

LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Solid waste: place of origin.

Existing law authorizes a city or county to assess special fees of a reasonable amount on the importation of waste from outside of the county to publicly owned or privately owned facilities.

This bill would also authorize a local agency to assess those special fees. The bill would prohibit a city, county, or local agency from otherwise restricting or limiting in any way the importation of solid waste into that city or county based on place of origin, because ensuring adequate and appropriate capacity for disposal of solid waste is a matter of state and regional concern.

Existing law prohibits a city or county from exporting solid waste to any other jurisdiction unless the exporting city or county has an approved city or county household hazardous waste element and a source reduction and recycling element which have



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both been implemented, or has submitted a countywide integrated waste management plan, and is in compliance with it.

This bill would also apply that prohibition to a local agency. The bill would make related changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 40002 of the Public Resources Code is amended to read:

40002. (a) As an essential part of the state's comprehensive program for solid waste management, and for the preservation of health and safety, and the well-being of the public, the Legislature declares that it is in the public interest for the state, as sovereign, to authorize and require local agencies, as subdivisions of the state, to make adequate provision for solid waste handling, both within their respective jurisdictions and in response to regional needs consistent with the policies, standards, and requirements of this division and all regulations adopted pursuant to this division. The provisions of this division which authorize and require local agencies to provide adequate solid waste handling and services, and the actions of local agencies taken pursuant thereto, are intended to implement this state policy.

(b) The Legislature further declares that restrictions on the disposal of solid waste that discriminate on the basis of the place of origin of the waste are an obstacle to, and conflict with, statewide and regional policies to ensure adequate and appropriate capacity for solid waste disposal.

SEC. 2. Section 40900.1 of the Public Resources Code is amended to read:

40900.1. The Legislature hereby further finds and declares all of the following:

(a) It is important to encourage state agencies to plan and implement programs that will reduce the amount of solid waste going to disposal facilities through source reduction, recycling, and composting.



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(b) Local agencies, other than a host jurisdiction, and federal agencies should be encouraged to plan and implement programs that will reduce the amount of solid waste going to disposal facilities through source reduction, recycling, and composting.

(c) Each state agency shall, to the extent feasible and within existing budgetary constraints, develop and implement source reduction, recycling, and composting programs that will reduce the amount of solid waste going to disposal facilities. Those programs shall be consistent with Executive Order W-7-91, which ordered state agencies to establish recycling programs, reduce paper waste, purchase recycled products, and implement measures that minimize the generation of waste.

(d) Local, state, and federal agencies generating solid waste that is sent to a host jurisdiction for disposal should be encouraged to provide the host jurisdiction with information on the amount of solid waste and regarding any solid waste source reduction, recycling, or composting programs that have been implemented by the agency, to assist the host jurisdiction in developing and implementing the planning requirements of this division.

(e) Restrictions or limits on the importation of solid waste based on the place of origin are not aspects of solid waste handling subject to local government determination because they unreasonably limit the disposal of solid waste.

SEC. 3. Section 41903 of the Public Resources Code is amended to read:

41903. A city or county, county, or local agency may assess special fees of a reasonable amount on the importation of waste from outside of the county to publicly owned or privately owned facilities. A city, county, or local agency may not otherwise restrict or limit in any way the importation of solid waste into that city or county based



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on the place of origin because ensuring adequate and appropriate capacity for disposal of solid waste is a matter of state and regional concern. ~~No A city or county, county, or local agency shall not~~ export solid waste to any other jurisdiction unless the exporting city or county has, within one year following the date specified in Section 41791 or a later date established or permitted by the board, an approved city or county household hazardous waste element and a source reduction and recycling element which have both been implemented, or have submitted a countywide integrated waste management plan, and is in compliance with it, ~~provided, however, that.~~ However, until one year following the date specified in Section 41791 or a later date established by the board, ~~nothing herein in this section~~ shall be construed as prohibiting the export of solid waste. The board may waive the requirements of this section relating to solid waste exports if the board determines that all additional reasonable source reduction and recycling programs are being implemented in the city or county or if the board determines that the system to export waste supports or enhances the city or county source recovery and recycling element.





Legislation:

AB XXX seeks to clarify existing law relating to solid waste management. This simple bill amends section 40002 of the Public Resources Code to prohibit discriminatory restrictions on the disposal of solid waste based on its place of origin. The legislation preserves the integrity of the Integrated Waste Management Act while ensuring counties have the ability to handle their waste in the best interest of their region. It does not impinge on traditional local authority to manage solid waste handling within a locality; the bill simply clarifies that waste from different localities must be treated equally.

