board may exempt from all fees any operator of a solid waste landfill that receives less than a monthly average of five tons per operating day of solid waste.

46803. Recycled materials and inert waste removed from the waste stream and not disposed of in a solid waste landfill shall not be included for the purpose of assessing fees imposed pursuant to subdivision (a) of Section 46801.

46804. The state board shall adopt rules and regulations to carry out Sections 46801, 46802, and 46803, including, but not limited to, provisions governing collections, reporting, refunds, and appeals.

46805. Subject to Section 46806, the state board may spend not more than 5 percent of total revenues deposited or anticipated to be deposited in the account during a fiscal year for the administration of this chapter during that fiscal year.

46806. All money in the account is available, upon appropriation by the Legislature, only for purposes of this chapter and for the purposes of Article 5 (commencing with Section 45400) of Chapter 1 of Part 5.

46807. All money received by the state board pursuant to this chapter shall be deposited in the account.

46808. Upon repeal of this article, the account shall be dissolved and all money in the account shall be distributed to the solid waste landfill operators which have paid annual fees to the state board during the effective life of the account. Each operator shall receive an amount based upon the proportion that operator's total fees bear to the total funds paid into the account during its effective life. Any money thereafter received in repayment of loans made pursuant to this chapter shall be distributed to operators according to the same formula.

46809. Any distributions received pursuant to Section 40808 may only be used for any of the following activities related to solid waste landfills:

- (a) Closure and postclosure planning and maintenance.
- (b) Preventative or corrective actions to protect human health or the environment.
- (c) Enforcement activities.
- (d) Programs to prevent the disposal of hazardous waste in landfills.

46810. Except as provided in Section 46300, the board shall not make grants or loan guarantees until the unencumbered balance in the account is at least two million dollars (\$2,000,000).

46811. (a) Any operator of a solid waste landfill that pays a fee pursuant to this chapter, may impose, as necessary, on its users an administrative fee of not more than 5 percent of the fees collected by the state board in the previous year.

(b) Administrative fees imposed pursuant to subdivision (a) shall reflect the actual costs of collecting and accounting for fees paid to the state board.

(c) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

PART 7. OTHER PROVISIONS

CHAPTER 13. Household Hazardous Substance Information

Article 1. Legislative Findings and Definitions

47000. The Legislature finds and declares that, because hazardous substances are an integral part of daily life, it would benefit the public to have access to practical and consistent information concerning chemicals in daily life, products which contain hazardous substances, and proper procedures for the disposal of hazardous substances. This information would improve the ability of all Californians to assist in protecting the state's natural resources from environmental degradation.

47001. The Legislature also finds that the disposal of hazardous substances by households can be injurious to sanitation workers, the general public, and wildlife and domestic animals, and can pose a threat to the environment.

47002. The Legislature, therefore, declares that the state should assist the efforts of local governments and other agencies to provide safer disposal methods for household hazardous waste and to provide public information on the proper disposal of hazardous substances commonly found in and around homes.

47003. For purposes of this chapter, "hazardous substance" means hazardous substance, as defined in Section 25316 of the Health and Safety Code.

Article 2. Public Information Program

47050. The board shall, in consultation with the advisory committee established pursuant to Article 4 (commencing with Section 47300), develop and implement a public information program to provide uniform and consistent information on the proper disposal of hazardous substances found in and around homes. The program may include information, consistent with product labeling, on the proper use and storage of products which contain hazardous substances.

47051. The public information program shall be designed to provide uniform responses to public inquiries about household hazardous substances and to assist the efforts of local governments and other agencies to provide services related to household hazardous substances.

47052. The public information program shall include the development of pamphlets or other written materials which may be used by local governments and other agencies in conjunction with household hazardous waste collection or other programs which these agencies may offer. The written materials shall be prepared with the intent of promoting consistency in how these local programs define and handle household hazardous wastes.

Article 3. Household Hazardous Waste Management

47100. The board shall designate a household hazardous waste coordinator to advise and assist local governments and other agencies which offer programs for household hazardous waste management.

47101. The board shall provide technical assistance to local governments and other agencies which establish household hazardous waste management programs.

47102. The board shall adopt, in consultation with the State Department of Health Services and the advisory committee established pursuant to Article 4 (commencing with Section 41450), guidelines for local governments and other agencies to provide community services related to the safe disposal of hazardous substances commonly found in and around homes.

47103. The guidelines required by this article shall include all the following elements:

(a) Development of a model operation plan for community household hazardous waste collection programs. The model operation plan shall include a description of proper procedures for hazardous waste handling, storage, transportation, and personnel training.

(b) The adoption of guidelines on the generic types of household hazardous substances which should be disposed of as hazardous waste and guidelines on the safe management of hazardous wastes generated by households which may be excluded from household hazardous waste collection programs but which may require some special handling.

47104. In adopting guidelines on which generic types of household hazardous substances should be disposed of as hazardous waste, the board shall consider such factors as toxicity, concentration of toxic ingredients in a product, and other appropriate factors. The board shall also consider the appropriateness of excluding from any listing of household hazardous wastes specific categories of household products, including, but not limited to, products intended for human consumption, personal hygiene products, and other categories of household products intended for general consumer use.

47105. The guidelines and operation plan prepared pursuant to this article shall, upon request, be made available to local governments, other agencies, and the public. The board shall advise county health offices of the availability of these materials and of the informational materials developed pursuant to Article 2 (commencing with Section 41410).

47106. In developing the guidelines required by this article, the board shall, to the extent feasible, consult existing sources of information, including, but not limited to, household hazardous waste collection programs which have been operated in the state and in other states, industry, and academia.

Article 4. Advisory Committee

47500. The board shall establish a nine-member advisory committee on household hazardous waste management to review and comment on the informational materials developed pursuant to Article 2 (commencing with Section 47050), to review and comment on the guidelines adopted by the board pursuant to Article 3 (commencing with Section 47100), and to perform other functions related to household hazardous waste management, as requested by the board.

