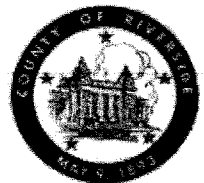


SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

951



FROM: Waste Management Department

SUBMITTAL DATE:

June 2, 2011

SUBJECT: Oppose Assembly Bill 1178: Prohibition of Waste Importation Restrictions

RECOMMENDED MOTION: That the Board:

1. Oppose Assembly Bill 1178, which prohibits local restrictions on the importation of waste; and
2. Authorize the Chairman to sign the attached letter of opposition on behalf of the Board; and
3. Direct the Waste Management Department and the Board's Sacramento representatives to further the Board's position.

BACKGROUND: Currently, State law (AB 939) requires cities and counties in California to reduce the amount of waste disposed in landfills and incinerators, and each County to assure adequate disposal capacity for the residual solid waste remaining over a rolling 15-year planning period. (continued)


Hans W. Kernkamp, General Manager-Chief Engineer

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011

SOURCE OF FUNDS: N/A

Positions To Be Deleted Per A-30

☐

Requires 4/5 Vote

☐

C.E.O. RECOMMENDATION:

APPROVE

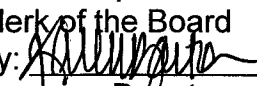
BY: 
Michael R. Shetler

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Benoit, seconded by Supervisor Stone and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone and Benoit
Nays: None
Absent: Ashley
Date: June 14, 2011
xc: Waste, State Rep's.

Kecia Harper-Ihem
Clerk of the Board
By: 
Deputy

Prev. Agn. Ref.:

District: All

Agenda Number:

12.1

Background (cont'd)

Assembly Bill 1178 would prevent those local agencies that have performed prudent and necessary long range planning from possibly meeting this 15 year mandate, expending the hard earned local capacity because of those agencies who have failed to do their long range planning. At the same time, more remote and rural areas would be turned into dumping grounds for urbanized centers.

This is once again an effort by the State to take local control out of the hands of those most responsible for the management of local services. Staff believes that the development and utilization of valuable landfill space is first and foremost a matter of local concern, not of the State, and that the local agencies are in the best position to determine what constitutes "excess capacity" for regional negotiation.

AB 1178 has been amended and staff has been told that it is the author's intent with the amendment to protect a publicly owned solid waste facility's ability to limit or restrict its acceptance of refuse from outside the jurisdiction. Staff thinks the amended language is confusing and does not go far enough to protect such public facility's right and is still recommending the Board take an oppose position on AB 1178. In addition, it is unclear in the amendment if the jurisdiction can control the import of refuse to an existing privately owned solid waste facility.

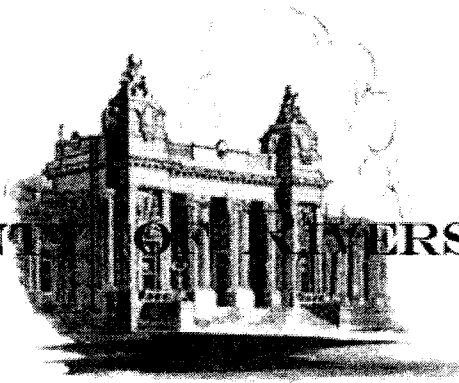
The Riverside County Solid Waste Management Advisory Council (Countywide Local Task Force) took a position at its May 19, 2011 meeting opposing AB 1178 (the amended version of the Bill) and recommending the Board of Supervisors take a similar position opposing Assembly Bill 1178.

Staff recommends that the attached letter, should the Board approve the recommended motion, be sent as soon as possible as AB 1178 is currently under review in the State Senate. AB 1178 has not been assigned to a Senate committee yet. Staff will update the salutation and cc list once it is assigned to a Committee and notify the Board before it considers this matter on June 14, 2011. A copy the bill is attached for your reference.

