MEMO

DATE: 06/07/07

TO: Energy & Environment Committee

FROM: Jeffrey S. Dunn, Government & Public Affairs, (213) 236-1880, dunn@scag.ca.gov;

SUBJECT: Solid Waste Legislation – SB 1020 & SB 1016

BACKGROUND:

SB 1020

SB 1020 is a diversion bill that seeks to increase the AB 939 solid waste diversion mandate from 50% to 75%. It would require all cities and counties to divert from landfill disposal or transformation no less than 75% of all solid waste through source reduction, recycling, and composting activities by January 1, 2012. A copy of the bill is attached.

SCAG has existing policy supporting conversion technologies (CTs) and opposing diversion increases without flexibility. The bill makes no provisions for conversion technologies which are lumped into the same category as incineration. Both incineration and CTs are considered transformation, making them both ineligible as diversion strategies. However, unlike incineration which simply burns solid waste to ash, conversion technologies are capable of turning residual (post-recycled) solid waste into products such as green fuels and renewable energy.

Councilmember Greig Smith is working with the Senator Padilla's office to amend this bill to make distinctions between conversion technologies and incineration and to remove concerns the Solid Waste Task Force has with the bill.

SB 1016

SB 1016 authorizes the California Integrated Waste Management Board (CIWMB) to allow a city or county to submit certain information in the annual report on a biennial, rather than an annual, basis if the CIWMB determines the city or county has diverted more than 50 percent of solid waste from landfill disposal through source reduction, recycling, and composting activities. This CIWMB authorization cannot be effective if the city or county subsequently fails to divert 50 percent of the solid waste or if the CIWMB rescinds the authorization. Thus, the bill provides an incentive to cities and counties with a diversion rate that exceeds 50 percent by authorizing fewer reporting requirements in their annual reports to the CIWMB.

Solid Waste Task Force member Mike Mohajer has reviewed draft revisions to SB 1016 and has submitted a written summary and suggested changes to the author's office, the California Integrated Waste Management Board, and other stakeholders around the state. The Solid Waste Task Force supports these recommendations, and a copy is attached for your information and review.

MEMO

FISCAL IMPACT:

Work associated with solid waste issues is covered under the Environmental Planning work element 07-020.SCGS1.

Reviewed by: Jeff Dunn for Don Rhodes

Division Manager

Reviewed by:

Department Director

Reviewed by:

Chief Financial Officer

Jeffrey Dunn

From: Mike Mohajer [mikemohajer@yahoo.com]

Sent: Saturday, May 19, 2007 7:45 PM

To: Ania.Garbien@SEN.CA.GOV; Elizabeth Huber

Cc: Karen Keene; Davis, Rachel; Dyson, Tamar; mikemohajer@yahoo.com; sjlegsac@pacbell.net; kross@cacities.org; cberg@govadv.com; pane@cwo.com; sweetster@aol.com; chelgi@worldnet.att.net; psmith@rcrcnet.org; karen.coca@lacity.org; Scott Smithline; cwhite1@wm.com; Levenson, Howard; Block, Elliot; Furey, Keir; Garbien, Ania; Mulé, Rosalie; Pecor, Jacqueline; Paul Yoder

Subject: RE: Follow-up to May 3 SB 1016 Meeting

Attachments: SB 1016 Draft Statute Changes 5-2.doc

For many years local governments across the state have been expressing their concerns with the inherent deficiencies of the State's Diversion Rate Measurement System. I would like to commend Senator Wiggins for authoring SB 1016 and the California Integrated Waste Management Board for sponsoring the Bill to address these deficiencies by recommending a "disposal rate measurement" and placing emphasis on waste diversion programs implementation and less on mathematical compliance.

I have reviewed the attached draft revisions to the Bill, dated May 2, 2007. For the purpose of discussion and consideration at our next meeting, I would like to offer the following general comments as well as a number of specific ones, with the suggested changes as shown on the attachment.

1. ***Update vs. Revision*** - There is a need to clearly define/distinguish any and all differences between a planning document **"update"** and **"revision."** There are a number of salutatory tools currently available to local jurisdictions for processing their planning document **revisions** with the CIWMB. These tools need to remain intact for all planning document **updates**. Also see Item 3, below, as well as the new Section 41770 (b) of the PRC.

2. ***Legislative Findings; Subdivisions 40001(e), (g) and (i)*** - As written, the proposal attempts to prohibit any increase in a countywide "baseline" disposal quantity due to increases in population, economic growth, etc. In effect, the proposal is mandating increases beyond 50% . Such a proposal would place a significant financial burden on cities and counties. Prior to an increase in the existing diversion rate of 50%, a cost/benefit analysis needs to be conducted by the CIWMB in conjunction with local governments and all other affected stakeholders that would substantiate such an increase. {Note: Also see proposed revision to Subdivisions 40912 (d) and new Subdivision 41774(a)}

3. ***Updating Planning Documents, Subdivision 41773 (e)*** - The proposal, in part, states "If the board determines that a jurisdiction's update is **deficient**, the board shall notify the jurisdiction of the **deficiencies** it has identified within 60 days and the jurisdiction shall submit a new update within 30 days." If a jurisdiction fails to comply, the CIWMB can proceed with the process of imposing monetary penalties (up to $10,000 per day) on the jurisdiction pursuant to Sections 41812 and 41813 of the PRC. The recommended process doesn't even afford the jurisdiction the opportunity to appeal the case to the Board.....this seems to be a process of "command & control", and I hope this is not the goal of the the CIWMB. There must be tools available to jurisdictions to confer with CIWMB staff, as well as being able to appeal to the Board which are similar to those processes that are currently available to jurisdictions for revisions of their planning documents pursuant to provisions of the PRC, Sections 41810, 41810.1 and 41811.

4. ***County IWM Plan, Siting Element and Summary Plan*** - As proposed, each county, in consultation with the local task force, will remain responsible for the preparation and maintenance of the County Siting Element and the Summary Plan. As such, cities and regional agencies should be required to provide the county and the local task force with an electronic copy of each update of their SRRE, HHWE and Nondisposal Facility Element at the same time as each update is submitted to the CIWMB.

Looking forward to the upcoming meeting. In the meantime, should you have any questions pls feel free to contact me.

Regards,

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