



LEGISLATION

A PROPOSED STATE ROLE IN CALIFORNIA'S RECYCLING AGENDA

By

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THE IMPACT OF SOLID WASTE ON CALIFORNIA'S ENVIRONMENT: IS STATE GOVERNMENT DOING ITS SHARE?

Solid waste disposal impacts California's air and water quality, and its management costs taxpayers more than \$4 billion annually.¹ According to Californians Against Waste (CAW), approximately forty million tons of municipal solid waste generated in California annually is a result of an inefficient and wasteful resource extraction, manufacturing and distribution system.² This present system puts a burden on California's economy and environment. Over the past nine years the Legislature has enacted a waste prevention and recycling policy framework with the dual objective of conserving resources while reducing economic and environmental impacts associated with land, air, and water disposal. This framework consists of dozens of policies, programs and incentives, each of which designates responsibility for reducing waste.³

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¹ MARK MURRAY & RICK BEST, CALIFORNIANS AGAINST WASTE, WHAT'S HOT IN RESOURCE CONSERVATION, WASTE PREVENTION & RECYCLING (Jan. 1997).

² *Id.*

³ *Id.*

I. THE INTEGRATED WASTE MANAGEMENT ACT

California's recycling policies dramatically changed in 1989 when the Governor signed Assembly Bill (AB) 939 authored by Assemblymember Byron Sher. The Integrated Waste Management Act (IWMA)⁴ established one of the most comprehensive and aggressive recycling policies in the nation. IWMA set a goal of reducing waste going to landfills by twenty-five percent in 1995 and fifty percent by the year 2000,⁵ setting a standard across the country. Local governments demonstrated success in achieving the diversion mandate despite the barriers encountered by them. Since the law's inception, over half the state's households have curbside collection of recyclables.⁶ Overall, the state has achieved the twenty-five percent waste reduction requirement.⁷

The IWMA requires each city and county to comply with the mandated twenty-five percent and fifty percent diversion of solid waste through source reduction, recycling and composting.⁸ This statute ensures that in each community, the public has the maximum opportunity to reduce waste. The act also requires each city and county to submit a comprehensive plan to the Integrated Waste Management Board (Waste Board) describing how they will meet the waste reduction mandates.⁹ The Waste Board reviews these plans, evaluating each of the following nine necessary elements:

1. Waste Composition
2. Source Reduction
3. Recycling
4. Composting
5. Education
6. Special Wastes
7. Household Hazardous Wastes
8. Disposal Capacity
9. Funding¹⁰

The measure allows the Waste Board to levy a fine of up to \$10,000 per day on municipalities who fail to submit and implement a plan and comply with

⁴ CAL. AB 939, 1989-90 Regular Session (1989).

⁵ *Id.*

⁶ MURRAY & BEST, *supra* note 1.

⁷ CAL. INTEGRATED WASTE MANAGEMENT BOARD, PROGRAM DESCRIPTIONS, PUB. NO. 530-95-003 (Apr 1995).

⁸ AB 939, *supra* note 4.

⁹ Californians Against Waste, *Summary of Enacted Legislation* (visited Nov. 23, 1997) <<http://www.wgc.org/caw>>.

¹⁰ *Id.*

the requirements of IWMA.¹¹ The law further requires municipalities to update their plan every five years.¹² IWMA establishes an integrated waste management hierarchy that promotes source reduction first, recycling and composting second, and environmentally safe transformation (incineration) and land disposal last.¹³ Local governments recognize the importance of conserving natural resources, and understand their role in protecting our environment.

The Integrated Waste Management Act provides reasonable flexibility in meeting the diversion requirements. The statute and the Waste Board realize that cities and counties face challenging obstacles and may not be able to meet their fifty percent diversion mandate by the year 2000. A city or county may petition to reduce the fifty percent diversion goal. Local governments must implement all feasible programs and demonstrate progress towards maximum diversion. Cities and counties experiencing adverse market or economic conditions may receive a time extension if they anticipate difficulties in achieving their diversion goals. Rural areas may be allowed extended time due to insufficient fiscal and technical resources.¹⁴

Some cities and counties have made significant progress towards the fifty percent goal. For example, Sonoma County achieved a thirty-nine percent diversion rate for 1996.¹⁵ In 1990, the statewide diversion rate was twelve percent, at an estimated five million tons. In 1995, the statewide diversion rate was twenty-six percent at an estimated eleven million tons. By the year 2000, it is likely that the goal of fifty percent diversion rate will be possible. The Waste Board estimates that an additional fourteen to eighteen million tons will require diversion by the year 2000. The Waste Board came up with several strategies for local governments to meet the fifty percent diversion goal. They proposed the following:

- focus on fewer key programs that will lead to fifty percent;
- evaluate existing programs;
- exempt rural counties from diversion planning and measurement;
- promote partnerships to leverage resources and work efficiently;
- establish more financial incentives for diversion; and
- place requirements on cities and counties not meeting goals.¹⁶

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ INTEGRATED WASTE MANAGEMENT BOARD, INTEGRATED WASTE MANAGEMENT ACT: FLEXIBILITY AND ENFORCEMENT, PUB. NO. 541-97-001 (Jan. 1997).

