CALIFORNIA AB 341 LEGISLATIVE ANALYSIS

New Diversion Law Modifies California's Integrated Waste Management Act

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(Revised July 2013)

Existing Law:
California Integrated Waste Management Act
Assembly Bill 939 as promulgated in 1989 and including later amendments and modifications; amending Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, to add Sections 40004, 41734.5, and 41780.01 to, to add Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and to add and repeal Section 41780.02 of, the Public Resources Code, relating to solid waste.

New Law:
Assembly Bill 341, Chesbro. Solid Waste: diversion.
Signed by Governor October 5, 2011. Filed with Secretary of State October 6, 2011][1]

Introduction

A complex piece of waste management legislation was approved by Governor Jerry Brown last October 2011, directing the California Department of Resources Recycling and Recovery (CalRecycle) to shift its policy goals beyond current mandates for diversion of waste from disposal, and for recovery of recyclable materials. Assembly Bill 341 (AB 341) singles out Commercial Waste Generators as the sector most in need of improved waste management and requires this broad business sector to "arrange for recycling services" on or after July 1st of this year.

This review considers each section and line of the new law in context of what is being changed in the mandates stemming from the Integrated Waste Management Act (IWMA), as amended, prior to passage of AB 341. It reviews the changes to the Public Resources Code (PRC) in terms of what has been added to the responsibilities (and costs) placed upon the business community, upon California's local jurisdictions, and upon the CalRecycle, primary agency of purview.

The CalRecycle now has a year and a half to seek stakeholder input and develop a report regarding how it will implement the new code section and achieve the new goals. The report is due to the legislature by January 1, 2014. This review is therefore developed in a very detailed manner to inform stakeholders and the state to ensure that the positive aspirations of AB 341 indeed do improve California's lot, while calling attention to the perils and pitfalls attendant to the newly promulgated law.

Findings and Declarations

Authors of legislation must state the basic assumptions upon which a bill is based. These presumptions, or precepts, then justify or at least provide excuses for the subsequent mandates of the law being proposed. Many of the statements made in AB 341 as Findings and Declarations can be rephrased as "We're Number One!" In some cases, the data do not agree that that claim. For example, if we are indeed disposing of resources at a greater rate per capita than the national average, it is puzzling how Californians could at the same time lead the nation in recycling and waste reduction. The answer unfortunately lies (pun intended) in the way the numbers are counted.

AB 341 is primarily aimed at forcing commercial waste recycling. Standing at many large Materials Recovery Facility (MRF) in the state will provide insight into why this might be needed; the garbage trucks

[1] http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0301-0350/ab_341_bill_20111006_chaptered.html

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full of residential trash get picked through on the conveyors, while the "commercial" waste hauls often go straight through to the landfill. It appears then that the problem rests with design and economical operation of the collection, hauling, and MRF operations, rather than with the segregation of the commercial waste at its varied source.

The act of requiring waste generators segregate recyclable goods from their trash does not constitute recycling on its own, nor does it ensure that the segregated materials do not ultimately end up at the landfill anyway. The CalRecycle's own Glossary provides the following:

> "Recycling: Per Public Resources Code section 40180, 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 that meet the quality standards necessary to be used in the marketplace."

Section 1 (2)(b)(3) of AB 341 states as a Finding, " The disposal of recyclable materials in the commercial solid waste stream prevents materials from circulating in the state economy to produce jobs and new products." This precept is poorly stated at best, and patently false in its worst interpretation. The act of releasing recyclable materials into *any* sub-flow of the solid waste stream does NOT constitute *disposal*. It is the lack of *diversion* of materials from reaching final landfill disposal that prevents the recovery. California has no way to determine whether separation of recyclable goods from commercial waste would contribute to the state's economy; there is no mandate to track the materials once they are separated. The statement, stripped of its connotations, should simply read, "Disposal Prevents Recovery."

It is of concern that a law directing an agency whose title is the California Department of Resources Recycling and Recovery (emphasis added) provides so little detail as to how recovery could be one of the key mechanisms by which the state's goals can be met. Although not well defined, the bill's language does leave room for consideration of the importance of recovery beyond source reduction, recycling, and composting. Section 2(a)(1) provides that, "Solid waste diversion and disposal reduction require the availability of adequate solid waste processing and composting capacity," and in 2(a)(3)(b) notes that "…it is the intent of the Legislature to encourage the development of the additional solid waste processing and composting capacity that is needed to meet state objectives for decreasing solid waste disposal."

In a rather circular set of code subsections, AB 341 also amends PRC §5001 facility establishment guide lines, using the phrase, "… designed to recover for reuse or recycling at least 5 percent of the total volume of material received by the facility…" In this sense, the bill implies that *to recover* is the functional step of removal of material from the mixed solid waste stream, enabling *reuse or recycling*.

Section 2(a)(3)(c) amends prior law and is particularly important when viewed from the perspective of increasing the diversity and availability, the "capacity", of the solid waste processing and composting infrastructure in California:

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

Yet AB 341 presumes that imposing strict controls on commercial generators will in some way favorably impact the institutionalized patterns of the downstream infrastructure. Better, perhaps, to conceive of a more holistic solution wherein generators are not singled out and the burden of diversion from disposal is spread across the entire supply chain. This indeed must become the plan for implementation of AB 341: a structural re-arrangement starting from Source and ending when the waste is returned to the marketplace as useful resources or diverted by transformation,[2] with the remainder disposed by landfilling.

[2] CalRecycle defines "transformation" as incineration, pyrolysis, distillation, or biological conversion other than composting. "Transformation" does not include composting, gasification, or biomass conversion.

Issue 1: Mandate vs. Policy Directive

There is a difference between mandate and policy that is pertinent to interpretation of the changes made by AB 341 to each jurisdiction's Integrated Waste Management Plan:

- The IWMA *mandated* the Integrated Waste Management Plan - where a Source Reduction and Recycling Element (SRRE) previously needed (1) Source Reduction, (2) Recycling and (3) Composting components that together divert 50% from landfilling or transformation by source reduction, recycling or composting activities by Jan 1, 2000.

- AB 341 does not alter this mandate; rather it makes a "legislative declaration of policy" whereby instead of 50%, the state should seek the goal of processing 75% of generated waste by source reduction, recycling or composting by the year 2020.

- AB 341 requires that the CalRecycle submit a detailed report to the Legislature by January 1, 2014 that outlines "strategies to achieve the state's policy goal that not less than 75 percent of solid waste generated be source reduced, recycled, or composted by the year 2020."

This comparison between *policy* and *mandate* is concisely stated:

- "41780.01. (a) The Legislature hereby declares that it is the policy goal of the state that not less than 75 percent of solid waste generated be source reduced, recycled, or composted by the year 2020, and annually thereafter. (b) Notwithstanding subdivision (a), the department shall not establish or enforce a diversion rate on a city or county that is greater than the 50 percent diversion rate established pursuant to Section 41780."

The law amends the Public Resources Code by adding §41780.02 which essentially provides a Table of Contents for that report that in addition to the proposed strategies, includes six specific elements (plus a seventh "catch-all"): (1) ... emphasis on new and emerging trends in resource management; (2) Identification of problematic waste streams and sources and recommendations on handling those waste streams; (3) Evaluation of current programs and their effectiveness, and recommendations for changes to those programs; (4) Recommendations for reprioritizing existing resources to best achieve the purpose of Section 41780.01; (5) Recommendations for legislative changes, if any, that are necessary to achieve the goals of Section 41780.01; (6) Report on regulatory changes, if any, that are necessary, to achieve the goals of Section 41780.01.

Interpretation:

1. AB 341 carefully stops short of changing the mandate of the IWMA regarding 50% solid waste diversion from disposal. Instead of replacing the 50% diversion mandate with a 75% diversion mandate, AB 341 utilizes a well-exercised action, a "legislative declaration of policy."

2. Black's Law Dictionary[3] defines the term "policy" as "[t]he general principles by which a government is guided in its management of public affairs." "Policies" are meant to provide a "principled basis for administering and interpreting regulations and statutes."

