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**SENATE COMMITTEE ON ENVIRONMENTAL QUALITY**

**Senator Wieckowski, Chair**

**2021 - 2022 Regular**

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**Bill No:** AB 2048

**Author:** Santiago

**Version:** 3/28/2022

**Hearing Date:** 6/8/2022

**Urgency:** No

**Fiscal:** Yes

**Consultant:** Jacob O'Connor

**SUBJECT:** Solid waste: franchise agreements: database

**DIGEST:** Requires local jurisdictions to post on its internet website current franchise agreements between contract waste and recycling haulers and public agencies within the jurisdiction and requires the Department of Resources Recycling and Recovery to create and maintain a publicly accessible database of those links.

**ANALYSIS:**

Existing law:

- 1) Establishes within the California Environmental Protection Agency the Department of Resources Recycling and Recovery (CalRecycle) to administer and oversee the Integrated Waste Management Act of 1989 (IWMA), the Beverage Container Recycling and Litter Reduction Act, and related laws pertaining to solid waste management. (Public Resources Code (PRC) §40400)
- 2) Under the IWMA:
  - a) Establishes a state recycling goal of 75% of solid waste generated to be diverted from landfill disposal through source reduction, recycling, and composting by 2020. (PRC §41780.01)
  - b) Requires each local jurisdiction to divert 50% of solid waste from landfill disposal through source reduction, recycling, and composting. (PRC §41780)
  - c) Requires commercial waste generators, including multi-family dwellings, to arrange for recycling services and requires local governments to implement commercial solid waste recycling programs designed to divert solid waste from businesses. (PRC §42649)
  - d) Requires that solid waste handling services be provided by the local agency, another local agency, or a solid waste enterprise. (PRC §42649)
  - e) Authorizes local jurisdictions to determine: (PRC §40059)

- i) Aspects of solid waste handling that are of local concern, including frequency of collection, means of collection and transportation, level of services, charges and fees, and the nature, location, and extent of providing the services; and
  - ii) Whether the services are provided by nonexclusive franchise, contract, license, permit, or otherwise, with or without competitive bidding. If the governing body determines that public health, safety, and well-being require, services may be provided by partially exclusive or wholly exclusive franchise, contract, license, permit, or otherwise, with or without competitive bidding.
- 3) Under the California Public Records Act, requires that public records be available to the public upon request. (Government Code §6250 et seq)

This bill:

- 1) Requires CalRecycle to create and maintain a publicly accessible database of franchise agreements between contract waste and recycling haulers and any public agency, including electronic links to the agreements.
- 2) Requires local jurisdictions to post on their internet websites all current franchise agreements between contract waste and recycling haulers and public agencies within their jurisdiction and provide a direct electronic link to those agreements to CalRecycle.

## Background

- 1) *Solid waste in California.* For three decades, CalRecycle has been tasked with reducing disposal of municipal solid waste and promoting recycling in California through the IWMA. Under IWMA, the state has established a statewide 75% reduction, recycling, and composting goal by 2020. Additionally, the state has established a target of a 75% reduction in the level of disposal of organic waste from the 2014 level by 2025. Local governments have been required to divert 50% of the solid waste generated within their jurisdictions from landfill disposal since 2000.

According to CalRecycle's State of Disposal and Recycling Report for Calendar Year 2020, published in December 2021, approximately 77.4 million tons of material was generated in 2020; with about 52% sent to landfills; 17% exported as recyclables; 12% composted, anaerobically digested or mulched; and 13% either recycled or source reduced. According to the report: "We are

falling far short of our 75 percent recycling goal and face clear evidence that an economy driven by resource extraction and single-use disposable products continues to endanger our people and imperil our planet.”

- 2) *Taking out the trash.* Most jurisdictions in the state operate with some form of "franchise," or contract, that limits solid waste hauling within the jurisdiction to one or more specified companies. Jurisdictions have the authority to enter into franchises with waste haulers, with or without competitive bidding. Exclusive franchises authorize a single hauler to operate within a jurisdiction. Non-exclusive franchises allow for more than one hauler, but establish specific requirements for hauling within the jurisdiction. Some communities in California do not have franchise agreements, which allows solid waste businesses to compete within the jurisdiction for service contracts with individual waste generators. These franchise agreements only apply once the waste has been discarded, individuals or businesses are free to sell recyclable materials to non-franchise companies.
- 3) *Franchise agreement availability.* Because local jurisdictions have control over franchise agreements, the availability of those agreements vary between jurisdictions. Some cities may post franchise agreements online, some post draft agreements that may differ from the final agreements negotiated with a hauler, and some may not post them at all. All franchise agreements are public records and as such any member of the public can potentially access them by submitting a request to the agency that entered into the agreement. However, a public records request can be an involved and sometimes lengthy or expensive process. While public records request a reasonable path for accessing a single franchise agreement, there are over a thousand local jurisdictions in California, some with multiple agreements, making it an inefficient and time-consuming project to attempt to understand and compare franchise agreements across the state.

