



LEAGUE OF
CALIFORNIA
CITIES



Legislative Task Force
CALIFORNIA CHAPTERS

January 31, 2022

The Honorable Bob Wieckowski
Chair, Senate Budget & Fiscal Review Subcommittee
No. 2 on Resources, Environmental Protection & Energy
1020 N Street, Room 502
Sacramento, CA 95814

RE: CalRecycle Compostable and Biodegradable Product Labeling Implementation (AB 1201) Budget Change Proposal – OPPOSE UNLESS AMENDED

Dear Senator Wieckowski:

On behalf of the Rural County Representatives of California (RCRC), the California State Association of Counties (CSAC), the League of California Cities (CalCities), and the Solid Waste Association of North America Legislative Task Force – California Chapters (SWANA) we must regretfully oppose the California Department of Resources Recycling and Recovery's (CalRecycle) Compostable and Biodegradable Product Labeling Implementation (AB 1201) Budget Change Proposal (BCP) (3970-033-BCP-2022-GB), unless amended.

CalRecycle's BCP seeks \$132,000 and one PY to implement last year's Assembly Bill 1201 (Ting). AB 1201 imposes new labeling requirements for compostable products to improve the quality of inputs into the compost stream and prohibit the use of problematic chemicals in compostable products. AB 1201 also requires CalRecycle to convene a stakeholder process to determine whether it is feasible to separate the collection of compostable products that are suitable for use in organic agricultural applications.

We do not dispute the overarching request for one PY and \$132,000 in funding to implement AB 1201; however, we do object to the scope of work outlined in the BCP and are deeply concerned that it appears to predetermine that CalRecycle will find bifurcation feasible before the stakeholder process has begun. The scope of work contemplated in the BCP conflicts with the expressed legislative intent in adopting AB 1201.

While local governments previously supported AB 1201, we were caught off guard by the September 3, 2021 amendments to that bill. We objected to the new Public Resources Code Section 42357(g)(1)(B) because we feared it would require CalRecycle to modify its new SB 1383 regulations to adopt a completely new dual stream collection system for different types of organic waste.

Local governments engaged extensively with the author and the drafters of the language about the intended objective of this new section. The author and stakeholders all agreed that bifurcation of the *collection system* was never their goal – they intended the bifurcation to apply to *product labeling*. We worked closely with the author to clarify this, but it was too late to adopt any more amendments to AB 1201 at that point in the legislative process. To address this concern, the author submitted the attached Letter to the Journal clarifying this intent, as follows:

It is not the intent of the Legislature that AB 1201, specifically the additions to Public Resources Code Section 42357(g)(1)(B), require CalRecycle to modify their newly-adopted organic waste recycling regulations and impose a completely new dual stream collection system for organic waste. The only intent of this provision was for CalRecycle's feasibility determination to trigger a requirement to adopt regulations to establish a bifurcated approach to product labeling.

To the extent that AB 1201 could be construed to grant CalRecycle broader authority than outlined above, I am clarifying that the language in the bill is intended only for CalRecycle, after a public stakeholder process and a feasibility determination to focus its efforts on establishing a bifurcated approach to product labeling, and does not provide authority to adopt new regulations requiring a bifurcated organic waste collection and processing system.

I commit that in 2022, I will seek to amend this statute to clarify this intent and address this unintended consequence of AB 1201.

We are deeply concerned that this BCP contemplates that bifurcating of the organic waste *collection system* will follow completion of its feasibility analysis when the author stated during the legislative process and in the record that this was NOT his intent.

We are also concerned that the BCP notes “upon determination that it is feasible to bifurcate the collection of organic waste products” staff will organize working groups, public meetings, and promulgate regulations to require a bifurcated organic waste *collection system*. This BCP seems to predetermine that CalRecycle will find bifurcation feasible before even beginning the stakeholder process.

Again, we don't dispute the need for staff resources to implement the labeling requirements and stakeholder process outlined in AB 1201, but believe that CalRecycle is misinterpreting the Legislature's intent and predetermining the outcome of that stakeholder process. As such, we suggest amending the BCP so that any resulting regulations are limited to bifurcation of product labeling rather than the organic waste collection system.

The Honorable Bob Wieckowski
CalRecycle AB 1201 Implementation BCP
January 31, 2022
Page 3

Please contact us if you have any questions or concerns regarding our recommendation.