3. AB 341 includes a directive from the legislature regarding a change in the *policy* that is to guide administration of the IWMA by the CalRecycle, rather than legally mandating a different minimum diversion rate. The IWMA mandate for <u>50% minimum diversion</u> remains the same. The CalRecycle is directed to adopt a <u>policy</u> that actively seeks to achieve a goal of managing 75% of solid waste generated in the state specifically by the mechanisms of source reduction, recycling, and composting. The CalRecycle is <u>not directed</u> to "divert at least 75% from disposal." The CalRecycle is <u>not directed</u> to "increase recycling and resource recovery to at least 75% of the total waste generated." Those would have required legal amendment of the 50% diversion goal established by the IWMA, which AB 341 expressly did not do.

[3] Black's Law Dictionary 1178, 8th ed. 2004.

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4. In reviewing instances of the use of "legislative declarations of policy", one aspect becomes clear. A formal legal change to the recycling rate from 50% to 75% would have triggered assessment under the California Environmental Quality Act (CEQA), and potentially under the National Environmental Protection Act (NEPA), given potential impacts upon federal lands, money and/or people. The use of a Policy Directive thus must assume that administration of that policy will NOT alter the underlying determinations of impact associated with the CEQA-compliant IWMA. If it becomes apparent that state implementation of the legislative direction of policy would indeed risk significant impact, it would constitute a new Project requiring CEQA assessment.

5. The state now has a year and a half to debate the actual roll-out of this bill and the potential changes necessary to policy and code that reaching for the 75% waste management goal entails. The CalRecycle has already released a first draft of the mandatory strategic plan, the assessment of which will be the subject of a subsequent Teru Talk Focus Report.

Issue 2: New Timing Requirement to Nondisposal Facility Element

This appears at first to be a "stream-lining" provision that simplifies the overall SRRE, which needs to be reviewed every five years. Yet what timing and overview requirements were removed are overbalanced by state micro-management of the actual data received by jurisdictions on a daily basis, while leaving in place the IWMA mandated SRRE element periodic revision and review.

- The IWMA requires a nondisposal facility element (NDFE) as one of a jurisdiction's integrated waste management planning documents. Prior to AB 341, the NDFE update timing is stipulated at every 5 years, and requires that both the state and a local task force or committee be given the opportunity to review and comment on the Update.

- AB 341 inserts a timing requirement at §41734.5(b): Once a NDFE has been certified, all updates to the conditions of permitted solid waste facilities *must* be submitted to the state and copied to the local oversight body within 30 days of the change in information. This constitutes a mandate for a constant stream of detail *in addition to* a periodic and thorough 5-year assessment, but does not require state approval of each update.

- AB 341 by statute eliminates the potential that the ongoing receipt of data and updating of the nondisposal facility (NDF) changes might trigger CEQA. In the same section, the law is amended to allow a jurisdiction to charge a fee for each instance of data submission by an owner/operator, for such NDF changes:

  "SEC. 7. Section 41735 of the Public Resources Code is amended to read: (a) Notwithstanding Division 13 (commencing with Section 21000), the adoption or update of a nondisposal facility element shall not be subject to environmental review. (b) Local agencies may impose a fee on project proponents to fund their necessary and actual costs of preparing and approving updates to Nondisposal facility elements."

A Nondisposal facility element is defined in CalRecycle's on-line glossary as:

Nondisposal facility element (NDFE): One of a jurisdiction's planning documents, the NDFE identifies CalRecycle-permitted "non-disposal" facilities used by a jurisdiction to help reach the IWMA's diversion mandates. Nondisposal facilities are primarily materials recovery facilities, compost facilities, and transfer stations, but a jurisdiction's NDFE may also discuss recycling centers, drop-off centers and household hazardous waste facilities. Please see Title 14, California Code of Regulations, sections 18752-18754. Reviewing the referenced text is informative:

CCR 14 Article 6.4 Nondisposal Facility Element, § 18752. Scope.
Defines a NDF as "any solid waste facility required to obtain a permit pursuant to Article 1 (commencing with Section 44001) Chapter 3 Part 4, except a disposal facility or a transformation facility."

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⇨The law only requires that the jurisdiction update with "information available" (instead of seeking an exhaustive investigative assessment), and notes that any jurisdiction can include other facilities in the NDFE beyond those specifically defined as NDFs, giving as examples, recycling centers, drop-off centers, and household hazardous waste facilities.

