



LOS ANGELES COUNTY
SOLID WASTE MANAGEMENT COMMITTEE/
INTEGRATED WASTE MANAGEMENT TASK FORCE
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GAIL FARBER, CHAIR
MARGARET CLARK, VICE - CHAIR

May 31, 2012

The Honorable Christine Kehoe, Chair
Senate Appropriations Committee
State Capitol, Room 5050
Sacramento, CA 95814

Dear Senator Kehoe:

**OPPOSE - ASSEMBLY BILL 480 (AMENDED MAY 29, 2012)
INSURANCE: SOLID WASTE FACILITIES**

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) **opposes** Assembly Bill 480 (AB 480) as amended on May 29, 2012. If enacted, AB 480 would greatly weaken California's existing insurance requirements regarding private landfill owners/operators' financial assurance obligations toward proper closure, post-closure, and corrective actions by allowing operators to rely on captive insurance (self-insured) and therefore, no longer requiring the owner/operator's insurance carrier to be a California admitted (licensed) insurer or provide the insurance through a surplus line broker.

Currently, all issuers of an insurance policy must adhere to California Department of Insurance (CDI) licensing requirements in order to address the inadequacy of captive insurance in meeting landfill financial assurance demonstration as specified in the California Code of Regulations, Title 27. The current regulations, which became effective in 2002, were developed by California Department of Resources Recycling and Recovery (CalRecycle, formerly the California Integrated Waste Management Board) in conjunction with the State Water Resources Control Board after many hearings and significant input by stakeholders including, but not limited to, landfill owners/operators and local governments. Even though private landfill owners/operators have attempted to eliminate or weaken the regulations for many years, these previous attempts have been unsuccessful due to strong local government opposition.

It is imperative to recognize that a landfill's potential environmental impacts or contamination may exist in perpetuity (emphasis added). For this reason, pursuant to AB 2296 (Montanez, chapter 504 of 2006 statues), Title 27 requires that financial assurance for a landfill be provided until CalRecycle determines that the landfill is no longer a threat to the environment based on field studies and analyses. If AB 480 were enacted and a landfill owner/operator (or a private firm owning/operating more than one landfill in California), owning the affected insurance company (self-insured), filed for bankruptcy or walked away from its fiduciary responsibility, it would leave those cities and counties that had sent waste to one or any of the self-insured company's landfill(s) liable for the cost of the landfill's (and other landfills owned by the same company) closure, post closure maintenance, and/or corrective actions, and related environmental impairments. To partially address state and local governments' exposure to the said financial liabilities which the enactment of AB 480 may cause, the May 29, 2012, amended bill requires CalRecycle, in consultation with the CDI, to submit a report with recommended mitigating measure(s) to the Legislature by January 1, 2016, (three years after enactment of AB 480, emphasis added).

Therefore, any proposal that weakens existing regulations or releases captive insurance companies from CDI requirements would pose an environmental as well as financial risk to the State and more specifically local governments. It is imperative to recognize that such a liability may occur during the time that the landfill is in operation or at any time after the landfill closure which continues in perpetuity unless CalRecycle determine otherwise. Therefore, the bill's provision providing for a sunset date of five years after its enactment is irrelevant to the issue of liability since there is no constraint as to when and if a self-insured privately owned landfill/operator may file for bankruptcy.

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 and 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, waste management industry, environmental groups, the public, and a number of other governmental agencies.

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For these reasons, the Task Force **opposes** AB 480. If you have any questions, please contact Mr. Mike Mohajer of the Task Force at MikeMohajer@yahoo.com or at (909) 592-1147.

Sincerely,

Margaret Clark

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

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cc: Senate President Pro Tem Darrell Steinberg
Assembly Member Jose Solorio
Each Members Senate Appropriations Committee and Consultants
Each Member of the Los Angeles County Legislative Delegation
Each Member of the County of Los Angeles Board of Supervisors
Each City Mayor and City Manager in the County of Los Angeles
California State Association of Counties
League of California Cities
League of California Cities, Los Angeles County Division
Southern California Association of Governments
San Gabriel Valley Council of Governments
South Bay Cities Council of Governments
San Fernando Valley Council of Governments
Gateway Cities Council of Governments
Westside Cities Council of Governments
Each City Recycling Coordinator in Los Angeles County
Each Member of the Los Angeles County Integrated Waste Management Task Force
Each Member of the Task Force's Facility & Plan Review Subcommittee