¹⁵ SUNRISE GARBAGE SERVICE, *Sonoma County Tops Statewide Recycling Rate*, (Oct. 1997).

¹⁶ Agenda item from Integrated Waste Management Board meeting (Jan. 23, 1997) (on file with author).

II. THE ADVENT OF "PROJECT RECYCLE"

Currently, the state has its own recycling program developed after the execution of the Governor's Executive Order W-7-91, in 1991. W-7-91 ordered state agencies to adhere to the same requirements of the Integrated Waste Management Act and to develop a recycled product procurement program.¹⁷ Project Recycle is the established State of California waste reduction and recycling program administered by the Waste Board. This comprehensive program implements waste prevention, reuse, and recycling programs in State-owned and leased buildings and facilities. Approximately 1,150 programs were coordinated and maintained in fiscal year 1995-96, diverting a reported 26,000 tons of materials.¹⁸ However, unlike the penalties imposed on local governments for non-compliance with IWMA requirements, there are no penalties placed upon state agencies if they do not abide by the same standards.

III. THE ROLE OF UNIVERSITIES AND COLLEGES IN LOCAL GOVERNMENT RECYCLING EFFORTS

Although Executive Order W-7-91 includes State agencies, the University of California System and Community Colleges are not considered State agencies for the purpose of the Executive Order.¹⁹ In addition, no legislative directives affect waste management policies at those school systems. According to the Waste Board, there are insufficient mandates to reduce waste on campuses.²⁰ Upon this finding by the Waste Board, they recommend the following three strategies to overcome this legislative deficiency:

¹⁷ Exec. Order No. W-7-91 (April 1991).

¹⁸ CAL. INTEGRATED WASTE MANAGEMENT BOARD, FACTS AT A GLANCE 4 (June 1997).

¹⁹ Exec. Order No. W-7-91, *supra* note 17.

²⁰ CAL. INTEGRATED WASTE MANAGEMENT BOARD, COLLEGE AND UNIVERSITY WASTE REDUCTION AND RECYCLED PRODUCT PROCUREMENT ACTIVITIES, BARRIERS, AND ASSISTANCE STRATEGIES, STATUS REPORT, PUB. NO. 321-95-005, at 10 (Feb. 1995).

²¹ *Id.*

- (1) show potential economic benefits to both system and campus administrators;
- (2) provide examples of increased disposal costs where programs were not supported; and
- (3) develop proposed legislation requiring the University of California, California State University, and Community College Campuses to meet specific waste reduction goals and periodically report on progress toward those goals.²¹

Successful campus recycling programs would assist local jurisdictions with their mandated diversion requirements. Because universities and colleges are within city and county boundaries, but are not considered state or local agencies for the purposes of diversion plans, any successful and efficient university recycling programs will have a dramatic effect on city and county diversion rates. However, significant room for improvement exists among the UC and Community College systems to reduce waste for local governments.

Universities generate a variety of solid wastes. Sources of this waste include vehicle fleets, residence halls, cafeterias, large landscaped areas, labs, agricultural areas, and office buildings.²² University campuses are one of the main sources of county waste generation. For example, UC Davis, CSU Humboldt, and UC Santa Cruz generate an abundance of solid waste in their respective counties. In addition to standard paper and aluminum can build-up, campuses generate materials such as food waste, mattresses, landscape waste, textiles, furniture, electronic equipment, and construction and demolition debris;²³ thus, the university waste stream is similar to that of a city. While campuses have hired Recycling Coordinators since Project Recycle began, no requirements to divert these materials have been established. Diversion rates vary among campuses and no implemented tracking system exists to monitor performance.

According to waste generation estimates in 1992-93, California public universities and colleges were the largest generators of solid waste at fifty-one percent, followed by prisons and the California Youth Authority at twenty-two percent.²⁴ These estimates are based on waste generation rates of 821.25 pounds per student per year at universities, and 179 pounds per student per year at community colleges, on an overall amount of 400,000 tons of solid waste for the year.²⁵

²² *Id.* at 3.

