



DATE: May 10, 2021

TO: Council Sustainability Committee

FROM: Director of Public Works

SUBJECT Draft Countywide Model Ordinance to Comply with Senate Bill 1383

RECOMMENDATION

That the Council Sustainability Committee (CSC) reviews and comments on this report, and provides direction to staff.

SUMMARY

Senate Bill (SB) 1383 is a state law that aims to achieve a statewide reduction in emissions of short-lived climate pollutants by reducing the amount of organic waste disposal. The law requires jurisdictions to adopt an implementing ordinance by January 1, 2022. To assist member agencies and to create consistent requirements throughout Alameda County, StopWaste developed a countywide model ordinance that can serve as the enforcement mechanism for Alameda County jurisdictions. The draft ordinance is titled the Organics Reduction and Recycling Ordinance (ORRO) and is intended to supersede the existing Mandatory Recycling Ordinance (MRO). StopWaste has requested comments on the draft ordinance by May 14, 2021.

BACKGROUND

The Alameda County Waste Management Authority (ACWMA) adopted the MRO as Ordinance 2012-01 requiring businesses, institutions, and multi-family properties with five or more units to sort their recyclables from their trash. Multi-family property owners as well as businesses and institutions that generate food waste, such as restaurants and grocery stores, must also sort compostables from their trash. These requirements are effective within participating areas of Alameda County. Hayward adopted the ordinance in January of 2012.

The intent of SB 1383 is to reduce greenhouse gas emissions in light of global climate change. When compostable materials such as food scraps and paper products break down in a landfill, they become powerful contributors to greenhouse gas emissions. Compostable materials such as food waste and paper decompose anaerobically, i.e., without air, in a landfill, producing methane, a greenhouse gas with significant global warming potential.

On July 8, 2019¹, staff presented a report on SB 1383 to the CSC that highlighted the major elements of the law and sought feedback the CSC. Major elements of the law include diverting 75% of organics statewide from landfill and recovering 20% of edible food for human consumption by 2025; requiring the color of collection containers be standardized throughout the state with gray for trash, blue for recycling and green for organics; and requiring jurisdictions establish an ordinance to enforce the law. SB1383 also establishes procurement requirements for recovered organic waste products and recycled content paper products. At the July 8, 2019 meeting, the CSC expressed concern about the requirements for standardizing cart color schemes across the state because of the potential for waste caused by disposing of functional carts because they are not the correct color.

Local jurisdictions are the primary entities responsible for implementation and enforcement of SB 1383 requirements. The requirements affect all organic waste generators in the residential and commercial sectors. Waste haulers, food recovery organizations, and procurement partners also have significant roles to play to advance compliance.

In response to this mandate, the member agencies of the ACWMA (aka StopWaste) requested an ordinance to establish a uniform and comprehensive countywide system to establish the local regulations required by the SB 1383. The draft countywide SB 1383 Ordinance is ready for review and feedback from member agencies.

DISCUSSION

SB1383 requires extensive efforts by jurisdictions to reduce the amount of organics sent to landfill and increase recycling. The draft ordinance aims to help member agencies with SB 1383 compliance and create a consistent set of requirements across the County. The ACWMA says the draft countywide ordinance is primarily based on a CalRecycle Model Enforcement Ordinance and the prescriptive nature of SB 1383 regulations leaves little flexibility in the ordinance's content. However, the ACWMA was able to customize the draft countywide ordinance in the following ways:

- Reflected the MRO: The draft ORRO reflects past practices of the Mandatory Recycling Ordinance, including requiring collection of bottles and cans as well as organics and directing that multi-family properties have labeled containers in common areas.
- Enforcement flexibility: The draft ORRO authorizes both member agencies and the ACWMA to enforce the ordinance as appropriate. This allows maximum flexibility. Who does what will be specifically defined in supplemental documents outside of the ordinance.

¹ <https://hayward.legistar.com/LegislationDetail.aspx?ID=4056382&GUID=2F021C31-1392-42D1-B7A6-A2718C8B416D>

- Hauler roles: The draft ORRO clarifies that haulers must: conduct or comply with route reviews, require recycling and organics services for customers, train customer service staff, and provide data in form approved by ACWMA. Member agencies still retain control over franchise agreements.
- Changes to definitions: The draft ORRO describes containers by their destination/materials instead of by color; compostable plastics definition now includes mentioning certification by the Biodegradable Products Institute (BPI) or similar certification for compostability; and other minor changes to definitions. The BPI is an organization that provides technically and scientifically credible certifications for materials and certifies that biodegradable materials perform as intended and actually biodegrade in biologically active environments.

Like the MRO, the Countywide SB1383 Ordinance will require an Opt-In Ordinance be adopted by member agencies. ACWMA has provided a draft Opt-In Ordinance template that can be customized for adoption to designate the SB 1383 Ordinance as Hayward's required enforcement mechanism for the parts of the CalRecycle Regulations.

The ACWMA is following the schedule listed below to adopt the Countywide SB1383 Ordinance by CalRecycle's deadline:

- April 29, 2021 Technical Advisory Committee (TAC) review draft Ordinance
- May 5, 2021 City Managers meeting - overview presentation
- May 6, 2021 Regular TAC meeting – Agenda to include Ordinance
- May 14, 2021 Deadline for comment on draft Ordinance or Opt-in Ordinance
- May 26, 2021 Information item on the Ordinance at WMA Board meeting
- June 23, 2021 1st reading at WMA Board meeting
- July 28, 2021 2nd reading and adoption at WMA Board meeting
- September 2021 Review by and recommendation from CSC
- October 2021 1st reading by Council
- November 2021 2nd reading at WMA Board meeting
- December 2, 2021 Deadline for Jurisdictions to adopt Opt-in Ordinance to meet CalRecycle January 1, 2022 deadline

FISCAL AND ECONOMIC IMPACTS

The requirements of SB 1383 will have fiscal impacts to the City, such as procurement of compost and compliance with reporting requirements, but the magnitude of those impacts are unknown at this time. However, the adoption of the Opt-in Ordinance to enact the Countywide SB1383 Ordinance will not have direct fiscal impacts.

The requirements of SB 1383 will have economic impacts to residents and businesses of Hayward, such as mandatory organics service and increased time spent sorting materials, but the magnitude of those impacts are unknown at this time. However, the adoption of the

Opt-in Ordinance to enact the Countywide SB1383 Ordinance will not have direct economic impacts.

STRATEGIC ROADMAP

SB 1383 does not directly relate to one of Council's six Strategic Priorities.

SUSTAINABILITY FEATURES

CalRecycle's SB 1383 regulations are intended to reduce GHG emissions, develop markets for recycled organic material, and encourage more efficient use of edible food resources across the state. If new regulations achieve their intended goals, then California and Hayward will decrease their contribution to climate change and consumption of resources.

Solid waste management involves the safe and responsible management of discarded material from generation through processing to disposal. Reducing waste landfilled by maximizing the reuse, recycling, and composting of materials increases diversion, conserves natural resources, and plays an important role in making a community sustainable.

PUBLIC CONTACT

No public contact has been conducted regarding the Countywide SB 1383 Ordinance.

NEXT STEPS

Upon direction from the Committee, staff will take comments to the ACWMA regarding the development of the Countywide SB 1383 Ordinance.

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Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager