



Legislation Details (With Text)

File #: ID 22-365 **Version:** 1 **Name:**

Type: Action Item **Status:** Passed

File created: 2/18/2022 **In control:** City Council

On agenda: 3/10/2022 **Final action:** 3/10/2022

Title: ***BILL No. 3 (Intro. 2/17/2022) (For Adoption) - Amending Chapter 6, Article 2 of the Fresno Municipal Code, relating to waste collection and disposal (Subject to Mayor's Veto).

Sponsors: Department of Public Utilities

Indexes:

Code sections:

Attachments: 1. Attachment 2 - Bill Amending Chapter 6 Article 2 of FMC.pdf

Date	Ver.	Action By	Action	Result
3/10/2022	1	City Council	ADOPTED	Pass

REPORT TO THE CITY COUNCIL

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SUBJECT

***BILL No. 3 (Intro. 2/17/2022) (For Adoption) - Amending Chapter 6, Article 2 of the Fresno Municipal Code, relating to waste collection and disposal (Subject to Mayor's Veto).

RECOMMENDATIONS

Staff recommends that City Council approve an ordinance amending Chapter 6, Article 2 of the Fresno Municipal Code, related to waste collection and disposal.

EXECUTIVE SUMMARY

The Solid Waste Management Division of the Department of Public Utilities (DPU) has been working to assess and understand the impacts of the Senate Bill (SB) 1383 regulations on the City's operations. Before the City can proceed with any of the tasks required by SB 1383, Chapter 6, Article 2 of the Fresno Municipal Code (FMC) must be updated to incorporate all the requirements imposed by SB 1383.

Due to a variety of factors, including the COVID-19 pandemic, the City was not able to achieve compliance with the SB 1383 regulations by the effective date of January 1, 2022. DPU is, therefore, requesting City Council's approval of a resolution authorizing the submission of a Notification of Intent to Comply (NOIC) to CalRecycle. Additionally, CalRecycle recently opened the SB 1383 Local Assistance Grant Program, a non-competitive grant program for one-time funding to local jurisdictions to assist with the implementation of regulation requirements associated with SB 1383. Through this program, the City is eligible to receive an estimated funding amount of \$718,149. The City Council must approve authorizing resolutions for the submittals of the NOIC and the SB 1383 Local Assistance Grant Program application today in order for DPU to meet the March 1, 2022, submittal deadlines.

BACKGROUND

In September 2016, Governor Brown signed into law Senate Bill (SB) 1383 (Lara, Chapter 395, Statutes of 2016) implementing a statewide plan to reduce emissions of short-lived climate pollutants (SLCP). SB 1383 establishes a statewide target of 75% reduction in the disposal of organic waste by 2025. In addition, SB 1383 requires that not less than 20% of edible food that is currently disposed be recovered for human consumption by 2025.

On November 3, 2020, the California Department of Resources Recycling and Recovery (CalRecycle) received a Notice of Approval of Regulatory Action from the Office of Administrative Law on its SB 1383 regulations, making them final with an effective date of January 1, 2022. The approved regulations impose regulatory responsibilities on jurisdictions, all of which will have some level of impact on the City of Fresno (City) operations:

1. Organic waste collection services
2. Edible food recovery programs and services
3. Education and outreach
4. Procurement of recovered organic waste products
5. Organic waste recovery and processing capacity
6. Inspection and enforcement
7. Recordkeeping and reporting

The Solid Waste Management Division of the Department of Public Utilities (DPU) has been working to assess and understand the impacts of the SB 1383 regulations on the City's operations. The following key tasks must be completed for the City to achieve compliance with the regulations:

1. Negotiate amendments to agreements with the City's commercial franchise haulers, Non-Exclusive Roll-Off (NERO) haulers, and green waste processing facilities to incorporate food scraps into the residential green waste collection stream

2. Develop and implement an edible food generator inspection plan
3. Develop and implement an education and outreach plan
4. Develop a plan for City procurement of recovered organic waste products
5. Develop a recordkeeping system to collect, store, and report on all SB 1383 related activities
6. Complete a residential solid waste rate study and approve rates that incorporate the increased costs related to SB 1383 compliance

ORDINANCE UPDATE

Before the City can proceed with any of the key tasks identified above, the City must first update Chapter 6, Article 2 of the Fresno Municipal Code (FMC) to incorporate all of the requirements imposed by SB 1383. The ordinance being presented for introduction today and approval on March 10, 2022, incorporates the requirements of SB 1383 and brings the City into compliance with this portion of the regulations. Once the FMC is amended, DPU will then be able to proceed with negotiation of agreements, development of the various plans, and all other tasks required for SB 1383 compliance.