The following entities have expressed their opposition to AB 1178 (prior to the recent amendment):

California Resource Recovery Association; Californians Against Waste; County of San Bernardino; Keith Carson, Alameda County Supervisor, 5th District; Northern California Recycling Association; Sierra Club California; Solano County Orderly Growth Committee; StopWaste.org; Sustainability, Parks, Recycling and Wildlife Legal Defense Fund

COUNTY OF RIVERSIDE



Board of Supervisors

District 1	Bob Buster 951-955-1010
District 2	John F. Tavaglione 951-955-1020
District 3	Jeff Stone 951-955-1030
District 4	John J. Benoit 951-955-1040
District 5	Marion Ashley 951-955-1050

The Honorable S. Joseph Simitian, Chair
Senate Standing Committee on Environmental Quality
California State Capitol, Room 2080
Sacramento, CA 95814

Dear Senator Simitian:

AB 1178 (Ma) OPPOSE

On June 14, 2011, the Riverside County Board of Supervisors (Board) considered Assembly Bill 1178 (Ma) and moved to oppose this legislation, which would prohibit local entities from enforcing restrictions on solid waste importation.

Currently, State law (AB 939) requires cities and counties in California to reduce the amount of waste disposed in landfills and incinerators, and each County to assure adequate disposal capacity for the residual solid waste remaining over a rolling 15-year planning period. Assembly Bill 1178 would prevent those local agencies that have performed prudent and necessary long range planning from possibly meeting this mandate, expending the hard earned local capacity because of those agencies who have failed to do their long range planning. At the same time, more remote and rural areas would be turned into dumping grounds for urbanized centers.

This is once again an effort by the State to take local control out of the hands of those most responsible for the management of local services. This Board strongly believes that the development and utilization of valuable landfill space is first and foremost a matter of local concern, not of the State, and that the local agencies are in the best position to determine what constitutes "excess capacity" for regional negotiation.

While this Board recognizes the author's efforts in recent amendments to protect the ability of publicly owned landfills to restrict the importation of waste, it is still unclear if local jurisdictions will retain their current level of control. Riverside County opposes any effort to remove or diminish local control of solid waste importation.

It is for the above reason that Riverside County opposes AB 1178.

Sincerely,

Bob Buster
Chairman, Riverside County Board of Supervisors

cc: Members and Consultant, Senate Standing Committee on Environmental Quality
Assembly Member Fiona Ma
Simon Housman, Vice-Chair, Solid Waste Management Advisory Council/Local Task Force
County Administrative Center • Fifth Floor • 4080 Lemon Street • Riverside, California 92501
Internet – [Http://www.countyofriverside.us](http://www.countyofriverside.us)



Riverside County
Waste Management Department

Hans W. Kernkamp, General Manager-Chief Engineer

**SUBMITTAL TO THE SOLID WASTE MANAGEMENT ADVISORY COUNCIL
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

FROM: Waste Management Department

SUBMITTAL DATE: May 19, 2011

SUBJECT: Assembly Bill 1178: Prohibition of Waste Importation Restrictions

RECOMMENDED MOTION: That the Riverside County Solid Waste Management Advisory Council/Local Task Force (LTF) take a position **OPPOSING** Assembly Bill 1178, which prohibits restrictions on the local control of waste importation and recommend to the Board of Supervisors that it take a similar position opposing Assembly Bill 1178.

Hans Kernkamp
General Manager-Chief Engineer

MINUTES OF THE SOLID WASTE MANAGEMENT ADVISORY COUNCIL

On the motion of Russell Keenan, seconded by Ella Zanowic, and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: S. Housman; B. Scott; R. Keenan; F. Riddle; B. Magee; M. Arciniega; E. Zanowic; G. Newton; T. Dumas; D. West; S. Pastor

Nays: None

Abstain: C. Tobin

Absent: E. Campos; R. Schmid; T. Freeman; R. Moran; K. Barrows; S. Foster; C. Vogt; C. Showalter; P. Richardson

Frances Trevino
Executive Assistant

LTF Submittal

May 19, 2011

AB 1178 Prohibition of Waste Importation Restrictions

Page 3

Francisco Scavenger Co.; Trust Lubrication Co. Inc.; Turlock Scavenger Company; Upper Valley Disposal & Recycling; Vacaville Valley Chamber of Commerce; Varner Bros., Inc.; Vence Consulting; Waste Connections, Inc.; Westhoff, Cone & Holmstedt.

