

City of Sacramento

Legislation Text

File #: 2020-01544, Version: 1

Title:

(Pass for Publication) Ordinance Amending Section 8.124.020 and Various Sections of Chapter 13.10, and Adding Chapter 13.24 to the Sacramento City Code, Relating to Commercial Solid Waste Management

File ID: 2020-01544

Location: Citywide

Recommendation:

1) Review an ordinance amending section 8.124.020, various sections of chapter 13.10, and adding chapter 13.24 to the Sacramento City Code relating to commercial solid waste management; and 2) pass for publication the ordinance title as required by Sacramento City Charter §32 (c), to be submitted to the City Council for adoption on February 2, 2021.

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Presenter: None

Attachments:

- 1-Description/Analysis
- 2-Ordinance (Clean)
- 3-Ordinance (Redline)

Description/Analysis

Issue Detail: The Sacramento Regional Solid Waste Authority (SWA) was established in 1992 as a Joint Powers Authority (JPA) funded by commercial hauler franchise fees. The SWA oversees the commercial waste management in the City of Sacramento. General responsibilities include contracting with commercial waste haulers; overseeing compliance of commercial generators with state diversion requirements; enforcement of regulations; and efforts aimed at mitigating illegal dumping. It is governed by a Board of Directors, which consists of four members from the Sacramento County Board of Supervisors and three members from the Sacramento City Council.

On April 23, 2019, Sacramento County Board of Supervisors adopted Resolution No. 2019-0277, declaring the County's intent to withdraw from the SWA. The effective date of the withdrawal will be June 30, 2021. The County's withdrawal will terminate the JPA agreement between the City and

County and require the City of Sacramento to assume the responsibility of regulating commercial waste hauling within the city limits, which is currently overseen and managed by the SWA. The City's responsibilities to regulate and enforce commercial waste hauling will begin on July 1, 2021.

The proposed new ordinance sets forth the City's obligations to assume regulation and oversight of commercial solid waste collections services, which includes solid waste, recycling materials, and organics. The City will need to review and process applications for franchisees who will be responsible for collecting waste materials from generators. Once the applications are approved, the City will enter into franchise agreements with qualified applicants. The new ordinance details reporting requirements, obligations of the franchisees, and other regulations applicable to commercial solid waste. The ordinance will also set forth regulations applicable to recycling requirements for generators. In addition, the ordinance includes enforcement and penalties for commercial franchise haulers and generators who fail to comply with local or state law pertaining to commercial solid waste regulations. For the most part, the new ordinance substantially takes what was included in the SWA Code and incorporates it into the City Code.

In the summer of 2020, the City of Sacramento participated with the SWA in a series of stakeholder meetings with both haulers and generators about several SWA issues, including the dissolution and adoption of code for both jurisdictions. A draft of the City code was provided in early November to all franchise haulers, and on November 18, 2020 and December 4, 2020, stakeholder meetings with haulers were held to answer questions and obtain feedback on the proposed ordinance.

In addition to adopting the new ordinance, once the JPA is dissolved, the duties inherited from the SWA will be assumed by Recycling and Solid Waste Division (RSW). A new section within RSW will be created to oversee and regulate commercial solid waste collection services within the city and enforce the terms and regulations of the proposed ordinance. The Program Manager for the new office was hired in August 2020. This was the first position hired for the new section. A Program Specialist was hired in November 2020 and additional positions will be hired in the coming months to effectively oversee the administration of the new section and implement the ordinance. The new staff will have very limited time to become familiar with their roles, the expectations of the new section, begin developing a working relationship with haulers and generators, and learn how to implement their responsibilities within the framework of the ordinance. The new duties for Commercial Waste Compliance section will include, but not be limited to:

- Executing new franchise agreements
- Issuing annual commercial franchise permits to haulers operating within the City
- Conducting annual waste generator inspections and compliance reviews for approximately 4,000 businesses and apartment buildings
- Establishing a franchise revenue collection and reporting system that meets state requirements
- Conducting audits of commercial franchise haulers to verify fees paid match gross revenue

