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LOS ANGELES COUNTY
SOLID WASTE MANAGEMENT COMMITTEE/
INTEGRATED WASTE MANAGEMENT TASK FORCE
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July 1, 2015

The Honorable Bob Wieckowski, Chair
Environmental Quality Committee
State Capital Room 2205
Sacramento, California 95814

Dear Senator Wieckowski:

**ASSEMBLY BILL 901 – SOLID WASTE: REPORTING REQUIREMENTS:
ENFORCEMENT- OPPOSE UNLESS AMENDED**

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) **opposes** Assembly Bill 901 (AB 901) **unless amended** as described below.

AB 901 as amended on April 20, 2015, would, among other things, revise existing law from requiring recycling and composting facilities from reporting directly to counties information on the quantities of materials that are disposed of, sold or transferred to other recycling or composting facilities, sold to end users inside of the state or outside of the state. This information would be required to be provided directly to the Department of Resources Recycling and Recovery (CalRecycle). The proposed legislation would also rescind the requirement that counties relay this information to cities, regional agencies, and CalRecycle.

The Task Force supports efforts that simplify reporting methods while effectively assisting CalRecycle in its continued efforts to assemble an accurate picture of the aggregate place organics hold in the State's waste stream. However, the Task Force is also a longtime supporter of local government control as well providing mechanisms for local governments to recover costs related to enforcing State requirements related to solid waste facilities.

As currently drafted, AB 901 would remove local control by requiring local government entities to be designated by CalRecycle in order to acquire information regarding types and quantities of materials that recycling and composting operations and facilities process. This information is supposed to be utilized by local jurisdictions in order to accurately estimate the flow of solid waste in their respective jurisdiction and as such local jurisdictions' right to obtain this information should not be eliminated. While much of this information is already required to be provided to local agencies, many solid waste facilities are reluctant to provide the information for various reasons including protection

from exposure of trade secrets to their competitors. Moreover, local agencies expend valuable resources to enforce the activities related to solid waste facility reporting requirements but State code does not provide a mechanism for monetary relief for these activities. The following recommended amendments would address each of the issues raised above. (Deletions shown in strike-through, additions are underlined and in italics):

- **Subdivision 41821.5 (b)** - Recycling and composting operations and facilities shall submit periodic information to the department on the types, ~~and quantities,~~ and jurisdiction of origin of materials that are disposed of, sold or transferred to other recycling or composting facilities, ~~sold to end users inside of the state or outside of the state, or that are sold to exporters, brokers, or transporters for sale~~ inside the state or outside of the state. *Exporters, brokers, or transporters of recyclables or compost shall submit periodic information to the department on the types, quantities, and destinations of materials that are disposed of by quantities and jurisdiction of origin, sold or transferred. The information in these reports may be provided on an aggregated facility-wide basis and need not include financial data.* The department ~~may~~ shall provide this information to jurisdictions aggregated by company upon request.
- **Subdivision 41821.5 (d)** - The department may adopt regulations pursuant to this section requiring practices and procedures that are reasonable and necessary to implement this section, and that provide a representative accounting of solid wastes and recyclable and compostable materials that are handled, processed, or disposed. Those regulations approved by the department shall not impose an unreasonable burden on waste and recycling handling, composting, processing, or disposal operations otherwise interfere with the safe handling, processing, and disposal of solid waste and recyclables. The department shall include in those regulations: procedures to ensure that an opportunity to comply is provided to a waste and recycling handler, processor, composter or disposal facility operator prior to initiation of enforcement authorized by Section 41821.7, and factors to consider in determining penalty amounts that are similar to those provided in Section 45016. In addition, the department shall not initiate an enforcement action on a jurisdiction, as defined in Sections 40145 and 40976, for its failure to meet allowable per capita disposal rate as provided in Sections 41780.05 and 41825 if the failure is caused due to inaccurate data provided by a waste and recycling handler, processor, composter, disposal facility operator and/or combination of any solid waste facility operators and handlers.

~~**Subdivision 41821.5 (h)** Upon request of a city, county, or city and county the city and county may be designated, in writing, by the department, to exercise the enforcement authority granted to the department under this article. Any city, county, or city and county so designated shall follow the same procedures set forth for the department under this article. This designation shall not limit the~~

~~authority of the department to take action it deems necessary or proper to ensure enforcement of this article.~~

- **Subdivision 41821.5 (i) (h) - (1)** ~~Notwithstanding Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code and Article 11 (commencing with Section 1060) of Chapter 4 of Division 8 of the Evidence Code, all records required to be kept pursuant to this section and implementing regulations shall be subject to inspection and copying by the department, or by a governmental entity designated by the department.~~

(2) In addition, an employee of a governmental entity may inspect at the facility and copy records related to disposal tonnage originating within its geographic jurisdiction and solid waste quantities imported to and disposed of at landfills and transformation facilities within its geographical jurisdiction. Such records shall include weight tags that identify the hauler, quantity, date, type, and origin of waste disposed of at a landfill and transformation facility. Such records shall be available to these entities for the purposes of subdivisions (a) and (b) and as necessary to fund their local programs and/or verify the accuracy of jurisdictional per capita disposal rate pursuant to Section 41780.05.

(3) Any government entity identified in Section (h) (2) may petition the superior court for injunctive and/or declaratory relief to enforce section (h)(2). The times for responsive pleadings and for hearings in these proceedings shall be set by the judge of the court with the object of securing a decision as to these matters at the earliest possible time.

(3) For purposes of this section, a governmental entity is an entity identified in Section 40145 and an entity formed pursuant to section 40976.

- **Subdivision 41821.8 (c)** Except as otherwise provided in this section, Section 1094.5 of the Code of Civil Procedure governs any proceedings conducted pursuant to this subdivision. ~~In all proceedings pursuant to this subdivision, the court shall uphold the decision, if the decision is based upon substantial evidence in the whole record.~~

The proposed amendments will allow local governments to accurately quantify disposal tonnages within its jurisdiction and to fairly collect fees to pay for recycling programs and more accurately assess diversion levels. They will also help the solid waste industry by leveling the playing field so that all haulers and solid waste facilities pay the applicable fees.

Pursuant to Chapter 3.67 of the Los Angeles County Code and the California Integrated Waste Management Act of 1989 (Assembly Bill 939 [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, the waste management industry, environmental groups, the public, and a number of other governmental agencies.

For the foregoing reasons, the Task Force **opposes AB 901 unless amended** as described above. Should you have any questions regarding this matter, please contact Mr. Mike Mohajer of the Task Force at MikeMohajer@yahoo.com or at (909) 592-1147.

Sincerely,



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

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cc: Assembly Member Richard Gordon
Each member of the Senate Environmental Quality Committee and Staff
Lucas Frerichs, Office of Assemblymember Richard Gordon
CalRecycle (Scott Smithline & Christine Hironaka)
California State Association of Counties
League of California Cities, Los Angeles County Division
Each member of the Los Angeles County Board of Supervisors
San Gabriel Valley Council of Governments
South Bay Cities Council of Governments
Gateway Cities Council of Governments
Westside Cities Council of Governments
Each City Mayor and City Manager in the County of Los Angeles
Each City Recycling Coordinator in Los Angeles County
Each Member of the Los Angeles County Integrated Waste Management Task Force