## Comments

- 1) *Purpose of Bill.* According to the author, “Under current law, a member of the public can access these franchise agreements by submitting a Public Records Act request to the public agency entered into the agreement. However, these requests can take a prolonged amount of time to respond to and can be costly if one is looking for multiple agencies. For example, there are 58 counties, over a thousand cities, towns, villages, and countless special districts in California. Many of these entities have these franchise agreements, making it virtually impossible to get a real regional and statewide understanding of what’s happening in these franchise agreements.

“AB 2048 will provide ease and transparency to the public regarding agreements made between local agencies and waste/recycle haulers while simultaneously providing cost and time-saving benefits. In the end, this will save constituents and interest groups time and money and create a more streamlined method to access this type of information.”

- 2) *Why focus on waste haulers?* Local jurisdictions enter into many agreements that are a manner of public record but may not be made available online. This bill focuses on waste haulers because of the concerns regarding franchisees informing workers of contract details brought forth by the bill’s sponsors. In the future the Legislature may wish to consider further legislation to require local jurisdictions to make all such agreements available online.
- 3) *What’s a jurisdiction? Which agencies?* Currently the bill lacks a definition of jurisdiction and asks for them to be responsible for all public agencies within their jurisdiction. ***The committee may wish to amend the bill to define jurisdiction as defined in PRC 40145 and to define public agencies as state agencies, large state facilities, or special districts with the authority to provide waste hauling services.***
- 4) *On whose authority?* Currently the bill requires a jurisdiction to post franchise agreements between agencies that they may not technically have authority over, such as school districts, garbage disposal districts, state educational facilities, or other special districts and governmental agencies. Rather than require a jurisdiction to be responsible for these agencies providing franchise agreements to CalRecycle, it may be more effective to require the agencies directly to do so. ***The committee may wish to amend the bill to require public agencies within the territory of a local jurisdiction to be required to post their franchise agreements***
- 5) *Committee amendments. Staff recommends the committee adopt the bolded amendments contained in comments 3 and 4 above.*

### **Related/Prior Legislation**

**SOURCE:** California Teamsters Public Affairs Council

**SUPPORT:**

California Labor Federation

**OPPOSITION:**

Los Angeles County Solid Waste Management Committee/integrated Waste Management Task Force

**ARGUMENTS IN SUPPORT:** According to the sponsors, “We represent thousands of members in the waste and recycling industry in California. Our employers are subject to these franchise agreements, and they often have provisions affecting the workers. These may include provisions dealing with compliance with worker retention rules, employee notice when contracts come for rebid, or any number of things affecting the workforce. Many of these worker provision have timetables or triggers that can be easily ignored when there is no access to the franchise agreement itself.

“The reality is that there are too many waste haul and recycle hauling agreements out there for any union or member of the public to go local government by local government with PRA requests. It would be much more efficient to have these agreements in one place so the public can view these agreements and, if necessary, hold their elected and the companies they contract with accountable. Moreover it will help facilitate better labor relations in the industry by ensuring that worker rights contained in the agreements are followed”

**ARGUMENTS IN OPPOSITION:** According to the Los Angeles County Solid Waste Management Committee, “AB 2048, as amended on March 28, 2022, would impose implementation costs on a "jurisdiction" to request, obtain, and upload various solid waste collection service agreements between waste haulers/recycling companies and agencies not under the authority of the "jurisdiction" such as school districts, garbage disposal districts, State educational facilities, or other special districts and governmental agencies. How "local jurisdiction"/"jurisdiction", "regional agency" and/or "local agency" is defined and how it would be able to collect the requested information from independent agencies located within its boundary is unclear and needs to be addressed.

“The Task Force agrees that AB 2048, as compared to the Public Records Act, would improve transparency by giving the public streamlined access to these agreements but strongly recommends the bill be amended to address the above concerns, the implementation cost by a city, county and other involved entities, as well as requiring all other public agencies, such as school districts, to provide CalRecycle the electronic links of their current and future franchise agreements.”

**-- END --**