



August 22, 2023

Initiative 23-0006

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Hon. Rob Bonta
Attorney General
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Sacramento, California 95814

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Attention: Ms. Anabel Renteria
Initiative Coordinator

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Dear Attorney General Bonta:

Pursuant to Elections Code Section 9005, we have reviewed the proposed statutory initiative (A.G. File No. 23-0006) related to landfills.

Background

Local Governments Dispose of Solid Waste in Landfills. Local governments, generally cities and counties, are responsible for the collection and disposal of solid waste. In general, they either provide these services directly or by contracting with a private entity (such as a waste hauler). Local governments typically fund the cost of waste collection, sorting, and disposal by charging fees to the residents and businesses that are receiving waste collection services. The solid waste is disposed of at regulated facilities called landfills. Most landfills are owned by private entities, but some are owned by local governments. Landfill owners collect “tipping” fees from waste haulers, cities, and counties that utilize their facilities. They set the rates for these fees through negotiations with their users.

California Department of Resources Recycling and Recovery (CalRecycle) Oversees Landfills. There are over 200 active (currently operating) and closed landfills in California, which the state tasks CalRecycle with regulating. The department certifies and oversees local enforcement agencies, which are operated by cities and counties to conduct enforcement on behalf of the department at the local level. Through issuing permits and conducting inspections, local enforcement agencies ensure that landfills operate according to state minimum standards.

Landfills Are a Source of Greenhouse Gas (GHG) Emissions. To try to limit the magnitude of climate change, the state has several goals related to reducing GHG emissions. These include a state law requiring statewide GHG emissions to be limited to 40 percent below 1990 levels by 2030. GHGs include gases such as carbon dioxide, methane, and nitrous oxide. Landfills produce

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methane emissions when organic waste—such as food scraps, wood, and paper—decompose. Methane emissions from landfills historically have represented about 2 percent of statewide GHG emissions. The state requires active landfills to install collection and control systems to limit the amount of methane they emit.

To further reduce methane emissions from landfills, a 2016 law required CalRecycle to adopt regulations that reduce statewide organic waste disposal in landfills to 75 percent of 2014 levels by 2025. The adopted regulations require local governments to (1) provide organic waste collection services to all residents and businesses and (2) send collected organic waste to recycling facilities (such as composting facilities). CalRecycle is permitted to charge penalties to local governments that fail to comply with the organic waste diversion requirements. While the regulations have gone into effect, the department has not yet collected any penalties related to enforcing these requirements.

State Requires Closed Landfills to Comply With Certain Requirements. When landfills become full, they stop receiving solid waste and close. State law requires landfills to undertake a number of steps during and after closure, including limiting the amount of methane they continue to emit. Closing a landfill generally involves placing a final cover over the collected solid waste. This is intended to prevent substances—such as rainwater or runoff—from entering and leaving the closed landfill as the solid waste stabilizes over time. While not common, closed landfills can also implement technologies such as an aerobic landfill bioreactor system (ALBS), which actively inputs air and liquids into the landfill to accelerate waste stabilization and to limit the conditions that produce methane emissions.

Owners of Garbage Trucks and Dumpsters Can Generate Revenues From Advertising. Private entities and local governments sometimes sell advertising space on garbage trucks and dumpsters to generate revenues. Existing state law does not specify how revenues earned from this type of advertising must be spent. How common this advertising practice is and how much corresponding revenue is generated across the state are both unknown since the state does not collect such data from private entities and local governments.

Proposal

Requires Landfills to Adopt ALBS Technology. The measure directs CalRecycle to adopt regulations by December 31, 2025 that require closed landfills to implement ALBS technology for the purpose of reducing methane emissions. This requirement applies for all landfills that close three years before the effective date of the measure and all those that close thereafter. The measure also requires some additional previously closed landfills to be retrofitted with ALBS technology, based on a determination from CalRecycle. The measure stipulates that state funds shall not be used to support landfills in complying with these regulations.

Specifies Consortium Responsible for Pursuing and Managing Specific Funding Sources. The measure tasks a group of three purported business corporations called the New Green Deal (NGD) Consortium with pursuing, attaining, and managing specific funding sources that landfills could use to implement ALBS technology. The funding sources listed in the measure include options such as carbon credits, “blockchains,” and crowdfunding.

