



COUNCIL AGENDA: 08-30-11  
ITEM: 2.21

## Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Dennis Hawkins, CMC  
City Clerk

**SUBJECT:** SEE BELOW

**DATE:** 08-24-11

---

**SUBJECT: AB 1178 (MA) – SOLID WASTE: PLACE OF ORIGIN**

### RECOMMENDATION

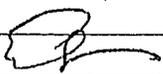
As recommended by the Rules and Open Government Committee on August 24, 2011 and outlined in the attached memo previously submitted to the Rules and Open Government Committee, approve an oppose position for AB 1178 (Ma) – Solid Waste: Place of Origin.



Subject: **AB 1178 (Ma)**  
**Solid waste: place of origin**

**RULES COMMITTEE: 8-24-11**  
**ITEM: D.1.b**

**Recommend Position: Oppose**

<b>City Council Action Request</b>			
<b>Department:</b> ESD	<b>DATE:</b> 8-17-2011	<b>Coordination:</b> City Mgr/City Atty/Legis. Rep in Sacramento	<b>CMO Approval:</b> 
			<b>Dept. Approval:</b> Kerrie Romanow /s/
<b>RECOMMENDED ACTION:</b>			
<ol style="list-style-type: none"> <li>1. Pursuant to the City's streamlined bill process for responding quickly to legislative proposals, approve opposition to AB 1178 (Ma).</li> <li>2. Recommend a one-week turnaround to the City Council for direction to the City's legislative staff to advocate for the City's position on AB 1178.</li> </ol>			
<b>BILL SYNOPSIS:</b>			
<p>AB 1178 proposes to prohibit local ordinances that would ban the import of waste from other jurisdictions, one of the aspects of solid waste handling that is currently subject to local control. According to the author, AB 1178 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.</p> <ul style="list-style-type: none"> <li>o <b>Existing law:</b> The California Integrated Waste Management Act of 1989 (AB 939) allows each county, city, or district to identify aspects of solid waste handling that are of local concern and the means by which related services are to be provided.</li> <li>o <b>Proposed change:</b> This bill would prohibit an ordinance enacted by a city or county (including one enacted by the voters) from restricting or limiting the importation of solid waste into a privately owned solid waste facility based on place of origin.</li> </ul>			
<b>IMPACTS TO CITY OF SAN JOSÉ:</b>			
<p>This bill would preempt local ordinances that restrict importation of solid waste; and would allow privately-owned landfills to accept garbage and other wastes from anywhere. It would allow solid waste from San José and from other jurisdictions in Alameda, San Mateo, and Santa Clara Counties to continue to be trucked to Solano County for disposal which is contrary to the limits established there by citizen initiative, as recently upheld in state court. AB 1178 would harm San José and other jurisdictions in the following ways:</p> <ol style="list-style-type: none"> <li>1. <b>Lost Disposal Facility Tax and disposal fee revenue.</b> Since 1992, San José has had a Disposal Facility Tax (DFT) of \$13 per ton on waste disposed of within the City. The City's Solid Waste Enforcement Fee (SWEF) is \$1.29 per ton. In addition, Santa Clara County collects \$4.78 per ton in fees on disposal, most of which is used to fund household hazardous waste services, while \$1.50 per ton is returned to the cities of origin to fund other recycling services. Owners of some of the transfer and processing facilities built since 1992 have chosen to haul their residues to Potrero Hills Sanitary Landfill (PHSL) in Solano County and to other remote sites. Some additional wastes are hauled directly to these sites. From 2003 through 2010, PHSL reported 525,465 tons of waste from San José. Had these wastes been disposed of in San Jose, they would have generated \$6,831,000 in DFT revenue to the General Fund. Total reported waste exports in the past three years averaged 139,945 tons per year—a loss of up to \$1,819,000 per year in DFT revenue. Although SWEF and the County's fees are paid by transfer facilities regardless of where the waste is disposed of, direct haul may be costing the City \$100,000 or more per year in its share of lost fees. The transfer station operators and haulers are not saving nearly as much as the City is losing since the cost of hauling</li> </ol>			

waste long distances offsets most of the difference of local fees and taxes. The long haul also results in significant environmental impacts. Solano County's Measure E would almost certainly eliminate any remaining export from San José to PHSL, if it is not invalidated by AB 1178 or overturned on appeal.