Sincerely,



JOHN KENNEDY
Legislative Advocate
Rural County Representatives of California



CATHERINE FREEMAN
Legislative Representative
California State Association of Counties



DOUG KOBOLD
LTF Chair
Solid Waste Association of North America
Legislative Task Force – California Chapters



DEREK DOLFIE
Lobbyist
League of California Cities

cc: The Honorable Nancy Skinner, Chair, Senate Budget & Fiscal Review
Committee
Members of the Senate Budget & Fiscal Review Subcommittee No. 2 on
Resources, Environmental Protection & Energy
Joanne Roy, Consultant, Senate Budget & Fiscal Review Committee
Genevieve Wong, Consultant, Senate Environmental Quality Committee
Kirk Feely, Consultant, Senate Republican Caucus

ATTACHMENT: AB 1201 (Ting) Letter to the Assembly Journal

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0019
(916) 319-2019
FAX (916) 319-2119

DISTRICT OFFICE
455 GOLDEN GATE AVENUE, SUITE 14600
SAN FRANCISCO, CA 94102
(415) 557-2312
FAX (415) 557-1178

Assemblymember.Ting@assembly.ca.gov
www.assembly.ca.gov/ting

Assembly California Legislature

PHILIP Y. TING
ASSEMBLYMEMBER, NINETEENTH DISTRICT

丁右立
州眾議員

COMMITTEES
CHAIR: BUDGET
BUSINESS AND PROFESSIONS
REVENUE AND TAXATION
UTILITIES AND ENERGY

September 8, 2021

Sue Parker
Chief Clerk of the Assembly
State Capitol, Room 3196
Sacramento, California

RE: Legislative Intent – Assembly Bill No. 1201

Dear Ms. Parker:

AB 1201, as amended on September 3, 2021, expands the content and labeling requirements for compostable products. Among other things, it amends Section 42357 of the Public Resources Code to provide as follows:

“By January 1, 2024, the department, through a public stakeholder process, shall determine whether, for purposes of this section, it would be feasible to separate the collection of products in order to recover organic waste that is suitable for use in organic agricultural applications from the collection of products not suitable for use in organic agricultural applications. If the department determines that such bifurcation is feasible and would enable efficient processing by solid waste processing facilities, the department shall adopt regulations on or before January 1, 2026, to establish a bifurcated approach, and products that are not collected for the purpose of recovering organic waste that is suitable for use in organic agricultural applications shall comply with the department’s regulations and are not subject to the requirements of this subparagraph.”

This bill and this provision are designed to expand content and labeling requirements for compostable products, not adopt new regulations requiring a bifurcated organic waste collection and processing system.

It was brought to my attention, after the amendment deadline, that this language could be construed to invest CalRecycle with authority to adopt new regulations requiring a bifurcated organic waste collection and processing system.

It is not the intent of the Legislature that AB 1201, specifically the additions to Public Resources Code Section 42357(g)(1)(B), require CalRecycle to modify their newly-adopted organic waste recycling regulations and impose a completely new dual stream collection system for organic waste. The only intent of this provision was for CalRecycle’s feasibility determination to trigger a requirement to adopt regulations to establish a bifurcated approach *to product labeling*.



To the extent that AB 1201 could be construed to grant CalRecycle broader authority than outlined above, I am clarifying that the language in the bill is intended only for CalRecycle, after a public stakeholder process and a feasibility determination to focus its efforts on establishing a bifurcated approach to product labeling, and does not provide authority to adopt new regulations requiring a bifurcated organic waste collection and processing system.

I commit that in 2022, I will seek to amend this statute to clarify this intent and address this unintended consequence of AB 1201.

In addition, the definition of “desirable organic wastes” in section 42357(g)(1)(E) of the Public Resources Code is meant to include products which are intentionally collected by local governments and private solid waste service providers who provide organic waste collection services to residential and commercial customers in the state. Products associated with the recovery of desirable organic wastes would include compostable bin liners for the collection of yard trimmings or other green materials, food scraps, foodservice packaging that will be collected with uneaten food, and produce stickers, but would not include packaging for organic wastes that are generally not allowed in residential compost program, including pet waste.

Thank you for the opportunity to clarify these matters.

Sincerely,

A handwritten signature in blue ink, appearing to read 'P. Ting', with a long horizontal flourish extending to the right.

PHILIP Y. TING
Assemblymember, 19th District