²³ *Id.*

²⁴ *Id.* at 2.

²⁵ *Id.*

IV. UC DAVIS: A ROLE MODEL FOR UNIVERSITIES

UC Davis is a model example of a successful recycling program. In 1994, the campus initiated its R4 Recycling Program. As shown in the following chart of UC Davis recycling figures since the implementation of the program, the University is now recycling approximately forty-eight percent of its waste.²⁶ Their success is due to a strong program on campus and a personal goal set by University staff. It is somewhat ironic that UC Davis is one of the shining success stories contributing to high diversion statistics in the Waste Board's analysis of "Project Recycle," yet the impetus for the campus effort has nothing to do with Project Recycle or the Executive Order.

UC Davis Recycling Figures in Tons Since the Implementation of R4 Recycling Program				
	1994	1995	1996	*1997
Basic Recyclables [†]	269 1.3%	618 4.6%	701 3.9%	414 4.5%
Greenwaste Recycled [‡]	3,998 19.5%	66 0.5%	6,444 35.4%	3,254 35.3%
Metals Recycled	305 1.5%	344 2.6%	309 1.7%	126 1.4%
Construction/Demolition Recycled	6,398 31.2%	1,803 13.5%	973 5.4%	675 7.3%
Total Tons Waste Generation	20,534	13,331	18,201	9,214
Total Tons Recycled	10,970	2,837	8,435	4,496
Total Tons Landfilled	9,564	10,495	9,766	4,718
Total Percent Waste Recycled	53.4%	21.3%	46.3%	48.8%

* Figures are through June 30, 1997 only.

[†] Paper, bottles, cans, cardboard.

[‡] Grass clippings, tree trimmings, wood, manure.

SOURCE: Mr. Lin King, UC Davis R4 Recycling Program Manager

²⁶ Interview with Lin T. King, UC Davis R4 Recycling Program Manager, in Sacramento, Cal. (Nov 20, 1997).

Up until September 1997, the Waste Board provided technical assistance to colleges and universities for their recycling programs. For example, the Waste Board promised a \$10,000 purchase agreement of recycling equipment for fiscal year 1997-98 to the California State University, Sacramento Conservation Program. Due to budgetary constraints, however, Project Recycle funds are no longer available for colleges and universities.²⁷ Unfortunately, universities such as CSUS and UC Davis implemented programs in which technical assistance from the Waste Board was vital for their continued effective operation.

V. AB 705 MAKES THE STATE DO ITS SHARE²⁸

During the 1996-97 legislative session, I introduced Assembly Bill 705, sponsored by CAW, in order to strengthen the State's recycling programs. This bill required state facilities to comply with the twenty-five percent and fifty percent diversion requirements of AB 939. The recycling bill encouraged greater recycling efforts by state agencies to match efforts made by local governments. It also required state agencies to purchase recycled goods if they could be purchased at the same or at lower costs than non-recycled goods. The bill extended sunsetted provisions relating to the purchase of recycled paint. After studying the issue and hearing from groups like CAW, I concluded that the state was getting "off the hook" while local communities were shouldering all the burdens of recycling their solid wastes.

The Governor's Executive Order was the catalyst for hundreds of state offices to develop recycling programs, diverting over 25,000 tons of solid waste during the past year. Most agencies responded to the Executive Order, but there are others that did not implement programs. A significant portion of a local government's waste stream often comes from state facilities such as prisons, parks, schools, and universities. Many localities are left with the responsibility to divert waste produced by state agencies operating within these local government jurisdictions. In these communities, local governments are required to develop source reduction, recycling and composting programs to reduce the waste stream, including the waste generated at the state facilities. For example, in the 1st District,

²⁷ Interview with Mark Kennedy University Conservation Coordinator, Cal. State University Sacramento, in Sacramento, Cal. (Nov 20, 1997).

²⁸ AB 705 is authored by Assemblymember Virginia Strom-Martin and sponsored by Californians Against Waste. Information in this section is on file with author

7.9 percent of the waste stream in Del Norte County comes from the Pelican Bay State Prison.²⁹ State agencies are currently under no state mandate to assist local governments in achieving the diversion requirements of AB 939. Local governments are required to divert material from these facilities, but the state facilities are not obliged to develop a program to meet the twenty-five percent and fifty percent diversion requirements that currently apply to local governments.