- 2. **Excessive low-cost disposal capacity is a disincentive to achieving Zero Waste.** San José and many other jurisdictions depend in part on local disposal fees and taxes to provide incentives to reduce waste. The DFT and other local disposal surcharges were structured to promote waste diversion by exempting waste that is recycled or composted. In combination with fees on commercial garbage collection, the disposal surcharges provide a significant incentive for businesses to modify procurement and other practices to reduce the amount of waste that cannot be recycled or composted. If AB 1178 fails, Solano County's Measure E would reduce imports from San José and other jurisdictions to PHSL from about 600,000 tons per year to no more than 95,000 tons per year. Alameda, San Mateo, and Santa Clara County all have sufficient disposal capacity to handle the waste currently exported to Solano County. Some of the waste previously exported from San Jose to PHSL is now going to Monterey County. An unknown portion of the 500,000 tons per year of regional waste that could be displaced from PHSL would be exported from its counties of origin to other remote sites outside Solano County

**POLICY ALIGNMENT:**

The Council-approved 2011 Legislative Guiding Principles and Priorities justify opposition to AB 1178: language under Principle A supports local control of solid waste facilities; language under Principal C opposes legislation that would have negative impacts on City services and revenues; and language under Principal F opposes legislation that would undermine financial incentives to preserve natural resources and reduce waste.

**A. Support Local Control.** The City values its ability to exercise local control. Specifically, the City supports efforts, legislation, and policies that:

- 4. Protect the rights of cities to manage local integrated waste management facilities, programs, and materials.

**C. Protect and Increase Local Funding.** Oppose legislation, policies, or budgets that would have negative impacts on City services, revenues, and support initiatives, legislation and policies that:

- 8. Support policies that incorporate the costs of recycling and disposal of products and materials to producers and users.

**F. Promote Livability, Sustainable Development, and Environmental Protection.** The City supports legislation and policies that provide incentives and financial measures for preservation of natural resources.

- 9. Supports Source Reduction and increased recycling and composting in order to achieve Zero Waste.

**SUPPORTERS/OPPONENTS: (as of July 5 Senate Bill Analysis)**

Support:

- |   |   |
|---|---|
| - Cities of Fairfield and Vacaville             | - Garden City Sanitation                        |
| - Counties of Sacramento and Solano             | - Waste Connections (owns GreenTeam of SJ)      |
| - California Refuse Recycling Council (sponsor) | - Recology, plus 26 other solid waste firms     |
| - National Solid Waste Management Association   | - and 12 firms serving the solid waste industry |
| - California Association of Sanitation Agencies | - Salinas Valley Solid Waste Authority          |
| - California Teamsters                          | - Vacaville & Calaslan Chambers of Commerce     |

**Opposed:**

- |   |   |
|---|---|
| – Solid Waste Association of North America          | – California League of Conservation Voters            |
| – City of Glendale                                  | – Californians Against Waste                          |
| – Counties of Alameda, Kern & Orange                | – Natural Resources Defense Council                   |
| – Stopwaste.org (ACWMA)                             | – Sierra Club California & 7 other organizations      |
| – Western Placer Waste Management Authority         | – League of California Cities                         |
| – Merced County Regional Waste Management Authority | – Los Angeles County Solid Waste Management Committee |

In its opposition letter, the League of California Cities said bans “should be a local or regional decision and not one dictated by the State. While it may be appropriate in parts of the state to prohibit a ban on place of origin, like this bill does, it may not be appropriate in other parts of the state.”

**STATUS OF BILL:**

Passed out of the Assembly. Passed Senate Committee on Environmental Quality as amended and referred to Committee on Appropriations. Withdrawn from Committee on July 14 and ordered to second reading.

**FOR QUESTIONS, CONTACT: Jo Zientek – 408-535-8557**