47501. The membership of the advisory committee shall be as follows:

- (a) A representative of county government, from a rural county, to be selected by the County Supervisors Association of California.
- (b) A representative of city government, to be selected by the League of California Cities.
- (c) A representative of a hazardous waste transfer station operation, to be selected by the State Department of Health Services.
- (d) A representative of public information programs, to be selected by the League of Women Voters of California.
- (e) A representative of publicly owned municipal landfill operations, to be selected by the board.
- (f) A representative of product manufacturers, to be selected by the Chemical Specialties Manufacturers Association.
- (g) A representative of waste haulers, to be selected by the Southern California Refuse Council and the Northern California Refuse Council.
- (h) A representative of environmental organizations, to be selected by the League of Women Voters of California.
- (i) A representative of paint and coatings manufacturers, to be selected by the National Paint and Coatings Association.

47502. The organizations selecting advisory committee members shall select individuals with experience in, or knowledge of, household hazardous waste management programs.

47503. The board shall provide staff to the advisory committee.

47504. If any of the appointing authorities for members of the advisory committee fails to make an appointment, the chairperson of the board shall make the appointment.

47505. The chairperson of the advisory committee shall be selected by the committee members. The committee shall meet at least twice a year. The chairperson shall call meetings of the committee after consultation with the board.

47506. Advisory committee members shall serve without compensation, but they shall be reimbursed for expenses incurred in attending advisory committee meetings.

CHAPTER 2. Finances

48000. Each operator of a solid waste landfill required to have a solid waste facility permit shall, in addition to the fee imposed pursuant to Section 46801, pay a fee quarterly to the State Board of Equalization based on all solid waste disposed of at each disposal site on or after January 1, 1990. The fee shall be based on the amount, by weight or volumetric equivalent, as determined by the board, of solid waste disposed of at each disposal site, and is due within 25 days of the end of the calendar quarter. The first payment shall be received by the State Board of Equalization on or before April 25, 1990. The fee shall be set initially at fifty cents (\$.50) per ton for waste disposed of during the period of January 1, 1990, through June 30, 1990. The fee for waste disposed of during the period of July 1, 1990, through June 30, 1991, shall be set by the board at an amount sufficient to generate revenues equivalent to the approved budget for the 1990–91 fiscal year, including a prudent reserve, but shall not exceed seventy-five cents (\$.75) per ton. The fee for waste disposed of on July 1, 1991, and thereafter, shall be set annually by the board at an amount sufficient to generate revenues equivalent to the approved budget for that fiscal year, including a prudent reserve, but not exceed one dollar (\$1) per ton.

48001. The revenue from the fees paid pursuant to Section 41700 shall, after payment of refunds and administrative costs of collection, be deposited in the Integrated Waste Management Account, which is hereby created within the Solid Waste Management Fund.

48002. The state board shall adopt rules and regulations to carry out Section 48000, including, but not limited to, provisions governing collections, reporting, refunds, and appeals.

48003. The state board may not spend more than $\frac{1}{2}$ percent of the total revenues deposited, or anticipated to be deposited in the account during a fiscal year for the administration of this chapter during that fiscal year, except that up to one hundred sixteen thousand dollars (\$116,000) may be spent during fiscal year 1989–90.

48004. The money in the Integrated Waste Management Account shall be used by the board, upon appropriation by the Legislature, for the purposes of this division, except Part 6 (commencing with Section 46000), which shall be funded by fees pursuant to Section 46801.

48005. Unless otherwise specified, all money received by the board shall be deposited in the Integrated Waste Management Account and shall be used by the board, upon appropriation by the Legislature, for the purposes for which it was collected or, if not expressly specified for a particular purpose, for the purposes of this division, except Part 6 (commencing with Section 46000), which shall be funded by fees pursuant to Section 46801.

48006. The board may exempt from all fees any operator of a solid waste landfill that receives less than a monthly average of five tons per operating day of solid waste.

48007. Recycled materials and inert waste removed from the waste stream and not disposed of in a solid waste landfill shall not be included for the purpose of assessing fees imposed pursuant to Section 48000.

48008. (a) Any operator of a solid waste landfill that pays a fee pursuant to this chapter may impose, on its users an administrative fee of not more than 5 percent of the fees paid to the State Board of Equalization during the previous quarter pursuant to Section 48000.

(b) Administrative fees imposed pursuant to subdivision (a) shall reflect, to the extent feasible, the actual costs of collecting and accounting for fees paid to the State Board of Equalization.

48009. It is the intent of the Legislature that five million dollars (\$5,000,000) be transferred each year through the annual Budget Act beginning with the 1990–91 fiscal year from the General Fund to the Waste Management Incentive Account, which is hereby created within the General Fund. These funds shall be designated for the purpose of offsetting revenue losses to the General Fund by tax credits which encourage private activity related to the goals and objectives of the Integrated Waste Management Program.

48010. Beginning June 30, 1991, and annually thereafter, the Controller shall transfer to the General Fund from the Waste Management Incentive Account an amount equal to the tax credits provided during the immediately prior calendar year pursuant to Section 23612.5 of the Revenue and Taxation Code. The estimated amount of the tax credits meeting this criteria shall be reported by the State Board of Equalization to the Controller and the Department of Finance by April 30 of each year.

CHAPTER 3. Other Provisions

48500. If any provisions of this division or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this division which can be given effect without the invalid provision or application thereof, and to this end the provisions of this division are severable.

48501. In any civil action brought pursuant to this division in which injunctive relief is sought, it shall not be necessary to allege or prove at any stage of the proceeding that irreparable damage will occur if the injunctive relief is not granted, or that the remedy at law is inadequate, and any form of injunctive relief shall be granted without those allegations and without that proof.

48502. Notwithstanding any other provision of law, the powers and duties of the State Department of Health Services pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, including those concerning the issuance of permits for hazardous waste disposal sites, enforcement activities related to the handling, transportation, storage, use, processing, and disposal of hazardous wastes, and the development of programs for the recycling and recovery of resources from hazardous wastes, shall not be assumed or duplicated by the board pursuant to its responsibilities, powers, and duties provided in this division.

PART 8. GARBAGE AND REFUSE DISPOSAL

CHAPTER 1. Garbage Disposal Districts

Article 1. Definitions

49000. "District," as used in this chapter, means a district formed pursuant to this chapter or pursuant to any law which it supersedes.

Article 2. Formation

49005. Any portion or portions of a county, whether contiguous or noncontiguous, and whether the portion or portions include incorporated or unincorporated territory, may be formed into a garbage disposal district in the manner and under the proceedings set forth in this chapter, except that less than the whole of any city shall not be included

in the district without unanimous consent of the governing body of the city and no parcel of noncontiguous territory which is less than a full subdivision or which contains less than 10 privately owned acres may be included in any district.