Opposition:

California Resource Recovery Association; Californians Against Waste; County of San Bernardino; Keith Carson, Alameda County Supervisor, 5th District; Northern California Recycling Association; Sierra Club California; Solano County Orderly Growth Committee; StopWaste.org; Sustainability, Parks, Recycling and Wildlife Legal Defense Fund

PD# 102171

AMENDED IN ASSEMBLY MAY 10, 2011

AMENDED IN ASSEMBLY APRIL 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1178

**Introduced by Assembly Member Ma
(Coauthor: Assembly Member Cedillo)**

February 18, 2011

An act to amend Sections 40002, 40900.1, and 41903 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1178, as amended, Ma. Solid waste: place of origin.

Existing law authorizes a city or county to assess special fees of a reasonable amount on the importation of waste from outside of the county to publicly owned or privately owned facilities.

~~This bill would also authorize a local agency to assess those special fees. The bill would prohibit a city; or county, or local agency from otherwise restricting or limiting in any way the importation of solid waste into that city or county based on place of origin because ensuring adequate and appropriate capacity for disposal of solid waste is a matter of state and regional concern, except as specified with regard to solid waste facilities or the local land use authority.~~

~~Existing law prohibits a city or county from exporting solid waste to any other jurisdiction unless the exporting city or county has implemented an approved city or county household hazardous waste element and a source reduction and recycling element, or has submitted a countywide integrated waste management plan, with which it is in compliance.~~

~~This bill would also apply that prohibition to a local agency. The bill would make related changes.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 40002 of the Public Resources Code is
2 amended to read:

3 40002. (a) As an essential part of the state's comprehensive
4 program for solid waste management, and for the preservation of
5 health and safety, and the well-being of the public, the Legislature
6 declares that it is in the public interest for the state, as sovereign,
7 to authorize and require local agencies, as subdivisions of the state,
8 to make adequate provision for solid waste handling, both within
9 their respective jurisdictions and in response to regional needs
10 consistent with the policies, standards, and requirements of this
11 division and all regulations adopted pursuant to this division. The
12 provisions of this division which authorize and require local
13 agencies to provide adequate solid waste handling and services,
14 and the actions of local agencies taken pursuant thereto, are
15 intended to implement this state policy.

16 (b) The Legislature further declares that restrictions on the
17 disposal of solid waste that discriminate on the basis of the place
18 of origin of the waste are an obstacle to, and conflict with,
19 statewide and regional policies to ensure adequate and appropriate
20 capacity for solid waste disposal.

21 SEC. 2. Section 40900.1 of the Public Resources Code is
22 amended to read:

23 40900.1. The Legislature hereby further finds and declares all
24 of the following:

25 (a) It is important to encourage state agencies to plan and
26 implement programs that will reduce the amount of solid waste
27 going to disposal facilities through source reduction, recycling,
28 and composting.

29 (b) Local agencies, other than a host jurisdiction, and federal
30 agencies should be encouraged to plan and implement programs
31 that will reduce the amount of solid waste going to disposal
32 facilities through source reduction, recycling, and composting.

(c) Each state agency shall, to the extent feasible and within existing budgetary constraints, develop and implement source reduction, recycling, and composting programs that will reduce the amount of solid waste going to disposal facilities. Those programs shall be consistent with Executive Order W-7-91, which ordered state agencies to establish recycling programs, reduce paper waste, purchase recycled products, and implement measures that minimize the generation of waste.

(d) Local, state, and federal agencies generating solid waste that is sent to a host jurisdiction for disposal should be encouraged to provide the host jurisdiction with information on the amount of solid waste and regarding any solid waste source reduction, recycling, or composting programs that have been implemented by the agency, to assist the host jurisdiction in developing and implementing the planning requirements of this division.

(e) Restrictions or limits on the importation of solid waste based on the place of origin are not aspects of solid waste handling subject to local government determination because they unreasonably limit the disposal of solid waste.

SEC. 3. Section 41903 of the Public Resources Code is amended to read:

41903. (a) A city, ~~county, or local agency~~ 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.

(b) ~~A city, county, or local agency~~ (1) A city or county may not otherwise restrict or limit in any way the importation of solid waste into that city or ~~county based on the place of origin, because ensuring adequate and appropriate capacity for disposal of solid waste is a matter of state and regional concern.~~ county based on the place of origin.