§ 18753. Description of Nondisposal Facilities within a Jurisdiction.
Mandates identification of, and stipulates minimum data reporting requirements for, ALL existing, expanding and proposed NDFs which "recover for reuse or recycling at least five percent of the total volume of material received by a facility." Reporting requirements include "anticipated diversion rate or expected diversion rate from the total amount of waste that the facility receives.

⇨The section does NOT require any form of actual monitoring or validation of the "anticipated diversion rate."

§ 18753.5. Description of Nondisposal Facilities outside a Jurisdiction.
Duplicates the above provisions, but for facilities a jurisdiction plans to use that are outside of that jurisdiction "which recover for reuse or recycling at least five percent of the total volume of material received by a facility."

⇨Note that there is no "distance from jurisdiction" disclaimer to this mandate, and that it applies to essentially ALL out-of-jurisdiction NDFs as long as they are required to obtain a California Solid Waste Facilities (SWF) permit.

⇨Therefore: the IWMA mandates a provision that AB 341 has not altered (except for timing and oversight) that REQUIRES identification, amount of waste to be transported to the facility, anticipated diversion rate and location only when processing occurs in our state.

§ 18754. Description of Transfer Stations within a Jurisdiction.

Duplicates the above NDFE identification provisions for "existing, expansion of existing or proposed transfer stations located within a jurisdiction, which recover less than five percent of the volume of materials received for reuse or recycling" but without the requirement to document the "anticipated or expected diversion rate."

§ 18754.5. Description of Transfer Stations outside a Jurisdiction.

Duplicates above provisions, but requires only name and location of identified facilities.

⇨Whatever sort of facility a jurisdiction transports waste to must be at least identified as to name and location, again, as long as there is the requisite California SWF permit

Interpretation:

1. Without altering the intent or mandate of solid waste management of the IWMA, the new law increases data management provisions and *requires* that a jurisdiction's SRRE of its Integrated Waste Management Plan (IWMP) be constantly updated with respect to "existing, existing, expanded, and proposed" NDFs, as the information regarding those facilities becomes available to the jurisdiction.

2. At the time when a jurisdiction receives information about a NDF to which it might consider delivering solid waste, it is now required to update the NDFE with the requirements that the facility would need a SWF, whether existing and expanding, or simply proposed. Within 30 days of receipt of the information, the jurisdiction then must inform the state and the local task force of each updated data element received. Under the IWMA this didn't matter; all changes since the last mandated update went into the next 5-year review.

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3. Each time facility owner/operators notify the local jurisdiction of a change in facility detail, the law now allows the jurisdiction to charge a fee for "preparing and approving updates" to the NDFE with the new information. There does not appear to be any enforcement measure requiring a facility owner/operator to submit such data; the combination will tend to discourage timely submission of detail.

4. The act of publicizing a proposal for a project impacts that proposal in that it immediately opens the information to public scrutiny. This raises the question of what defines a "proposed project". Is it the moment a developer's application is submitted, the application is accepted as complete, or when the project is approved by the local jurisdiction's planning body? Cities and Counties would do well to determine what constitutes a "proposed project" within their own ordinances.

Issue 3: Commercial Recycling Mandate

A mandate for Commercial Waste Generators to "arrange for recycling services" presupposes the outcome will actually be Recycling as defined by Code. In Issue 2, we observe that although the timing and reporting requirements have changes, there are no changes to mandates for California solid waste facility permits and thus only California facilities have requirements for documentation. Clearly, transport of recyclable goods separated from the waste stream, whether Commercial-sourced or otherwise, must depend upon tracking of some form to ensure Closed-Loop Recycling occurs. When California SWF permitting with its requisite accounting is not applicable, some other means of documentation and LCA-based validation becomes necessary. Without that validation, the process does not comply with the definition of recycling and should not count toward recycling quotas.

- By addition of Section 12.8, PRC §42649.1(a): "Business" means a commercial or public entity, including, but not limited to, a firm, partnership, proprietorship, joint stock company, corporation, or association that is organized as a for-profit or nonprofit entity, or a multifamily residential dwelling."

- PRC §42649.1(c) defines any "business" as a Commercial Waste Generator if it generates 4 or more cubic yards of "commercial solid waste" per week, or if it is a multifamily residential dwelling of 5 units or more.