49006. (a) The board of supervisors may determine, by resolution, that a portion of the county is in need of facilities for the disposal of garbage and should be formed into a district.

(b) Upon making the determination under subdivision (a), the board of supervisors shall fix a time and a place for a hearing on the matter of the formation of the district, which time shall be not less than three weeks after the adoption of the resolution, and shall direct the clerk of the board to publish a notice once a week for three successive weeks in a newspaper which is circulated in the territory that is proposed to be organized into a district and which the board deems most likely to give notice to the inhabitants of the territory.

49007. The notice shall state the fact that the board of supervisors has fixed the time and place, which shall be stated in the notice, for a hearing on the matter of the formation of a garbage disposal district.

49008. The notice shall describe the territory or shall specify the exterior boundaries of the territory proposed to be organized into a district. So far as practicable, the boundaries shall be the center lines of highways.

49009. At any time prior to the time fixed for a hearing of the matter, any person interested may file with the clerk of the board written objections to the formation of the district.

At the time and place fixed for the hearing or at any time to which the hearing may be continued, the board of supervisors shall consider and pass on all objections to the creation of the district, or to the inclusion of any territory in the district.

At the hearing, the board of supervisors may exclude any territory that, in the opinion of the board of supervisors, would not be benefited by inclusion in the district.

49010. At the conclusion of the hearing, the board of supervisors shall either adopt an order abandoning the creation of the proposed district or shall, by resolution, order the matter of the creation of the district, within the boundary lines determined upon at the hearing, to be submitted to the voters registered in the proposed district at an election to be called for that purpose.

At the election only voters registered in the proposed district shall be permitted to vote.

49011. Election precincts shall be established by the board of supervisors, and election boards composed of one inspector, one judge, and one clerk shall be named. At least one week prior to the election, notice of the election shall be given by publication in a newspaper of general circulation in the proposed district. In other matters, the election shall be conducted in the manner ordered by the board of supervisors.

49012. (a) Within five days after the district formation election has been called, the board of supervisors shall transmit, by registered mail, a written notification of the election call to the executive officer of the local agency formation commission of the county or principal county in which the territory or major portion of the territory of the proposed district is located. The written notice shall include the name and a description of the proposed district and may be in the form of a certified copy of the resolution adopted by the board of supervisors.

(b) The executive officer of the local agency formation commission, within five days after being notified that a district formation election has been called, shall submit to the local agency formation commission, for its approval or modification, an impartial analysis of the proposed district formation.

(c) The impartial analysis shall not exceed 500 words in length and shall include a specific description of the boundaries of the district proposed to be formed.

(d) The local agency formation commission, within five days after the receipt of the executive officer's analysis, shall approve or modify the analysis and submit it to the officials in charge of conducting the district formation election.

49013. (a) The board of supervisors or any member or members of the board authorized by the board, or any individual voter or bona fide association of citizens entitled to vote on the district formation proposition, or any combination of those voters and associations of citizens, may file a written argument for or a written argument against the proposed district formation.

(b) Arguments shall not exceed 300 words in length and shall be filed with the officials in charge of conducting the election not less than 54 days prior to the date of the district formation election.

49014. (a) If more than one argument for or more than one argument against the proposed district formation is filed with the election officials within the time prescribed, the election officials shall select one of the arguments for printing and distribution to the voters.

(b) In selecting the arguments, the election officials shall give preference and priority in the order named to the arguments of the following:

(1) The board of supervisors or any member or members of the board authorized by the board.

(2) Individual voters or bona fide associations of citizens or a combination of those voters and associations.

49015. (a) The officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

(b) The ballot pamphlet shall contain all of the following in the order prescribed:

(1) The complete text of the proposition.

(2) The impartial analysis of the proposition prepared by the local agency formation commission.

(3) The argument for the proposed district formation.

(4) The argument against the proposed district formation.

(c) The election officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 10012 of the Elections Code.

49016. If at the election a majority of all those voting upon the question of creation of the district, and a majority of those voting thereon in each city is in favor of the formation of the district, the board of supervisors shall make an order forming the district and thereupon it is formed.

The order shall contain the name of the district and a description of the boundaries, or otherwise indicate its territorial extent.

The order is conclusive evidence of the regularity of all prior proceedings, except the adoption and publication in full of the resolution of intention, and of the fact of the holding of the hearing on formation.

49017. (a) A district may be formed for the exclusive purpose of providing, maintaining, and operating a garbage and refuse disposal site. In forming a district for this limited purpose, the determination of the board of supervisors required by Section 44006 shall be that this is the exclusive purpose of the district. In all other matters a district shall be formed in the same manner as other districts under this chapter. On formation, the district shall have only those powers granted to districts by this chapter that are reasonably necessary to carry out the exclusive purpose.

(b) A district formed for the exclusive purpose of providing, maintaining, and operating a garbage and refuse disposal site may issue bonds and levy taxes therefor in the same manner as provided for bonds of garbage and refuse disposal districts pursuant to Article 7 (commencing with Section 44160) of Chapter 2, and may issue revenue bonds pursuant to the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code).

Article 3. Administration

49018. The board of supervisors is the governing body of the district and may do any or all of the following:

(a) Make and enforce all rules and regulations necessary for the administration and government of the district, and for the collection and disposal of garbage and other refuse matter in the district.

(b) Appoint agents and employees for the district sufficient to maintain and operate the property acquired for the purposes of the district.

(c) Acquire in the name of the county, by gift, purchase, condemnation, or otherwise, and own, control, manage, and dispose of, any interest in real or personal property necessary or convenient for the collection and disposal of the garbage or other refuse matter of the district.

(d) Perform all of the acts necessary or proper to accomplish the purposes of this chapter.

49019. (a) The board of supervisors may enter into contracts for the disposal of garbage and other refuse matter. Whenever the board enters into, or renews such a contract, it shall advertise for bids for the performance of the work in a newspaper of general circulation in the county. The advertisement shall be published pursuant to Section 6062 of the Government Code. If there is no newspaper of general circulation published in the county, the notice shall be given by posting in three public places for at least two weeks.

