



LOS ANGELES COUNTY
SOLID WASTE MANAGEMENT COMMITTEE/
INTEGRATED WASTE MANAGEMENT TASK FORCE
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GAIL FARBER, CHAIR
MARGARET CLARK, VICE CHAIR

June 14, 2011

The Honorable Joe Simitian, Chair
Senate Environmental Quality Committee
State Capitol Room 2205
Sacramento, CA 94248-0001

Dear Senator Simitian:

**ASSEMBLY BILL 341 (AMENDED MAY 5, 2011)
SOLID WASTE: DIVERSION**

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) would like to express its **strong opposition** to Assembly Bill 341 (AB 341), which would increase the State's Solid Waste Diversion Mandate from 50 percent to 75 percent, impose mandatory commercial solid waste recycling requirements, require a local enforcement agency (LEA) to approve solid waste facility permits (SWFP) through a pro-forma approval process when significant changes are made in the design or operation of the solid waste facility, and eliminate current provisions in State law for the local task force (LTF) to comment and review updates of Non-Disposal Facilities Elements (NDFE). The Task Force is concerned with every provision in the amended version of the bill for the reasons discussed below.

Pursuant to Chapter 3.67 of the Los Angeles County Code and the California Integrated Waste Management Act of 1989 (Assembly Bill [AB 939], as amended), the Task Force is responsible for coordinating the development of all major solid waste planning documents prepared for the County of Los Angeles and the 88 cities in Los Angeles County with a combined population in excess of ten million. Consistent with these responsibilities and to ensure a coordinated, cost-effective, and environmentally sound solid waste management system in Los Angeles County, the Task Force also addresses issues impacting the system on a countywide basis. The Task Force membership includes representatives of the League of California Cities-Los Angeles County Division, County of Los Angeles Board of Supervisors, City of Los Angeles, waste management industry, environmental groups, the public, and a number of other governmental agencies.

AB 341 would require the Department of Resources Recycling and Recovery (CalRecycle) to ensure that 75 percent of all solid waste “generated is source reduced, recycled, or composted,” rather than simply “diverted from disposal” by January 1, 2020. Without any consideration for alternatives to recycling and composting processes, such as conversion technologies or the greenhouse gas emissions from existing processes, the bill does not provide local governments the tools to achieve and sustain the desired diversion rates. We are very concerned that this bias may provide the Legislature with justification to impose additional mandates on local governments without any considering (a) alternatives to recycling and composting; (b) requiring a detailed life cycle analysis of all viable alternatives, including recycling and composting; (c) needed in-State manufacturing infrastructure and market development to utilize the recovered materials; and (d) input from local governments.

Without a suite of solid waste management options, increasing the statewide mandatory diversion rate will have profound detrimental impacts on local governments. AB 341 ignores the need for the development of emerging technologies such as solid waste conversion technologies, which are capable of converting post-recycled residual solid waste into renewable energy, biofuels, and useful products. These technologies complement recycling and composting further reducing our dependence on landfills. To date, California has failed to pass comprehensive legislation that would alleviate regulatory uncertainty regarding these technologies. The most recent legislative attempt was Assembly Bill 222 (Adams/Ma) during the 2009-10 Legislative Session. This legislation received bipartisan support amongst the business, environmental, labor, and government sectors. The legislation would have removed from statute a scientifically inaccurate definition of gasification, established a new regulatory category for a "biorefinery" and confirmed that the biogenic portion of the municipal waste stream qualifies as a feedstock for renewable electricity under the Renewable Portfolio Standard. Without regard to the strong endorsement by many cities and counties (including the City and the County of Los Angeles), special districts and other organizations, including a rare, jointly issued endorsement by the **California Energy Commission, Air Resources Board, and the Department of Resource Recycling and Recovery**, the Senate Environmental Quality Committee voted to incorporate amendments to the bill that discourage the development of conversion technologies in California. The bill was eventually amended to remove all reference to solid waste.

