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March 28, 2005

To: Supervisor Gloria Molina, Chair
Supervisor Yvonne B. Burke
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

MOTION TO SUPPORT AB 1090 (MATTHEWS) -- SOLID WASTE DIVERSION (ITEM NO. 85-C, AGENDA OF MARCH 29, 2005)

Item No. 85-C on the March 29, 2005 Agenda is a motion by Supervisor Burke to support AB 1090 (Matthews), and instruct the Executive Officer to prepare a five-signature letter to the State Legislature and the Governor expressing the Board's support for AB 1090.

The California Integrated Waste Management Act of 1989, known as AB 939, established an integrated waste management program administered by the California Integrated Waste Management Board (CIWMB). It requires the board and local agencies to promote specified waste management practices in the following order of priority: source reduction, recycling and composting, and environmentally safe transformation and landfilling.

As introduced, AB 1090 would modify the State's solid waste management priority to include the importance of conversion technologies. The new priority listing would be: source reduction; recovery through recycling, composting, conversion technology, or other beneficial use technologies; and environmentally safe transformation and landfilling. AB 1090 would also provide jurisdictions the option to utilize conversion technologies in meeting AB 939's 50 percent waste-reduction mandate provided jurisdictions continue to effectively implement all feasible source reduction, recycling, and composting measures prior to being eligible for diversion credit for conversion.

Waste Diversion Goals

Existing law, in addition to prioritizing waste management practices, also requires each city, county, and regional agency to develop a Source Reduction and Recycling Element (SRRE) which describes how they will divert 50 percent, compared to 1990 figures, of solid waste from disposal at landfills and/or transformation facilities. The CIWMB reviews each SRRE to verify the waste diversion claimed by the city and county for each specific program. Failure to mathematically demonstrate achievement of the 50 percent waste reduction mandate may subject the city or county to penalties of up to $10,000 per day.

To achieve its diversion goal, a jurisdiction may count no more than 10 percent diversion credit for waste materials managed through either transformation or biomass conversion facilities. Under current State law, transformation includes incineration and conversion technologies (conversion technology refers to an array of state-of-the-art technologies capable of converting residual solid waste [material remaining after recyclables have been extracted] into useful products, including renewable and environmentally benign fuels, chemicals, and other sources of clean energy). For example, if a jurisdiction elects to utilize transformation credit, it may not utilize any biomass conversion credit, or vice-versa.

At the time AB 939 was enacted, there was an intense debate about whether incineration should be considered recycling (incineration was the only technology debated because conversion technology was in its infancy stages). In the end, incineration was considered the same as disposal because of its perceived air quality impacts by the public, and conversion technology (e.g. gasification, pyrolysis, distillation, and biological conversion) was lumped into transformation primarily due to the industry's unfamiliarity with these technologies. This lumping may have made sense when the State was first interested in promoting waste prevention and recycling, and fear over pollution by incineration technologies. However, with a vast network of recycling and source reduction programs in place and advances in technology, there is no reason to lump conversion technologies with incineration.

Waste Management Task Force

The Los Angeles County Integrated Waste Management Task Force was created pursuant to AB 939's mandate to counties and cities within those counties to form a local task force to ensure a coordinated approach to solid-waste management issues on a countywide basis. Since enactment of AB 939, the County, cities within the County, and the Task Force have gained substantial experience in developing and implementing a wide range of innovative waste diversion programs, many of which are used as models throughout the nation. So far, these programs have helped jurisdictions make tremendous progress toward achieving the 50 percent waste reduction mandate.

In May 1999, the Task Force adopted a number of recommendations to address numerous concerns raised by jurisdictions relative to AB 939. These AB 939 deficiencies include the lack of adequate markets for recyclable materials and the lack of full diversion credit for conversion technologies. On July 27, 1999, the Los Angeles County Board of Supervisors adopted the Task Force's recommendations, which included instructions to the Chief Administrative Office and Department of Public Works to amend State laws, regulations and policies, and to address the deficiencies identified by the Task Force. The County sponsored AB 1939 (Vincent) of 2000 to address the deficiencies identified by the Task Force and provide full diversion credit for conversion technologies, but the bill failed passage.

DPW indicates that AB 1090 would modernize the solid-waste management hierarchy by incorporating conversion technologies within the hierarchy in proper context to their environmental benefits and impacts, and would allow jurisdictions that utilize conversion technology facilities to receive credit towards meeting the State's 50 percent waste-reduction mandate. DPW indicates that by allowing jurisdictions to receive diversion credit, it would invigorate research and development of conversion technologies by removing existing disincentives for these alternatives. Therefore, **DPW recommends that the County support AB 1090, and we concur.** Support for AB 1090 is consistent with County-sponsorship of AB 1939 and existing policy to support legislation to promote or provide incentives for the development of alternatives to landfills and incineration, including conversion technologies, and provide diversion credit for these alternatives.

AB 1090 is sponsored by the author and supported by the Los Angeles County Integrated Waste Management Task Force and BioEnergy Producers Association. It is opposed by Californians Against Waste. The bill has not yet been set for hearing.

DEJ:GK
MAL:JF:EW:ib

c: Executive Officer, Board of Supervisors
County Counsel
Department of Public Works
Regional Planning