AB 705 also would have strengthened the state's procurement policies by expanding the state's "Buy Recycled" program to include recycled building and construction materials, outdoor furniture, and landscaping materials and extending provisions relating to the purchase of recycled fluids, solvents, and paints. Over thirty percent of the state's purchases are for recycled products and new recycled products come to the market daily.³⁰ I believe that the State should be a leader in stimulating demand for these products and should help to create markets for the materials collected in local recycling programs.

The California Department of Finance and General Services had concerns that the twenty-five percent and fifty percent goals would be too costly. I agreed to amend the bill to ensure a strong likelihood of receiving the Governor's signature. The final version of AB 705 included the purchasing requirements but removed the mandated twenty-five percent and fifty percent diversion requirement. The bill still required any state agency, upon the request of a local agency, to declare how it intended to utilize programs or facilities established by the local agency for the handling, diversion, and disposal of solid waste. If the state agency did not intend to use those established programs or facilities, it would identify sufficient disposal capacity for waste that is not source reduced, recycled, or composted. The pared-down measure coordinated waste management programs between state and local agencies and continued to encourage the state to buy recycled building products.

AB 705 progressed through both houses of the Legislature with bipartisan support. The bill was enrolled to Governor Wilson in a scaled-down version with the expectation of his signature. Unfortunately, the Governor vetoed the bill despite a broad coalition of support. Supporters of AB 705 included CAW (sponsor), the Sierra Club, Browning-Ferris Industries, Louisiana-Pacific Corporation, California Landscape Contractors, E-Coat Recycled Paint Products,

²⁹ Interview with Ted Ward, Del Norte Solid Waste Management Authority in Sacramento, Cal. (Nov 18, 1997).

³⁰ Interview with Rick Best, Policy Director, Californians Against Waste, in Sacramento, Cal. (various dates).

California Refuse Removal Council, County of Santa Clara, City of San Rafael, Planning and Conservation League, and the League of California Cities.

VI. BARRIERS TO SUCCESS FOR LOCAL GOVERNMENTS³¹

The lack of sufficient recycling by state agencies imposes hardships on local agencies mandated to reduce waste from residential, commercial and industrial sectors, and public agencies located within their jurisdictions. For example, Pelican Bay State Penitentiary in Del Norte County is a good example of local government versus the State Department of Corrections. The prison generates massive amounts of waste that is then shipped to a landfill in Crescent City. The prison-generated waste is part of Del Norte County's overall waste stream and counts as part of the reduction requirements of AB 939, but the county has no way to ensure that the waste is recycled or reduced. This situation makes it difficult for a small county like Del Norte to comply with the mandate.³² AB 705 intended for state and local agencies to work together in the handling, diversion, and disposal of solid waste.

Requiring the state to do its fair share to promote recycling is good public policy. AB 705 would help local communities meet their diversion goals by helping to create markets for recycled materials. According to CAW, one of the best reasons to recycle is to reduce pollution and conserve material and energy resources involved with material production. By using recycled materials to make new materials and products, California can significantly reduce the environmental degradation associated with raw material extraction.³³

Californians manage their waste through landfills, which are monitored and handled by local governments. Rather than view waste as an economic opportunity, it is viewed as a liability and burden. However, new opportunities arise to create markets through waste reduction and product procurement. An integrated waste management strategy lowers cost to communities and creates new jobs and tax revenues from increased business activity. We need to view waste materials as marketable and valuable resources. As landfill costs continue to rise, local governments recognize that waste reduction and recycling will lead

³¹ Information in this section primarily based on research conducted by the Office of Assemblymember Strom-Martin.

³² Ward, *supra* note 29.

³³ Best, *supra* note 30.

to lower costs for future waste management.³⁴ Air and water pollution, toxic waste, global warming and deforestation are some of the most alarming health hazards that threaten this world. Specifically, California's environment is at great risk of pollution due to its population and economic opportunities.³⁵

VII. CONCLUSION

I will continue to work to push the recycling agenda forward in the Legislature. The State should adhere to the same standards that it mandates on local governments. The waste that state facilities generate still counts against the county under AB 939, making it more difficult for local governments to reach their diversion goals. We cannot solve our state's waste management difficulties while state government remains part of the problem rather than the solution. California should be an example for other states to model their programs after. It is an issue of fairness; if AB 939 is good enough for local governments to comply with, it ought to be good enough for the state to comply with as well. AB 705 would have met our state's waste management challenge in a fair and cooperative manner.

³⁴ CALIFORNIANS AGAINST WASTE, FACT SHEET NO. 9: SAVING PUBLIC DOLLARS.

³⁵ CALIFORNIANS AGAINST WASTE, FACT SHEET NO. 10: THE ENVIRONMENT.