(2) Paragraph (1) does not do any of the following:

(A) Restrict a publicly owned solid waste facility from limiting or restricting its acceptance of solid waste from outside the jurisdiction of the public agency that owns the facility.

(B) Require a privately owned solid waste facility or privately operated solid waste facility to accept solid waste from outside the city or county where the facility is located.

1 (C) Prevent a city or county from exercising its land use
2 authority, including making a zoning, permitting, or other land
3 use determination.

4 (c) A city, ~~county, or local agency~~ or county shall not export
5 solid waste to any other jurisdiction unless the exporting city or
6 county has done either of the following:

7 (1) Implemented, within one year following the date when the
8 countywide integrated waste management plan is required to be
9 submitted to the department pursuant to subdivision (a) or (b) of
10 Section 41791, or a later date established or permitted by the
11 department, both an approved city or county household hazardous
12 waste element and a source reduction and recycling element.

13 (2) Submitted a countywide integrated waste management plan,
14 with which it is in compliance.

15 (d) Notwithstanding subdivision (c), until one year following
16 the date when the countywide integrated waste management plan
17 is required to be submitted to the department pursuant to
18 subdivision (a) or (b) of Section 41791, or a later date established
19 by the department, nothing in this section shall be construed as
20 prohibiting the export of solid waste.

21 (e) The department may waive the requirements of subdivision
22 (c) if the department determines that all additional reasonable
23 source reduction and recycling programs are being implemented
24 in the city or county or if the department determines that the system
25 to export waste supports or enhances the city or county source
26 recovery and recycling element.

LTF Submittal

May 19, 2011

AB 1178 Prohibition of Waste Importation Restrictions

Page 2

BACKGROUND:

This bill would prohibit a city, county, or local agency from otherwise restricting or limiting in any way the importation of solid waste into that city or county based on place of origin because ensuring adequate and appropriate capacity for disposal of solid waste is a matter of state and regional concern. Existing law prohibits a city or county from exporting solid waste to any other jurisdiction unless the exporting city or county has implemented an approved city or county household hazardous waste element and a source reduction and recycling element, or has submitted a countywide integrated waste management plan, with which it is in compliance. This bill would also apply that prohibition to a local agency. The bill would make related changes.

The bill is in response to Measure E, a 1984 Solano County initiative that limits the amount of solid waste imported into Solano County to a maximum of 95,000 tons per year. At the time of this initiative, Solano County was importing approximately 500,000 tons of solid waste annually from San Francisco. In 1992, the Legislative Counsel of California and the County Counsel of Solano County opined that Measure E violated the commerce clause of the United State Constitution because it discriminates against interstate commerce. In light of these opinions, the Solano County Board of Supervisors (Board) announced that it would not enforce Measure E. Without Measure E, Solano County has been able to import large amounts of solid waste from other areas of the state for disposal at facilities like the Potrero Hills Landfill.

The bill will essentially nullify Measure E and the Solano County Superior Court ruling supporting the measure by prohibiting a local government from restricting or limiting the importation of solid waste based on the place of origin.

At this time, staff is recommending the LTF take an "oppose" position as local control of hard earned disposal capacity for its residents should not be decided by the State when another distant agency fails to properly perform long term planning.

Support:

Atlas Disposal Industries; Blue Line Transfer, Inc.; Burrtec Waste Industries, Inc.; CalAsian Chamber of Commerce; California Association of Sanitation Agencies; California Refuse Recycling Council; Central Contra Costa Solid Waste Authority; Commercial Fleet Services, Inc.; Davis Waste Removal Co.; Desert Valley Disposal, Inc.; East Bay Sanitary Co., Inc.; Elk Grove Waste Management; Freeman & Williams, LLP; Fremont Recycling & Transfer Station; Garden City Sanitation Inc.; Gilton Solid Waste Management, Inc.; Livermore Sanitation Inc.; Marin Sanitary Service; Marin Resource Recovery; Napa Recycling & Waste Services, LLC; Olympic Wire and Equipment, Inc.; Palm Springs Disposal Services; Recology Inc.; Rehrig Pacific Company; Sacramento Recycling & Transfer Station; Salinas Valley Solid Waste Authority; South Lake Refuse & Recycle; SSI Schaefer Systems International; Solid Waste Insurance Managers, Inc.; South San