

Date of Hearing: June 26, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

SB 1045 (Blakespear) – As Amended April 29, 2024

**SENATE VOTE:** 32-7

**SUBJECT:** Composting facilities: zoning

**SUMMARY:** Requires the Office of Planning and Research (OPR) to develop and post on their website a technical advisory on best practices to facilitate the siting of compost facilities, and requires cities and counties to consider updating the land use element to identify areas where it may be appropriate for compost facilities to be an allowable use. **Specifically, this bill:**

- 1) Requires OPR to develop, in consultation with the Department of Resources Recycling and Recovery, a technical advisory that reflects best practices to facilitate the siting of composting facilities to meet the state’s organic waste reduction goals by June 1, 2026, and to post the advisory on OPR’s website.
- 2) Specifies that the technical advisory include sample general plan goals, policies, and implementation measures and a model ordinance, which shall be suitable for adoption or modification by a city, county, or city and county.
- 3) Requires OPR to consult with representatives of urban, suburban, and rural counties and cities, operators of composting facilities, and private and public waste services throughout the development of the technical advisory.
- 4) Requires, upon a substantive revision of a land use element on or after January 1, 2028 and after the technical advisory is publically posted, a city, county, or city and county to consider:
  - a) The best practices reflected in the technical advisory; and,
  - b) Updating the land use element to identify areas where composting facilities may be appropriate as an allowable use, which may vary based on the types or sizes of the facilities.
- 5) Specifies that no reimbursement is required by the bill pursuant to Section 6 of Article XIII B of the California Constitution, as specified.

**EXISTING LAW:**

- 1) Allows, under the California Constitution, cities and counties to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.”
- 2) Requires every county and city to adopt a general plan with seven mandatory elements: land use, circulation, housing, conservation, open space, noise, and safety. General plans must also either include an eighth element on environmental justice, or incorporate environmental justice concerns throughout the other elements.

- 3) Establishes, under SB 1383 (Lara, 2016), as part of a broader short-lived climate pollutant reduction strategy, targets to achieve a 50% reduction in the level of statewide disposal of organic waste from the 2014 level by 2020, and a 75% reduction by 2025.
- 4) Requires the Department of Resources Recycling and Recovery (CalRecycle), in consultation with the California Air Resources Board (CARB), to adopt regulations to achieve those targets for reducing organic waste in landfills.
- 5) Creates the Office of Planning and Research (OPR) as the state's comprehensive planning agency and allows OPR to offer technical assistance and information to local agencies regarding land use planning.

**FISCAL EFFECT:** According to the Senate Appropriations Committee:

- 1) OPR estimates costs of approximately \$448,000 annually for 2.0 PY of staff to conduct outreach and consult with CalRecycle and other interested parties, and to research and draft the technical advisory. Staff notes that these costs would be incurred through 2025-26, but there would be some measure of ongoing costs to provide the technical assistance to local agencies that would be siting composting facilities. (General Fund)
- 2) CalRecycle indicates that any costs to provide consultation to OPR in the development of the technical advisory would be absorbable. (Integrated Waste Management Account)
- 3) Unknown local costs for cities and counties to consider identifying areas where composting facilities may be appropriate when updating land use elements in their General Plans. These local costs would not be state-reimbursable as local agencies have the authority to charge various fees and charges to offset the costs of any new planning mandates. (local funds)

**COMMENTS:**

- 1) **Land Use Authority.** The California Constitution allows cities and counties to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public—including land use authority.

Every county and city must adopt a general plan with seven mandatory elements: land use, circulation, housing, conservation, open space, noise, and safety. General plans must also either include an eighth element on environmental justice, or incorporate environmental justice concerns throughout the other elements. Cities' and counties' major land use decisions—including zoning ordinances and development permitting—must be consistent with their general plans. In this way, the general plan is a blueprint for future development.