Generates New State Revenue From Noncompliance Penalties and NGD Consortium's Funding Sources. First, the measure requires landfills that do not comply with the adopted ALBS technology regulations to pay a penalty totaling 10 percent of their tipping fee revenues directly to CalRecycle. Second, it requires NGD Consortium to pay CalRecycle an amount equal to 10 percent of tipping fees received by landfills that *are* compliant with the adopted ALBS technology regulations. (The measure directs CalRecycle to calculate this amount.) The measure anticipates NGD Consortium will pay this amount using a share of the net profits it pursues and attains from the potential funding sources mentioned above.

Allocates Funding to Support Educational Costs. The measure requires CalRecycle to use the funding it receives from landfills and NGD Consortium as follows: (1) 50 percent to establish individual custodial accounts for students to use on higher education costs and (2) 50 percent to support public schools (defined by the measure as school districts, charter schools, and students who are home schooled). The measure states that the funding for public schools shall not be used to compensate teachers or school administrators. The measure also requires CalRecycle to redirect 10 percent of the penalties it might collect from enforcing existing organic waste diversion requirements for these educational purposes, based on the same 50-50 split. All of this funding would be serviced by NGD Consortium.

Allocates Garbage Truck and Dumpster Advertising Revenues to Several Activities. The measure places new requirements on any revenues that owners of garbage trucks and dumpsters in the state earn from advertising on those vehicles and receptacles. Specifically, the measure allocates these revenues in the following ways: (1) 50 percent is retained by the owner of the garbage truck or dumpster for the purpose of purchasing electric garbage trucks and supporting related expenses; (2) 30 percent is provided to local governments to offset compliance costs, support road maintenance, and reduce waste-related taxes and fees paid by residents and certain businesses; (3) 10 percent is provided to CalRecycle to establish individual custodial accounts for students to use on higher education costs; and (4) 10 percent is provided to CalRecycle to support public schools.

Fiscal Effects

Increased State Program Administration Costs. The measure would result in state costs for CalRecycle related to (1) developing regulations, (2) conducting ongoing oversight and enforcement of the new requirements for landfills, and (3) administering the new education funding programs established under the measure. These costs likely would total several millions of dollars annually.

Uncertain Local Government Cost Impacts. The impacts of the measure on local government costs are uncertain. While the measure does not directly increase requirements for local governments, the new regulations to be adopted by CalRecycle for landfills could result in some costs being passed along to them. For instance, if landfills cannot cover the costs associated with implementing ALBS technology with funding from NGD Consortium via the funding sources mentioned in the measure—such as carbon credits—they likely would have to pay for the costs to meet the regulatory requirements using other sources. This could include charging local governments higher tipping fee rates to dispose of their solid waste.

Uncertain State and Local Revenue Impacts. The measure's impacts on state and local revenues are subject to considerable uncertainty. In particular, the amount of revenue that CalRecycle will receive to support educational costs will depend in large part on how much NGD Consortium generates from the funding sources it will pursue (such as carbon credits). Given that these are likely to be the measure's largest potential funding sources, the uncertainty around this funding makes the revenue impacts difficult to estimate.

The measure's other potential revenue impacts also are uncertain. For example, the amount of funding that will be redirected from organic waste diversion penalties to support educational costs will depend on the magnitude of penalties that might be issued in the future. (As noted above, CalRecycle has not yet assessed any of these penalties.) Finally, the amount of revenue that CalRecycle will receive to support educational costs and local governments will receive to support several specified activities would depend on the degree to which owners of garbage trucks and dumpsters pursue advertising and the amount of corresponding revenue that is generated.

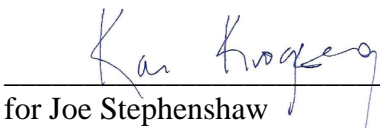
Summary of Fiscal Effects. We estimate that this measure would have the following major fiscal effects:

- Increased state costs from administering new regulatory and funding programs likely totaling several millions of dollars annually. Uncertain local government cost impacts depending upon whether new requirements for landfills result in higher costs for providing waste collection and disposal services.
- Uncertain state and local government revenue impacts depending on a number of factors including the amount generated from various funding sources to support compliance for landfills and educational costs.

Sincerely,



for Gabriel Petek
Legislative Analyst



for Joe Stephenshaw
Director of Finance