- A Commercial Waste Generator must "arrange for recycling services" on or after July 1, 2012. For the recycling service to be acceptable, it must be "consistent with state or local laws or requirements, including a local ordinance or agreement, applicable to the collection, handling, or recycling of solid waste, to the extent that these services are offered, and reasonably available from a local service provider."

- AB 341 adds code to the PRC with §42649.2 that requires any Commercial Waste Generator to take specific actions regarding the handling of the waste it generates, either (1) Source separate recyclable materials from solid waste and subscribe to a basic level of recycling service that includes collection, self-hauling, or other arrangements for the pickup of the recyclable materials; or (2) Subscribe to a recycling service that may include mixed waste processing that yields diversion results comparable to source separation. The new code also specifies that an owner of a multi-family residential building *may* require tenants to source separate their recyclable materials.

- AB 341 requires that a jurisdiction implement a commercial solid waste recycling program on or after July 1, 2012. The bill does not require that the jurisdiction revise its SRRE "if the jurisdiction adds or expands a commercial solid waste recycling program to meet this requirement."

Perhaps the most confusing and internally contradictory requirement regards changes to the CalRecycle's own purview:

"The bill would require the CalRecycle to review a jurisdiction's compliance with the above requirement as a part of the department's review of a jurisdiction's compliance with the 50% solid waste diversion requirement, and would authorize the department to review a jurisdiction's compliance pursuant to a specified procedure."

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- The only mandatory CalRecycle compliance review for solid waste diversion is still the existing 5-year review for the IWMA's "50% solid waste diversion" mandate.
- AB 341 adds a level of compliance review to the 5-year SRRE assessment: Has the jurisdiction's implementation of the AB 341 Commercial Recycling requirement complied with the IWMA mandated 50% diversion requirement?

Interpretation:

1. The Commercial Waste Generator must "arrange for recycling services" on or after July 1, 2012 if that entity generates more than 4 cubic yards of solid waste per week. The actual required date of compliance for Commercial Waste Generators will be determined by the jurisdiction as part of preparation of its Commercial Recycling Program.
2. The jurisdiction is required to educate and monitor Commercial Waste Generators for compliance with the requirement to "arrange for recycling services." Enforcement is optional, and there is no requirement for tracking the fate of the recyclable materials if they are not transferred to a California SWF.
3. The jurisdiction must develop and implement the Commercial Recycling Program, but does not need to revise the SRRE to coincide with the now-constant updating it must do to keep data current on "existing, existing expanded and proposed" NDFs. The only state review coincides with the jurisdiction's next 5-year SRRE review for compliance with the IWMA's mandate for 50% diversion.
4. The CalRecycle's determination of a jurisdiction's compliance with AB 341's Commercial Solid Waste Recycling Program provisions is at the time of the 5-year SRRE review, in so far as these impact that jurisdiction's ability to comply with the IWMA's 50% diversion mandate.
5. Since this SRRE update clock is reset when a jurisdiction's SRRE has been accepted, effectiveness of AB 341's Commercial Recycling mandate in terms of impact upon the IWMA's mandate for 50% diversion of solid waste disposal can only be determined for all jurisdictions, once all SRRE documents have been submitted and reviewed, a process that will continue over at least the next five years. Yet since there is no specified mandated program initiation date, this efficacy assessment also has no specific end date.

Issue 4: Annual the IWMA report Due May 1 instead of September 1

The IEMA requires each state agency to submit an annual report to the CalRecycle summarizing its progress in reducing solid waste. AB 341 changes the due date from September 1 to May 1 of each year.

Interpretation:

Finally removed from obscurity, this document may now officially be called the **May Day Report.**

Issue 5: Notice of Permit Modification without Revision

- AB 341 amends PRC §4404 with an allowance by statute for two types of changes to a facility's SWF Permit by Modifications that do not require the level of scrutiny as for a permit Revision, (A) allows an increase in the amount of solid waste handled, if still within the facility's existing design capacity, and (B) allows a disposal facility to add a nondisposal activity to the facility that will increase the amount of solid waste that may be handled as described in the facility’s report of facility information (RFI).

When an existing, permitted solid waste facility owner/operator wants to make changes to the permitted physical facility and/or operations, the law has required an application for a Revised Permit. When a jurisdiction receives an application to <u>revise</u> a SWF, the enforcement agency in the past has made a determination regarding that potential revision, and notified the state of its decision.