To help local officials interpret these statutory requirements, OPR publishes General Plan Guidelines. OPR's General Plan Guidelines recommend the information that local planners should collect, suggest goals, policies, and objectives that local general plans could adopt, and list a wide range of potential implementation measures to carry out those local goals. State law requires OPR to periodically revise the General Plan Guidelines. OPR's last

comprehensive update of the General Plan Guidelines occurred in 2017. OPR also releases subject-specific updates and technical advisories.

- 2) **Organic Waste.** Organic material accounts for more than a third of California's waste stream: food waste accounts for approximately 18% of landfilled material, and yard waste accounts for another 7% of the total waste stream. According to the CalRecycle, methane emissions from decomposing organic waste in landfills account for approximately 20% of the State's total methane emissions. Methane is 84 times more potent than carbon dioxide as a climate pollutant over a 20-year timescale.
- 3) **SB 1383 Regulations.** In 2016, the Legislature enacted SB 1383 (Lara, 2016), which established emission reduction targets for short-lived climate pollutants, including hydrofluorocarbon gasses, anthropogenic black carbon, and methane. Among other requirements, SB 1383 directed CARB to approve and implement a comprehensive short-lived climate pollutant strategy that included a 2030 target of reducing methane emissions by 40% relative to 2014 levels. In order to achieve these reductions in methane emissions, SB 1383 set a goal of reducing landfill disposal of organic waste by 50% before 2020 and by 75% before 2025 from 2014 levels, and to redirect at least 20% of currently disposed of surplus food for meals by 2025. SB 1383 gave CalRecycle the authority to adopt regulations to meet these organic waste reduction requirements, which were finalized in November 2020 and became effective on January 1, 2022.
- 4) **City and County Responsibilities under SB 1383.** Local governments play a key role in achieving the SB 1383 targets. The SB 1383 regulations require cities, counties, and special districts that provide solid waste collection services to take a variety of actions, including to, among other things:
  - a) Establish an organic waste collection program, including mandatory curbside collections for certain waste generators, that require sorting of organic waste into proper containers; and
  - b) Enforce organic waste collection requirements by monitoring and inspecting commercial businesses and reviewing waste routes for compliance, notifying entities in violation, providing a deadline to comply, and if necessary, assessing penalties and fines for continuous violations.

Local governments must also plan for adequate capacity to ensure that there are sufficient facilities for processing the organic waste collected. Specifically, every city, county, special district, and regional agency that provides waste collection services must:

- a) Estimate the amount of organic waste that will be disposed of within its jurisdiction annually;
- b) Identify the amount of existing organic waste recycling infrastructure capacity that is verifiably available to the jurisdiction through a contract or other similar means of documentation; and
- c) Estimate the amount of new capacity needed to process all of the estimated organic waste from the jurisdiction. If there isn't enough capacity, local governments must also submit

an implementation schedule to reach sufficient capacity, including a schedule of actions needed to obtain funding for the necessary organic waste recycling infrastructure and identifying the facilities and activities that could be used to provide additional capacity.

Counties are further responsible for compiling the data above for local governments within their boundaries and filing capacity reports with CalRecycle on a prescribed schedule.

Local governments that don't comply with the SB 1383 regulations are subject to fines ranging from \$500 to \$10,000 per day, depending on the severity of the violation. However, CalRecycle must first attempt to work with local governments to bring them into compliance. Additionally, a local government may be eligible for an exemption or temporary waiver from some portions of the SB 1383 regulations if they have small populations, are located in rural areas or at high elevations, or generate small amounts of waste.