(b) All bidders shall be granted an opportunity to ascertain the details of the nature of the work to be done under the contract. The contract shall be let to the lowest responsible bidder. If no satisfactory bid is obtained, the board may reject all bids. If all bids are rejected, the board of supervisors may readvertise for bids or, without the necessity of readvertising, may enter into contracts for the disposal of garbage and other refuse for a term not to exceed six months on terms that are necessary or proper in the exercise of the district's powers.

49020. If an emergency occasioned by default of a contractor or other circumstances which would be detrimental to the public health, safety, or welfare of the inhabitants of the district, the board of supervisors may, without the necessity of advertising for bids, enter into contracts for the disposal of garbage and other refuse for a term not to exceed six months on terms that are necessary or proper, in the exercise of the districts' power.

Article 4. Taxation

49030. The board of supervisors shall levy a tax each year upon the taxable property in the district sufficient to defray the cost of the disposal of garbage and other refuse in the district, and of the maintenance of the district, and to meet other expenditures authorized by this chapter.

The tax shall be levied and collected at the same time, and in the same manner, as general county taxes levied for county purposes and, when collected, shall be paid into the county treasury and used in furtherance of the purposes of this chapter.

49031. For any district in a county with a population of six million or more, the board of supervisors may prescribe and collect garbage and refuse collection and disposal service fees for the purpose of defraying the cost of the disposal of garbage and refuse in the district, maintaining the district, and meeting other expenditures authorized by this chapter.

Subject to the additional requirements of Section 49032, fees and charges prescribed, revised, and collected pursuant to this section shall be prescribed, revised, and collected pursuant to Article 4 (commencing with Section 5470) of Chapter 6 of Part 3 of the Health and Safety Code.

49032. (a) Prior to adoption of the initial ordinances prescribing the fees provided for in Section 49031, the board of supervisors shall place before the voters of the district the question whether the district shall be authorized to prescribe fees. If the voters do not approve that authorization, a subsequent election to secure that approval shall not be held within one year of the date of the prior authorization election.

(b) The approval of the voters may be secured at a district or countywide election or by a ballot mailed to each registered voter of the district.

(c) The board of supervisors shall determine what majority of the voters voting on the proposition shall be required to approve the proposition.

Article 5. Claims

49040. All claims for money or damages against the district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code, except as provided therein, or by other statutes or regulations expressly applicable thereto.

Article 6. Annexation

49050. The boundaries of any district may be altered, and outlying districts or territory, whether incorporated or unincorporated, and whether contiguous or noncontiguous, may be annexed pursuant to the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 6 of the Government Code). However, no parcel of noncontiguous territory which contains less than 10 privately owned acres may be annexed to any district.

CHAPTER 2. Garbage and Refuse Disposal Districts**Article 1. Definitions**

49100. "District," as used in this chapter, means a district formed pursuant to this chapter or pursuant to any law which it supersedes.

Article 2. Formation

49110. Any contiguous portion or portions of a county, whether the portion or portions include incorporated or unincorporated territory, may be formed into a garbage and refuse disposal district in the manner and under the proceedings specified in this chapter. However, no city, or any portion thereof, shall be included in the district without the consent of the governing body of the city adopted by a favorable vote of two-thirds or more of its members.

49111. (a) The board of supervisors may determine, by resolution, that a portion of the county is in need of a site for the disposal of garbage and refuse and should be formed into a district.

(b) Upon making the determination under subdivision (a), the board of supervisors shall fix a time and a place for a hearing on the matter of the formation of the district, which time shall be not less than three weeks after the adoption of the resolution. The board of supervisors shall also direct the clerk of the board to publish a notice once a week for three successive weeks in a newspaper which is circulated in the territory that is proposed to organize into a district and which the board deems most likely to give notice to the inhabitants of the territory.

49112. The notice shall state the fact that the board of supervisors has fixed the time and place, which shall be stated in the notice, for a hearing on the matter of the formation of a garbage and refuse disposal district.

49113. The notice shall describe the territory, or shall specify the exterior boundaries of the territory, proposed to be organized into a district.

49114. At any time prior to the time fixed for a hearing on the matter, any person interested may file with the clerk of the board of supervisors written objections to the formation of the district. At the time and place fixed for the hearing or at any time to which the hearing may be continued, the board of supervisors shall consider and pass on all objections to the formation of the district or to the inclusion of any territory in the district. At the hearing, the board of supervisors may exclude any territory that, in the opinion of the board of supervisors, would not be benefited by inclusion in the district.

49115. At the final hearing the board of supervisors shall make those changes in the proposed boundaries that are advisable and shall define and establish the boundaries.

49116. If, from the testimony given before the board of supervisors, it appears to the board of supervisors that the public necessity or welfare requires the formation of the district, it shall, by an order entered on its minutes, declare that to be its finding, and shall further declare and order that the territory within the boundaries so fixed and determined be organized as a district, under an appropriate name to be selected by the board of supervisors. The name shall be descriptive of the functions of the district.

49117. The county clerk shall immediately file for record in the office of the county recorder of the county in which the land embraced in the district is situated, and also shall file with the Secretary of State, a certified copy of the order of the board of supervisors. From and after the date of the filing of the certified copy with the Secretary of State, the district named therein is organized as a district, with all the rights, privileges, and powers set forth in this chapter or necessarily incident thereto.

49118. No district shall be formed under this chapter after October 1, 1961.

Article 3. Board of Directors

49120. (a) Within 30 days after the filing with the Secretary of State of the certified copy of the order of formation, a governing board of trustees for the district shall be appointed.

(b) The governing board of a district is a board of directors of not less than three members. The district board shall be appointed as follows:

(1) If the district includes only one incorporated city, two members of the governing body shall be selected by the board of supervisors and one member of the governing body shall be selected by the city council.

(2) If the district includes two or more cities, only one member of the governing body of the district shall be selected by the board of supervisors to represent the unincorporated area. The legislative body of each city within the district shall appoint one member to represent each incorporated city within the district. If the selection of members pursuant to this subdivision results in the governing body having an even number of members, those members may appoint an additional member from the district at large.

(c) A vacancy shall be filled in the same manner as an original appointment. The person appointed shall reside within the area he or she represents.

49121. Any governing body authorized by Section 49120 to appoint a member to the district board may make the appointment from its own members.