The Municipal Code of the City of Fresno Article 2, Waste Collection and Disposal Ordinance must be amended to ensure that it is compliant with SB 1383. This would allow the City to amend all contracts and consultant agreements that pertain to solid waste management to make them SB 1383 compliant.

NOTIFICATION OF INTENT TO COMPLY (NOIC)

On October 5, 2021, Governor Newsom approved SB 619 (Laird, Chapter 508, Statutes of 2021), which allows for jurisdictions that are struggling to implement the SB 1383 regulations due to the COVID-19 pandemic, and are facing continuing violations and administrative civil penalties, to submit to CalRecycle a NOIC by March 1, 2022. When approved by CalRecycle, the NOIC provides relief from civil penalties for calendar year 2022, and the implementation of a corrective action plan establishing a maximum compliance deadline, depending on the circumstances of each individual jurisdiction.

Due to a variety of factors, including the COVID-19 pandemic, the City was not able to achieve compliance with the SB 1383 regulations by the effective date of January 1, 2022. DPU is, therefore, requesting City Council's approval of a resolution authorizing the submission of a NOIC to CalRecycle. In the City's NOIC, DPU has identified all aspects of the regulation with which the City is not in compliance, as well as a timeline identifying the anticipated completion of each task. DPU intends to achieve full compliance with all regulations by September 1, 2023, with the implementation of the full residential organic waste collection program. The City Council must approve this authorizing resolution today in order for DPU to meet the March 1, 2022, deadline for submittal of the NOIC.

SB 1383 LOCAL ASSISTANCE GRANT PROGRAM

On January 4, 2022, CalRecycle opened the SB 1383 Local Assistance Grant Program, a non-competitive grant program for one-time funding to local jurisdictions to assist with the implementation of regulation requirements associated with SB 1383. Through this program, the City is eligible to receive an estimated funding amount of \$718,149. A resolution authorizing the application is required with the application. Applications were due on February 1, 2022, but understanding the difficulties with obtaining authorizing resolutions in such a short time frame, CalRecycle extended the deadline to submit the authorizing resolution to March 1, 2022. The City Council must approve this authorizing resolution today in order for DPU to meet the deadline and be eligible for the first round of funding, which is expected to be announced on April 1, 2022.

SUMMARY

DPU is asking for Council approval of an ordinance amending Chapter 6, Article 2 of the Fresno Municipal Code, related to waste collection and disposal; a resolution authorizing submission of a Notification of Intent to Comply with the mandates of SB 1383; and a resolution authorizing submission of a grant application for funding through the SB 1383 Local Assistance Grant Program for one-time funding in the amount of \$718,149 to assist with the implementation of regulation requirements associated with SB 1383. The City is currently out of compliance with the regulations and the approval of these actions today will bring the City closer to compliance, will allow the City to pursue relief from administrative civil penalties, and will allow for grant funding to help cover some of the costs incurred due to the regulations.

The ordinance and resolutions have been approved as to form by the City Attorney's Office.

ENVIRONMENTAL FINDINGS

This project is exempt from CEQA pursuant to Section 15308, Class 8 of the CEQA Guidelines as an action that will not have a significant impact on the environment and as an action taken by a regulatory agency for the protection of the environment, specifically, for the protection of the climate. There are no unusual circumstances that would cause this ordinance to have a significant effect on the environment. Furthermore, none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to this Project. The determination was reviewed and approved by the City Attorney's Office.

LOCAL PREFERENCE

Local preference was not implemented, as this item does not involve a bid or award of a construction or services contract.

FISCAL IMPACT

There is no impact to the General Fund. Outside consulting and City staff costs associated with the actions submitted today are included in the FY 2022 DPU Solid Waste Operating Fund (41001) Amended Budget. If the SB 1383 grant funds are approved and awarded, the grant amount of \$718,149 will be deposited in a designed Solid Waste Grant Fund SB 1383.

Attachments: Ordinance