- 5) **Organic Waste Recycling Facilities.** SB 1383 requires local governments to divert organic waste from landfills to other facilities to process that waste in accordance with the law. These facilities can include composting, mulching, biomass energy plans, and anaerobic digestion facilities that break organic waste down and recycle it into usable products. The state currently does not possess sufficient capacity to process the amount of waste that needs to be diverted from landfills to meet the SB 1383 goals. Specifically, the Little Hoover Commission, in a June 2023 report on the status of SB 1383 implementation, noted that the state currently only has the capacity to process a little over half of the estimated 18 million tons of organic waste that will need to be diverted to organic waste recycling facilities in 2025. According to CalRecycle, the state needs approximately 50-100 new or expanded facilities to process the organic waste diverted from landfills under SB 1383.
- 6) **Bill Summary.** This bill requires OPR to develop a technical advisory, in consultation with the Department of Resources and Recycling and Recovery, by June 1, 2026, and to post the advisory on OPR's website. This advisory will include best practices for siting composting facilities to meet California's organic waste reduction goals and will feature sample general plan goals, policies, implementation measures, and a model ordinance. OPR must consult with representatives from various counties and cities, composting facility operators, and waste services during this process.

Starting January 1, 2028, upon any substantive revision of a land use element, cities and counties must consider the best practices in the advisory and update their land use elements to identify suitable areas for composting facilities.

This bill is sponsored by the California Compost Coalition.

- 7) **Author's Statement.** According to the author, "Organic materials make up half of what Californians send to landfills and emit 20% of the state's methane. CalRecycle estimates that the state still needs approximately 50 to 100 new or expanded organic waste recycling facilities, such as composting facilities, for sufficient capacity to successfully implement SB 1383 (Lara, 2016).

"The siting and permitting of composting facilities is currently complicated and time-consuming – taking over a decade to finalize, in some cases. We recognize that state and local officials are balancing a complex web of important environmental regulations.

However, as responsible policymakers acting on behalf of the state, we must prioritize the development of new organic waste recycling infrastructure to meet our SB 1383 goals. Otherwise, the state risks sending thousands of tons of recyclable food waste to our landfills to decompose and release damaging methane into the atmosphere for years to come. And according to CalRecycle, methane is a climate super pollutant 84 times more potent than carbon dioxide, which will further intensify the climate crisis.”

- 8) **Arguments in Support.** The California Compost Coalition, the sponsor of this bill, writes, “Composters recognize that state and local officials are balancing a complex web of important environmental regulations. However, building critical SB 1383 infrastructure in a timely manner will require the state to mitigate existing permitting barriers that do not impact our environmental standards.

“Meeting the state’s SB 1383 targets will require state and local regulators to recognize that building new organic waste recycling infrastructure is essential, and to remove permitting barriers where possible. Otherwise, the state risks sending thousands of tons of recyclable food waste to our landfills to decompose and release damaging methane into the atmosphere for years to come. According to CalRecycle, methane is a climate super pollutant 84 times more potent than carbon dioxide.”

- 9) **Arguments in Opposition.** None on file.

- 10) **Related Legislation.** SB 972 (Min) requires CalRecycle, ARB, and the California Environmental Protection Agency to hold at least two joint meetings each calendar year to coordinate the implementation of policies that affect organic waste reduction targets. SB 972 is pending in the Assembly Appropriations Committee.

SB 1046 (Laird) requires CalRecycle to develop a Program Environmental Impact Report for small and medium-sized compost facilities by January 1, 2027. SB 1046 is pending in the Assembly Appropriations Committee.

SB 1175 (Ochoa Bogh) requires CalRecycle to consider alternatives to census tracts when establishing the boundaries for a low-population or elevation waiver from the state’s organic waste reduction requirements. SB 1175 is pending in the Assembly Appropriations Committee.

- 11) **Double-Referral.** This bill was double-referred to the Natural Resources Committee, where it passed on a 9-0 vote on June 17, 2024.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Compost Coalition (SPONSOR)  
 Californians Against Waste  
 California Council for Environmental & Economic Balance (CCEEB)  
 California State Grange  
 League of California Cities  
 Little Hoover Commission  
 Rancho Cucamonga, City of

Recology  
Republic Services INC.  
Resource Recovery Coalition of California  
Rural County Representatives of California (RCRC)  
Upper Valley Disposal Recycling  
Waste Connections, INC.  
WM

**Opposition**

None on file.

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