49122. The members of the district board in office on September 15, 1961, shall, as soon as practicable thereafter, so classify themselves, by lot, that a majority of the members serve until January 1, 1963, and a minority of the members of the district board shall serve until January 1, 1965, or until the appointment of their successors or their resignation or termination of residence within the area they represent. Thereafter, the term of office of each succeeding member of the district board shall be four years and each shall hold office until the appointment of his or her successor or his or her resignation or termination of residence within the area he or she represents.

49123. (a) Members of the district board may be reimbursed for their actual and necessary expenses incurred in the performance of official business of the district as approved by the district board.

(b) Members of the district board may also receive not more than fifty dollars (\$50) per diem for each day of actual attendance at the meetings of the board, with the per diem to be established by order of the board and entered upon its minutes. No member of the district board shall, however, receive more than one hundred dollars (\$100) per diem in any calendar month.

(c) In addition to any other compensation received pursuant to this section, the chairperson of the district board and the secretary of the district board, if the secretary is a member of the district board, shall each receive monthly compensation as established by the district board.

Article 4. Powers and Duties

49130. The district board may do all of the following:

(a) Make and enforce all rules and regulations necessary for the administration and government of the district and for the operation and maintenance of the garbage and refuse disposal site acquired by the district.

(b) Appoint agents, employees, and experts for the district sufficient to maintain and operate the property acquired for the purposes of the district.

(c) Enter into contracts with other public agencies which may be necessary or proper to accomplish the purposes of the district.

(d) Acquire, in the name of the district, by gift, purchase, condemnation, or otherwise and own, control, manage, dispose of, and exchange, any interest in real or personal property.

(e) Perform all acts necessary or proper to accomplish the purposes of this chapter.

(f) Maintain and operate a garbage disposal site and facilities and fix and collect fees for the use thereof.

(g) Borrow money and incur indebtedness and guarantee the performance of its legal or contractual obligations.

49131. The district board may designate any depository for the custody of any or all the money collected or received for district purposes pursuant to Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

A depository shall give security sufficient to secure the district against possible loss and shall pay the warrants drawn by the district for demands against the district under the rules that the district board prescribes.

Article 5. Taxation

49140. At least 15 days before the first day of the month in which the board of supervisors of the county in which the district is situated is required by law to levy the amount of taxes required for county purposes, the district board shall furnish the board of supervisors and county auditor of the county an estimate in writing of the amount of

money necessary for district's purposes during the next ensuing fiscal year.

The county tax collector shall collect the district taxes at the same time and in the same manner as the county taxes are collected. Unless the governing board has designated any depository pursuant to Section 49131, all money collected for district purposes shall be paid into the county treasury and paid out on warrants of the county auditor drawn on the county treasurer, upon order of the district board.

The amount of money necessary for the district's purposes may include a cash-basis fund.

49141. The district board may also include in its estimate prepared pursuant to Section 49140 an unappropriated reserve to cover expenditures that have not been provided for, or that have been insufficiently provided for, or for unforeseen requirements.

The money in any unappropriated reserve fund so established may be made available for appropriation by a four-fifths vote of the members of the district board at any regular or special meeting of which all members have had reasonable notice.

In addition, the district board may further provide, by resolution, for transfers or revisions of unencumbered funds within the general district expenditures provided for during any fiscal year where, in the opinion of the district board, the transfer or revision is necessary for purposes of the district.

49142. The board of supervisors of the county in which the district is situated shall, at the time of levying county taxes, levy a tax to be known as the "_____ garbage and refuse disposal district tax," sufficient to raise the amount reported to it by the district board, upon property of the district in the county.

The board of supervisors shall determine the rate of the tax by deducting 5 percent for anticipated delinquencies from the total assessed value of the taxable property of the district within the county as it appears on the assessment roll of the county, and then dividing the sum reported to it by the district board by the remainder of the total assessed value.

49143. For purposes of the district, the board of supervisors shall levy a tax of not more than fifteen cents (\$0.15) on each one hundred dollars (\$100) of taxable property of the district in the county.

49144. The district board may establish and maintain a cash-basis fund for the purpose of defraying district expenses between the beginning of a fiscal year and the time of distribution of tax receipts in a fiscal year. The cash-basis fund shall not exceed 60 percent of the estimated expenditures for a fiscal year.

Article 6. Claims

49150. All claims for money or damages against the district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable thereto.

Article 7. Bonds

49160. No general obligation bonds shall be issued by the district unless the issuance thereof is approved by the electors of the district at a special election as provided in this article. If the district board finds that it is necessary to incur a bonded indebtedness to obtain funds with which to carry out the purposes of the district, it may submit the proposition to the voters of the district. For that purpose, a special election shall be called by resolution.

49161. The resolution shall state all of the following:

- (a) The general objectives and purposes for which it is proposed to incur an indebtedness.
- (b) A general description of all property to be acquired or damaged and work to be executed through the expenditure of the funds secured by the issuance and sale of the bonds.
- (c) An estimate of the cost of the proposed work.
- (d) The amount of the bonds proposed to be issued.
- (e) The number of years beyond which the all of the bonds are to run.

(f) The rate of interest or a maximum rate of interest to be paid.

(g) The date of the election.

(h) The election precincts, polling places, and election officers.

49162. For purposes of the bond election, the district board may consolidate into one precinct several precincts established for general election purposes and describe the precinct by reference to the general election precincts.

49163. An election board consisting of one inspector, one judge and one clerk shall be appointed by the district board for each precinct.

49164. Only voters registered in the district are eligible to vote at the bond election.

49165. A resolution calling the election shall be published once a week for three successive weeks in a newspaper having a general circulation in the district and designated by the district board. No other notice of the election is required.

49166. If two-thirds of the votes cast are in favor of incurring the bonded indebtedness as proposed, bonds of the district for the amount stated in the resolution calling the election shall be issued and sold.

49167. The validity of the bonds after their issuance shall not be questioned in any court except on the ground that the provisions of this chapter authorizing their issuance are unconstitutional, or that the required hearing regarding the formation of the district was not regularly held or proper notice of it was not given.

49168. The district board shall prescribe, by resolution, the form of the bonds and interest coupons. The bonds shall be payable at the times and at a place to be fixed by the district board and designated in the bonds, together with interest on all sums unpaid on that date until all of the indebtedness has been paid. The term of the bonds issued shall not exceed 40 years.