Background:

In 1989 California enacted AB 939, the Integrated Waste Management Act (IWMA), which declared that waste management is an issue of state-wide concern and created a regional framework to best handle the state's waste stream. Since the time it was enacted, the IWMA has succeeded in building regional systems of waste management that promotes refuse reduction, recycling, efficiency in the disposal process, cost containment for the public agencies and taxpayers, and environmental protection and conservation.

Prior to enactment of the IWMA, Solano County voters passed Measure E, an initiative to restrict the importation of solid waste in excess of 95,000 tons per year, which is an extreme limitation given the many millions of tons of waste generated by homes, businesses and institutions. Based on opinions from the California Legislative Counsel and the Solano County Counsel that the initiative was unconstitutional, the County has not enforced Measure E since at least 1992 and has overseen the landfills and composting facility within its jurisdiction in accordance with the goals of the IWMA. In 2009, a trade association and two advocacy groups sued to require Solano County to enforce Measure E and a lower court ruled that Measure E's limitation on importation of waste from other California counties could be enforced. The lower court decision is currently being appealed. The uncertainty raised by the lawsuit has alarmed many California localities and waste management professionals and highlighted a need to clarify the IWMA's intent that the only circumstance under which counties can be restricted from exporting waste is if they are not in compliance with the provisions of the IWMA.

The IWMA mandates local governments to adequately plan for waste handling "both within their respective jurisdictions and in response to regional needs," Public Resources Code Section 40002. It directs counties to reduce waste streams and coordinate with local and state agencies. The Act also requires all local governments to plan for solid waste disposal capacity and specifically envisions that the local government disposal capacity shall be reduced by "all disposal or transformation capacity which has been secured through an agreement with another city or county or through an agreement with a solid waste enterprise," Public Resources Code Section 41260. Discriminating against out-of-county waste conflicts with and undermines this coordinated and collaborative approach to effective waste management. In passing AB 939 and establishing a statewide policy for waste management, the state legislature indicated that localities cannot balkanize the state's waste management responsibilities by refusing out-of-county solid waste.

Need for the Legislation:

Many California counties, large and small, ship their waste to other jurisdictions or will need to export waste in the future. For example, San Francisco, Los Angeles, Riverside and Orange Counties all benefit from regional waste management practices that involve transporting solid waste across county borders, and have made large investments with taxpayer dollars to fund

regional solutions to solid waste management. Some counties rely on the revenue from importation to support their local budgets, while other counties rely on exportation because they don't have the facilities or capacity to adequately and safely dispose of their solid waste. Legislation is needed to preserve this system and prevent the adoption of discriminatory importation barriers.