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If the Local Enforcement Agency's (LEA) determination was that the proposed changes did not warrant full permit revision, this also de facto constituted in most cases a determination of no significance under CEQA. Such low-level permit changes could be accomplished through application for and approval of a Modification to its SWF; for this, the LEA bore no responsibility to report its determination to the state.

This section adds one critical requirement for notification from the jurisdiction to the CalRecycle that it has not found mandatory in the past. The LEA must now notify the state when it has determined that changes may be made under a *Modification*, and that a Permit Revision is not necessary.

Interpretation:

This closes a loophole that has apparently been abused. Changes to permitted solid waste facility conditions that were later determined by the state to indeed by quite substantial were allowed by the local jurisdiction to be certified as in compliance through the more expedient and less costly mechanism of a permit Modification, avoiding initial state review and approval.

The operator may still apply for a Modification rather than a Revision to its SWF, and the LEA may still find that the changes do not warrant a Revision. The reporting requirements simply increase the level of state scrutiny, and by implication, increases the pressure upon a local jurisdiction to apply the more stringent permit pathway.

Issue 6: Reimbursement to Local Agency for Mandated Programs

Statutory provisions are established whereby local agencies and school districts may be reimbursed for state-mandated program implementation and maintenance costs.

AB 341 provides that no reimbursement is required for *specified reasons*:

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

Interpretation:

The fees authorized by AB 341 are those that can be levied on the NDFs and Commercial Waste Generators by local agencies to recover costs for meeting the state requirements for the relevant programs.

Conclusion and Recommendations

Bringing about broader programs to "recover for reuse and recycling" is a good thing, and indeed the Commercial Waste Generator is a likely candidate, arguably the most appropriate target, for a state-wide mandatory waste diversion program. Directing an agency to seek the higher goal of 75% rather than the current 50% mandate should strongly encourage diversification of the tools and methods that can now cleanly and safely accomplish the goal. How the CalRecycle will interpret the new code language and implement its policies and mandates remains to be determined.

There must be external, enforceable validation that segregation for recyclable goods does indeed result in Recycling per encoded definition, benefiting California environmentally and socio-economically. A mechanism needs to be developed to ensure that to a measurable degree, segregated recyclable materials are further processed and made ready to reenter the marketplace. Without validation of Closed-Loop Recycling, all that the CalRecycle can hope to accomplish by the law's implementation is Commercial Waste Segregation.

The law provides sufficient time over the next 18 months for the public, the jurisdictions, and the state to figure out what will work for the betterment of the overall socio-economic welfare, and what should not be

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forced down the proverbial throat of local jurisdictions and the already-struggling business community. Careful scrutiny of resource recovery, waste reduction, increased reuse and recycling, and of all the things the state now calls "composting" can indeed improve business economics while dramatically increasing the amount of the state's resources that are removed from the flow of waste on its way to disposal.

However, AB 341 seems to work against itself. PRC §4004 (b) now reads,

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

Yet the law directs that this diversion policy goal of "not less than 75% of solid waste generated" be reached solely through source reduction, recycling, or composting. Fortunately, in addition to the required explanation of a roll-out strategy, the state's report to the Legislature *must* include an adequacy assessment of the knowledge base, the assumptions, the policy, the law, and attendant regulatory changes. If the Strategy proposed does not meet both the legislatively-directed Policy Goal and the encoded intent to "encourage the development of the additional solid waste processing and composting capacity," the report fails in its mission.

Most of the cautions presented in this review are intended to arm against divisive sub-agendas driving California's actual balance of waste management forces against poor use of authority beyond the actual intent of a relatively positive piece of legislation. Those cautions are almost equally directed to the public's business sector, to the city and county jurisdictions being saddled with new requirements, and to the state department and administration itself to be unerringly careful with its interpretation and implementation.

CalRecycle staff has already released a first draft of the mandated report that is due on or before January 1, 2014. This analysis of the new legislation has been developed in advance of our upcoming review of the CalRecycle's first attempt at explaining its implementation plans with the hope it may also assist others in considering the merits of the state's proposed approach, and in developing alternatives.

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