49169. The bonds shall be issued in the denominations that the district board determines, except that no bond shall be of a denomination less than one hundred dollars (\$100) or greater than one thousand dollars (\$1,000).

The bonds shall be payable on the day and at the place fixed in the bonds, and with interest at the rate specified in the bonds, which rate shall not be in excess of 8 percent per annum and shall, after the first year, be payable semiannually.

49170. The bonds shall be signed by the chairperson of the district board and countersigned by the county auditor, and the seal of the district board shall be affixed. The interest coupons of the bonds shall be numbered consecutively and signed by the county auditor by his or her engraved or lithographed signature.

49171. If any officer whose signature or countersignature appears on the bonds ceases to be an officer before the delivery of the bonds to the purchaser, his or her signature or countersignature shall be as valid as if he or she had remained in office until the delivery of the bonds.

49172. The district board may issue and sell bonds of the district at not less than par value, and the proceeds shall be placed in the treasury of the county.

49173. All premiums and accrued interest received shall be paid into the fund to be used for the payment of principal of, and interest on, the bonds and the remainder of the proceeds of the sale shall be paid into the construction fund of the district. Proper records of the transactions shall be placed upon the books of the county treasurer.

49174. (a) The funds in the construction fund shall be applied exclusively to the purposes and objects mentioned in the resolution calling the bond election.

(b) Payments from the construction fund shall be made upon demands authorized by the district board, and shall be prepared, presented, and audited in the same manner as demands upon funds of the county.

49175. If the proposition of issuing bonds submitted at the bond election fails to receive the requisite number of votes, the district board may, after expiration of six months after that election, call or order another bond election, either for the same objects and purposes, or for any other object or purpose of the district.

49176. If bonds have been issued by the district and the proceeds of the sale have been expended and the district board, by resolution passed by a vote of two-thirds of all its members, determines that the public interest or necessity of the district demands the issuance of additional bonds for carrying out any of the objects of the district, the district board may again submit to the voters the question of issuing additional bonds in the same manner as for a first issue. All provisions of this chapter for the issuance and sale of bonds, and for the expenditure of proceeds, apply to the issuance of additional bonds.

49177. Bonds and interest thereon shall be paid by revenue derived from an annual tax upon the property in the district, and all the property in the district shall be and remain liable to be taxed for those payments.

The bonds and the interest thereon shall not be taxable in this state.

49178. (a) An issue of bonds is hereby defined to be the aggregate principal amount of all of the bonds authorized to be issued in accordance with a proposal submitted to and approved by the electors of the district, but no indebtedness is deemed to have been contracted until bonds have been sold and delivered and then only to the extent of the principal amount of the bonds so sold and delivered.

(b) The district board issuing bonds may, in its discretion, divide the aggregate principal amount of the issue into two or more divisions or series and fix different dates for the bonds of each separate division or series. If any authorized issue is divided into two or more divisions or series, the bonds of each division or series may be made payable at the time or times fixed by the district board, separate and distinct from the time or times for the payment of bonds of any other division or series of the same issue.

49179. Whenever a district has issued bonds, in its annual statement to the board of supervisors as to the amount of money needed for district purposes during the next ensuing fiscal year pursuant to Section 44140, the district board shall include, in addition thereto, the amount necessary to pay the principal of, and interest on, those bonds that will become due before the time for making the next general tax levy.

49180. If the district board fails to furnish to the board of supervisors a statement of the amount of money necessary to pay the principal of, and interest on, the bonds as required by Section 49179, the board of supervisors shall ascertain that amount and shall levy it and cause it to be collected.

49181. The principal of, and interest on, the bonds shall be paid by the treasurer of the county in the manner prescribed by law for the principal of, and interest on, the bonds of the county.

Article 8. Revenue Bonds

49190. A district formed pursuant to this chapter is a local agency within the meaning of the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code), and the provisions of that law are applicable to that district.

Article 9. Change of Boundaries

49195. The boundaries of any district may be altered, and outlying contiguous territory, whether incorporated or unincorporated, may be annexed pursuant to the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 1 of the Government Code).

CHAPTER 3. Franchise by Counties

49200. Every franchise or permit for the collection, disposal, or destruction, or any combination thereof, of garbage, waste, offal, and debris, shall be granted by the board of supervisors only under the terms and conditions of this chapter.

49201. (a) Any county may, by resolution adopted by the board of supervisors, call for bids for the granting of a franchise or permit, exclusive or otherwise, for the collection, disposal, or destruction, or any combination thereof, of garbage, waste, offal, and debris, according to the terms and conditions set forth in the resolution, for a period of time not to exceed 25 years.

(b) After adoption of the resolution pursuant to subdivision (a), the board of supervisors shall cause to be published once a week for two successive weeks a notice which shall set forth all of the terms and conditions in the resolution and the time, date, and place for the receiving and opening of sealed bids, which shall not be sooner than four full weeks from date of the first publication of the notice.

(c) Upon examination by the board of supervisors of the bids, the franchise or permit may be awarded to the lowest qualified bidder. The board of supervisors may postpone the granting of the franchise or permit from time to time until it has had a full and complete opportunity to examine the merits of each bid.

49202. The successful bidder shall file with the board of supervisors, upon grant of the franchise or permit, a bond in favor of the county in an amount and under the terms and conditions prescribed by the board of supervisors.

49203. The county may, in the resolution and advertised notice, impose terms and conditions other than those specified in this chapter if they are not in conflict with this chapter.

49204. A bidder may in his or her franchise or permit bid set forth any propositions, terms, and conditions that the bidder may desire to offer, or receive the benefit from, which may be in addition to, or in conflict with, those specified in the resolution or advertised notice calling for bids, if they are not in conflict with this chapter.

49205. The board of supervisors which, prior to July 1, 1980, adopted an ordinance governing the granting of franchises or permits for the collection, disposal, or destruction, or any combination thereof, of garbage, waste, offal, and debris, and which granted franchises or permits pursuant to that ordinance covering defined zones or areas of the county, may extend the term of any of those franchises or permits for only one additional period not exceeding 25 years without advertising or calling for bids as required by Section 49201, if all of the following conditions exist:

(a) (1) The county franchise or permit ordinance contains rules and regulations for the protection of the public health and welfare and provides that the board of supervisors may control the rates to be charged customers by the franchise or permitholders.