Enactment of AB 341 would additionally require local governments to implement and enforce a mandatory commercial recycling program, thereby imposing a significant financial and resource burden on local governments, residents of multi-family dwellings consisting of five units or more, and taxing all California businesses. This bill fails to consider the current economic downturn and record budget shortfalls experienced by all levels of government **while using the justification that local governments can impose fees to recover their costs from local businesses and residents**. Likewise, this bill fails to consider that local governments may find their constituent businesses

unreceptive to the imposition of additional charges and fees. Furthermore, the bill fails to address how the local governments are to enforce the provisions of the bill on state agencies, UC & Cal State University systems, school districts, etc.

The Task Force is very concerned with the elimination of local review and comment over certain changes to SWFPs and NDFEs, which directly reduces local authority regarding solid waste management planning, and has consistently raised concerns regarding such provisions that have been unsuccessfully proposed in previous legislative sessions. AB 341 would require a LEA to approve SWFPs through a pro-forma approval process when significant amendments are made in the design or operation of a solid waste facility, regardless of whether those changes are authorized by the existing permit **or whether they are consistent with the host jurisdiction's land use permit** (emphasis added). AB 341 will further repeal the current requirement for a LTF to review and comment on NDFE amendments. This Task Force strongly opposes this bill's elimination of such provisions in State law since (1) the proposal may supersede the host jurisdiction's land use decisions by failing to require LEA/CalRecycle to ensure consistency with the host jurisdiction's land use permit, and (2) a LTF review is essential towards ensuring that projects conform with their governing Countywide or Regional Integrated Waste Management Plan and would not impair countywide solid waste management activities or have other unforeseen region-wide impacts. Further, the proposal contradicts the bill's legislative declaration which states "further progress toward decreasing solid waste disposal requires that this **essential element of local control be preserved**" (emphasis added). We continue to encourage a more meaningful dialogue regarding these issues so that the perspective and concerns of local governments can be incorporated into the proposal as it moves forward.

We would also like to bring to your attention the precedent established for vetoing similar bills. Both Assembly Bill 2206 (Montanez, 2006) and Assembly Bill 473 (Blumenfield, 2009) mandated multi-family residential recycling yet were vetoed. Veto letters for these bills stated they were overly prescriptive in nature and "local governments already have the authority to mandate the action." This bill's precursor in the previous legislative session, Assembly Bill 737 (Chesbro, 2009) was also vetoed; we strongly recommend heeding the Governor's veto message which stated:

"This bill is unnecessary and duplicative of actions already being undertaken by state agencies. Under the authority of AB 32 and the AB 32 Scoping Plan, CalRecycle is currently in the process of developing mandatory commercial recycling regulations through an open process of workshops and hearings that rely upon stakeholder input and participation. Furthermore, CalRecycle's regulations will apply to both the public and private sectors. Consequently, I believe CalRecycle's more inclusive approach towards meeting the state's ambitious waste diversion goals will better serve California economically and environmentally."

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For the reasons described above, the Task Force is in **strong opposition** to AB 341 and all of its provisions. Should you have any questions, please contact Mr. Mike Mohajer of the Task Force at (909) 592-1147.

Sincerely,

Margaret Clark

Margaret Clark, Vice-Chair
Los Angeles County Solid Waste Management Committee/
Integrated Waste Management Task Force and
Council Member, City of Rosemead

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cc: Senate President Pro Tem Darrell Steinberg
Assemblymember Wesley Chesbro
Each Member of the Senate Environmental Quality Committee
Each Member of the Los Angeles County Legislative Delegation
Each Member of the County of Los Angeles Board of Supervisors
Each City Mayor and City Manager in the County of Los Angeles
California State Association of Counties
League of California Cities
League of California Cities, Los Angeles County Division
Southern California Association of Governments
South Bay Cities Council of Governments
San Gabriel Valley Council of Governments
San Fernando Valley Council of Governments
Gateway Cities Council of Governments
Each City Recycling Coordinator in Los Angeles County
Each Member of the Los Angeles County Integrated Waste Management Task Force