- Enforcing AB1826 and SB1383, which require organic recycling by every business and multi-family property of five or more units that generates two cubic yards or more of solid waste per week. (Current law AB1826 calls for four cubic yards, but SB1383 will have a stricter threshold of starting 2022). The organic material includes food waste and green waste. The objective behind these new laws is that increased organic recycling and reduce greenhouse gas (GHG) emissions at landfills that comes from the decomposition of organic materials
- Implementing measures to mitigate the impact of illegal dumping
- Conducting education and outreach to commercial waste generators and franchisees
- Preparing and submitting regulatory reports to entities such as the California Department of Resources, Recycling, and Recovery (CalRecycle) on mandated diversion requirements

Policy Considerations: On April 28, 2020, RSW made a recommendation and received approval from the Law and Legislation Committee to work on a straightforward adoption of the current Sacramento Regional Solid Waste Authority (SWA) code into the City of Sacramento code and return with an ordinance for consideration. The rationale for this approach is two-fold:

1. Avoid any gap in enforcement and oversight from the SWA dissolution to the City commencement with regulating commercial solid waste collections and disposal. The City will need to review hauler applications and have signed agreements in place with approximately 20 haulers prior to July 1, 2021 to ensure a seamless transition. These agreements must be based on regulations, fee schedules, and the ordinances adopted by the City. To ensure timely executed agreements and the issuance of applicable permits, a City ordinance for commercial solid waste will need to be in place several months prior to the July 1, 2021 transition date.
2. In the twenty-eight years of SWA's existence, the SWA code has been sufficient to ensure enforcement of commercial hauling within the region. The City is on a tight timeline to adopt a new ordinance, so the decision was made to largely incorporate the SWA code into the City code for the time being. It has been reported that the SWA code has not been legally challenged. The City's review of the SWA ordinance was to keep as much of the existing SWA code without engaging in significant or substantive amendments. The City's ordinance review committee limited its review to formatting changes, incorporating the structure to align with the City code, and some minor revisions with the understanding the ordinance would undergo a more extensive update when it is brought back for revisions in the future. Adopting the SWA code in a straightforward manner while transitioning oversight and regulations from the SWA to the City, ensures continuity and familiarity with the rules and regulations and makes it easier for haulers and generators to remain compliant. RSW will return to City Council at a future date with amendments to the code. Initially using the SWA code as the starting point for the City ordinance should minimize confusion and avoid interruptions in services.

Once the dissolution occurs, and the City has established its regulatory process, the City will have an opportunity to further revise the City ordinance. There will be new state law and regulations related to

organics diversion necessitating amendments to the City code. It is anticipated that within the next year, staff will return with proposed revisions to the code to provide updates and standardizing terms that more align with standard City code provisions.

On December 15, 2020, the Law and Legislation Committee voted unanimously to approve the code to move forward.

Economic Impacts: None

Environmental Considerations:

California Environmental Quality Act: This action is not a “project” subject to CEQA because it involves administrative matters and will not result in new physical development, direct changes to the physical environment, and any reasonably foreseeable indirect physical change in the environment. (CEQA Guidelines § 15378(b)(5).)

Sustainability: The intent of AB1826 and SB1383 is to reduce GHG emissions at landfills from the decomposition of organic materials.

Commission/Committee Action: The Law and Legislation Committee reviewed and approved staff’s recommendation on December 15, 2020.

Rationale for Recommendation: The City will assume responsibility of commercial waste compliance and the regulatory process as a result of the planned dissolution of the SWA by June 30, 2021. Agreeing to adopt a code similar to what already exists with the SWA regulations allows the City to have regulations in place by early 2021, so necessary franchisee agreements and other regulatory elements can be executed prior to July 1, 2021. This will make the transition from SWA commercial waste oversight to City oversight as seamless as possible.

Financial Considerations: The code stipulates that the franchise fees and revenues will fund administrative, implementation, and enforcement costs for the commercial waste compliance section. At the April 28, 2020, Law and Legislation meeting, committee members requested the franchise fees be treated as an enterprise fund. Franchise fees do not meet the definition for enterprise funds.

However, to address the committee’s desire to keep the revenues tied to the program they support, the City will establish a multi-year operating project (MYOP) and transfer positive net year-end results to the MYOP via resolution.

Local Business Enterprise (LBE): Not applicable