(2) Notwithstanding any provision in a county ordinance, the board of supervisors shall not increase the rates to be charged to customers by franchise or permitholders without first calling and holding a public hearing on the proposed increase in rates. Publication of notice of the hearing required by this paragraph shall be made by the board of supervisors pursuant to Section 6066 of the Government Code.

(b) The franchise or permit proposed to be extended was granted in strict compliance with the requirements for calling and advertising for bids and award to the lowest qualified bidder pursuant to Section 49201, and was otherwise granted in strict compliance with this chapter.

(c) The franchise or permit proposed to be extended was granted on a nonexclusive basis so that the board of supervisors is not precluded from granting additional franchises or permits to cover the same areas if, in the judgment and discretion of the board of supervisors, the public interest will be served thereby.

(d) The county franchise or permit ordinance authorizes the county auditor or any other qualified public accountant to audit periodically the books and records of the franchise or permitholders.

CHAPTER 4. City Garbage Disposal Contracts

49300. The legislative body of any incorporated city may contract for the collection or disposal, or both, of garbage, waste, refuse, rubbish, offal, trimmings, or other refuse matter under the terms and conditions that are prescribed by the legislative body of the city by resolution or ordinance.

CHAPTER 5. Garbage and Refuse Dumps

49400. No city, county, district, or public or municipal corporation shall acquire and operate, or cause to be acquired and operated, a dump or site for the disposal of garbage or refuse, or a transfer station or collection point for garbage or refuse, within a city without the consent of the city council or within the unincorporated area of a county without the consent of the board of supervisors.

CHAPTER 6. Solid Waste Enterprises

Article 1. Definitions

49500. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

49501. "Exclusive solid waste handling services" means any action by a local agency, whether by franchise, contract, license, permit, or otherwise, whereby the agency itself or one or more other local agencies or solid waste enterprises has the exclusive right to provide solid waste handling services of any class or type within all or any part of the territory of the local agency.

49502. "Local agency" means any county, city, or district having the authority to provide solid waste handling services either by the agency itself or by authorizing or permitting other local agencies or solid waste enterprises to provide solid waste handling services.

49503. "Solid waste" means all putrescible and nonputrescible solid and semisolid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid or semisolid wastes, and other discarded solid and semisolid wastes.

49504. "Solid waste enterprise" means any individual, partnership, joint venture, unincorporated private organization, or private corporation regularly engaged in the business of providing solid waste handling services.

49505. "Solid waste handling services" means the collection, transportation, storage, transfer, or processing of solid wastes for residential, commercial, institutional, or industrial users or customers.

Article 2. Legislative Findings

49510. The Legislature finds and declares as follows:

(a) Although local agencies are authorized to furnish solid waste handling services, in extensive parts of the state solid waste enterprises are furnishing all or substantial portions of necessary solid waste handling services.

(b) It is in the public interest to foster and encourage solid waste enterprises so that, at all times, there will continue to be competent enterprises willing and financially able to furnish needed solid waste handling services.

Article 3. Continuation of Services

49520. If a local agency has authorized, by franchise, contract, license, or permit, a solid waste enterprise to provide solid waste handling services and those services have been provided for more than three previous years, the solid waste enterprise may continue to provide those services up to five years after mailed notification to the solid waste enterprise by the local agency having jurisdiction that exclusive solid waste handling services are to be provided or authorized, unless the solid waste enterprise has an exclusive franchise or contract.

If the solid waste enterprise has an exclusive franchise or contract, the solid waste enterprise shall continue to provide those services and shall be limited to the unexpired term of the contract or franchise or five years, whichever is less.

49521. A solid waste enterprise providing solid waste handling services is subject to this chapter only under both of the following conditions:

(a) The services of the solid waste enterprise are in substantial compliance with the terms and conditions of the franchise, contract, license, or permit, and meet the quality and frequency of services required by the local agency in other areas not served by the solid waste enterprise.

(b) The rates charged by the enterprise may be periodically reviewed and set by the local agency.

49522. Nothing in this chapter affects the right of a city following annexation to terminate for cause a franchise, contract, license, or permit held by a solid waste enterprise authorized by the county.

49523. Any local agency or solid waste handling enterprise may contract, upon mutually satisfactory terms, for the termination of all or any part of the business of the solid waste enterprise before the expiration of the period specified in Section 49520.

CHAPTER 7. Burning Garbage

Article 1. General Provisions

49600. No person shall operate in any city or town any crematory for the destruction by fire heat of garbage, ashes, offal, or other refuse matter, except as provided in this chapter.

49601. No crematory described in Section 49600 shall be operated in this state except in a manner which will prevent the propagation of disease through contamination of the atmosphere of any city or town by the gases or fumes arising from the fires or ovens of the crematory.

49602. Every person who burns by fire heat or destroys by cremation any garbage, ashes, offal, or other refuse matter in violation of this article is guilty of a misdemeanor.

Article 2. Cremation of Animal Refuse

49620. Any person who destroys, or who attempts to destroy, the carcass of any dead animal, or the offal from any slaughter pen, corral, or butcher shop by fire within one-fourth of a mile of any city, town, or village, except in a crematory whose construction and operation are satisfactory to the board of health of the city or the health officer of the town, is guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than one year or by fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment.

SEC. 23. Section 45002 of the Revenue and Taxation Code is amended to read:

45002. The collection and administration of the fee referred to in Section 45051 shall be governed by the definitions contained in Part 6 (commencing with Section 46000) of Division 30 of the Public Resources Code, unless expressly superseded by the definitions contained in this part.

SEC. 24. Section 45009 of the Revenue and Taxation Code is amended to read:

45009. "Fee payer" means any person liable for the payment of a fee imposed by Section 46801 of the Public Resources Code.

SEC. 25. Section 45051 of the Revenue and Taxation Code is amended to read:

45051. The fee imposed pursuant to Section 46801 of the Public Resources Code shall be administered and collected by the board in accordance with this part.

SEC. 26. Section 45101 of the Revenue and Taxation Code is amended to read:

45101. Every person who operates a solid waste landfill required to have a solid waste facilities permit pursuant to Section 46801 of the Public Resources Code shall register with the board.