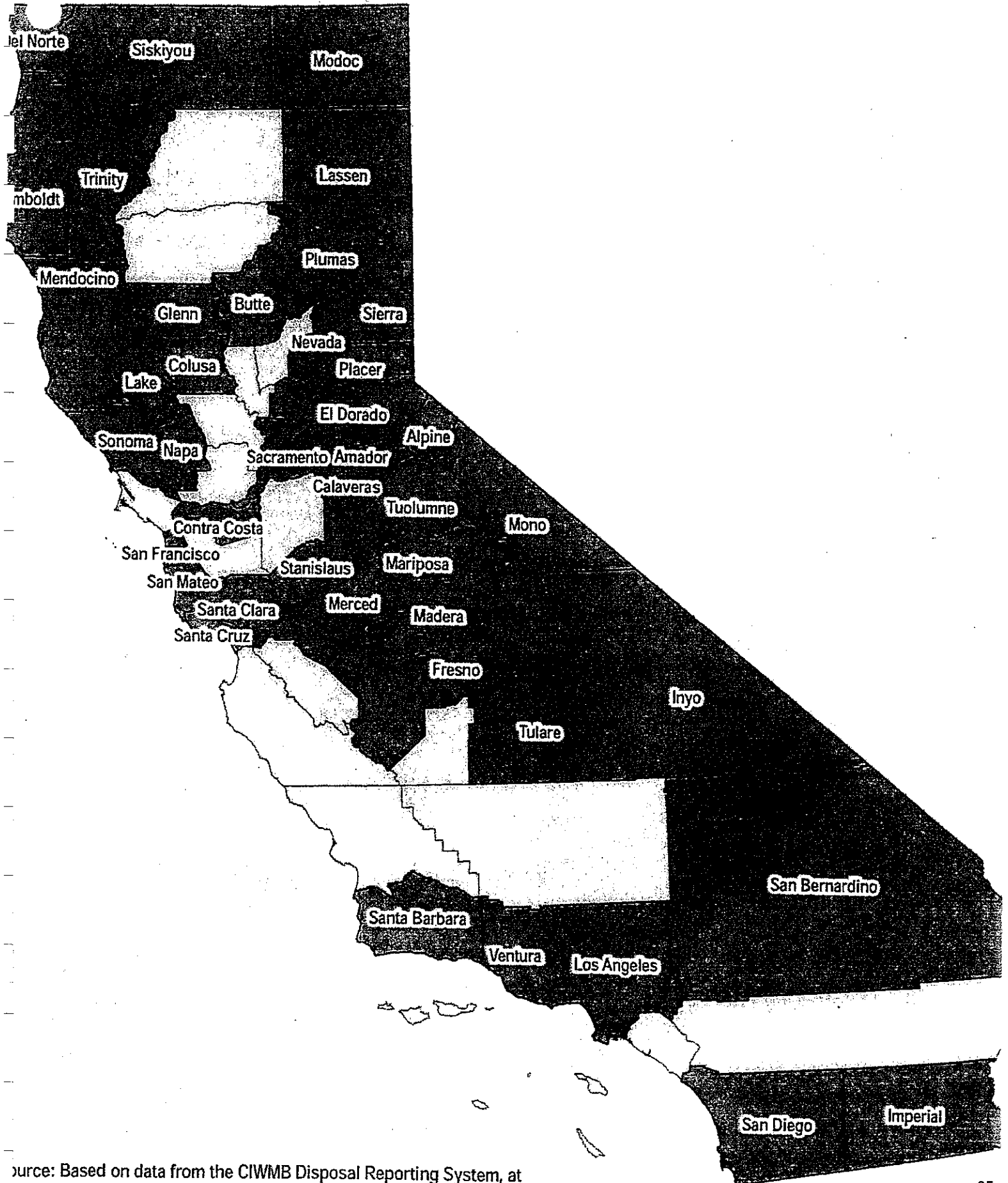
- **Preserve the goals of IWMA:** California's mandated, cooperative, regional system of solid waste and recycling management is threatened by the potential for numerous "NIMBY" import restrictions allowing counties to wall off existing regional landfills for their own use. The IWMA expressly provides for the export of waste across county lines so long as the exporting county is in compliance with the IWMA. Combined with complementary reduction and recycling efforts, this bill will protect the integrity of the IWMA and maintain the current system of regional waste management.
- **Maintain existing practices:** Discriminatory measures that inhibit the free flow of waste in a region will seriously impair California's current waste management system. Counties will be forced to navigate export restrictions and arrangements that are costly and complex or even build new landfills. In order for California to continue to improve the management of solid waste and develop sustainable recycling markets, the state's jurisdictions must work in unison to best utilize the 207 active, permitted existing landfills and provide the capacity needed for a growing population.
- **Reduce, recycle:** Waste reduction and recycling will be hampered if waste alternatives are limited by local restrictions. Alternatives to solid waste disposal depend on a stable system of waste management to fund the build-out and operation of advanced alternative facilities.

Benefits:

The bill is completely cost-free and saves California taxpayers from the enormous costs of a balkanized solid waste system. Regional waste management allows for competition and cost-effectiveness in the collection and disposal of solid waste, and also enables the development of new technologies for recycling and waste reduction.

- **Cost-effectiveness:** Preserving regional waste management prevents California counties from being faced with new financial burdens at a time when their budgets are unable to handle new costs.
 - Counties that currently export waste to other jurisdictions would be forced to find alternative disposal options, very likely increasing costs for transportation and tipping fees, and possibly requiring the construction of new in-county landfills.
 - Counties accepting imported waste that are forced in the future to comply with importation barriers would experience a significant revenue loss.
- **Environmental protections:** Regional waste management increases efficiency in the collection and disposal of solid waste and has dramatically reduced the number of landfills in California and the United States. The regional approach also increases recycling and encourages the development of new technologies for waste reduction.

California Counties that Were Net Exporters of Waste in 2008



Source: Based on data from the CIWMB Disposal Reporting System, at <http://www.calrecycle.ca.gov/LGCentral/DRS/#Reports>, visited January 5, 2010.

Selected California Counties With Restricted Use Landfills or No Active Landfills