SEC. 27. Section 45151 of the Revenue and Taxation Code is amended to read:

45151. The fee collected and administered under Section 45051 is due and payable to the board annually on or before July 1 of each year. Each fee payer, on or before March 1 of each year, shall prepare a report for the preceding calendar year, in the form prescribed by the board, showing the information required to be reported by Section 46801 of the Public Resources Code and any other information that the board deems necessary to carry out this part.

The fee payer shall deliver the report to the office of the board on or before March 1 of each year. The fee payer shall deliver a remittance of the amount of tax assessed pursuant to Section 46801 of the Public Resources Code to the office of the board on or before the following July 1.

SEC. 28. Section 45855 of the Revenue and Taxation Code is amended to read:

45855. Any information regarding solid wastes which is available to the board shall be made available to the California Integrated Waste Management Board.

SEC. 29. Section 45901 of the Revenue and Taxation Code is amended to read:

45901. All fees, interest, and penalties imposed and all amounts of fee required to be paid to the state pursuant to Section 45051 shall be paid to the board in the form of remittances payable to the State Board of Equalization of the State of California. The board shall transmit the payments to the Treasurer to be deposited in the Solid Waste Disposal Site Cleanup and Maintenance Account in the Solid Waste Management Fund.

SEC. 30. Section 45981 of the Revenue and Taxation Code is amended to read:

45981. (a) The board shall provide any information obtained under this part to the California Integrated Waste Management Board.

(b) The California Integrated Waste Management Board and the board may utilize any information obtained pursuant to this part to develop data on the generation or disposal of solid waste within the state. Notwithstanding any other provision of this chapter, the California Integrated Waste Management Board may make waste generation and disposal data available to the public.

SEC. 31. Section 45982 of the Revenue and Taxation Code is amended to read:

45982. Neither the California Integrated Waste Management Board, nor any person having an administrative duty under Part 9 (commencing with Section 15600) of Division 3 of Title 2 of the Government Code shall disclose the business affairs, operations, or any other information pertaining to a fee payer which was submitted to the board in a report or return required by this part, or permit any report or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person not expressly authorized by Section 45981 or this section. However, the Governor may, by general or special order, authorize examination of the records maintained by the board under this part by other state officers, by officers of another state, by the federal government if a reciprocal arrangement exists, or by any other person. The information so obtained pursuant to the order of the Governor shall not be made public except to the extent and in the manner that the order may authorize that it be made public.

SEC. 32. (a) The Legislature finds and declares by this act that it has expressly repealed and not recodified Articles 1 (commencing with Section 66700), 3 (commencing with Section 66730), 4 (commencing with Section 66740), and 5 (commencing with Section 66750) of Chapter 1, Articles 2 (commencing with Section 66780), 3 (commencing with Section 66785), and 3.5 (commencing with Section 66788) of Chapter 2, and Article 3 (commencing with Section 66796.45) of Chapter 3 of Title 7.3 of the Government Code.

(b) Except as expressly provided in subdivision (a), the Legislature declares that the recodification of the balance of Title 7.3 (commencing with Section 66700) of the Government Code by this act is a continuation of, and not a change to, existing law.

(c) The Legislature declares that by this act it has recodified all of Chapters 1 (commencing with Section 4100) to 3 (commencing with Section 4300), inclusive, of Part 2 (commencing with Section 4100) of Division 5 of the Health and Safety Code and that all provisions are a continuation of, and not a change to, existing law. In the event of any conflict or inconsistency between the provisions of Parts 1 (commencing with Section 40000) to Part 7 (commencing with Section 47000), inclusive, and Part 8 (commencing with Section 48000) of Division 30, as enacted by this act, the provisions of Parts 1 to 7, inclusive, shall prevail.

(d) On the effective date of this section, the California Integrated Waste Management Board shall strictly implement and enforce the provisions of this act. All articles expressly repealed by this act shall, on the effective date of this section, have no force or effect.

SEC. 33. Any section of any act enacted by the Legislature during the 1989 calendar year which takes effect on or before January 1, 1990, and which amends, amends and rennumbers, adds, or repeals and adds a section which is repealed by Sections 3 to 21, inclusive, of this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, this act.

SEC. 34. (a) Notwithstanding any other provision of this act, until a sufficient number of members are appointed to the California Integrated Waste Management Board pursuant to Chapter 3, (commencing with Section 40400) of Part 1, of Division 30 of the Public Resources Code and take office to transact the business of the board, as described in Section 40410 of the Public Resources Code, the former California Waste Management Board shall perform the duties of the California Integrated Waste Management Board, as prescribed in this act.

(b) Except as provided in Section 40434 of the Public Resources Code, the California Integrated Waste Management Board succeeds to and is vested with all of the powers, duties, funds, officers, and employees of the California Waste Management Board.

SEC. 35. It is the intent of the Legislature that, if this bill and SB 1260 are both enacted and become effective January 1, 1990, and this bill is enacted after SB 1260, that the provisions of Division 30 (commencing with Section 40000), as added to the Public Resources Code by this bill, and Division 30 (commencing with Section 40100), as added to the Public Resources Code by SB 1260, form a single, unified California Integrated Waste Management Act of 1989 (Division 30 (commencing with Section 40400) of the Public Resources Code).

Therefore, if both this bill and SB 1260 are enacted and this bill is enacted last, this bill does not prevail over SB 1260 and the provisions of both bills shall become operative in a single, unified Division 30 (commencing with Section 40000) of the Public Resources Code.

SEC. 36. The California Integrated Waste Management Recycling Board may use not more than six hundred thousand dollars (\$600,000) in the 1989–90 fiscal year and not more than one million two hundred thousand dollars (\$1,200,000) in the 1990–91 fiscal year from the Solid Waste Disposal Site Cleanup and Maintenance Account in the General Fund, if those respective amounts are appropriated in the Budget Act for those fiscal years from the Solid Waste Disposal Site Cleanup and Maintenance Account in the General Fund, for initial startup costs incurred pursuant to Chapter 3 (commencing with Section 40400) and Chapter 4 (commencing with Section 40500) of Part 1 of Division 30 of the Public Resources Code. Any funds made available from the Solid Waste Disposal Site Cleanup and Maintenance Account for the purposes specified in this section shall be a loan, which shall be repaid to the account, with interest calculated at the rate the funds would have earned in the Pooled Money Investment Account as fee revenue becomes available.

SEC. 37. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.